

No. 49130-3

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

KITSAP COUNTY, Respondent,

v.

KITSAP RIFLE AND REVOLVER CLUB, Appellant,

APPELLANT'S REPLY BRIEF

Attorneys for the Appellant:

Bruce O. Danielson
WSBA #14018
Danielson Law Office, P.S.
1001 4th Avenue, Suite 3200
Seattle, WA 98154
206-652-4550
bruce@brucedanielsonlaw.com

Dennis D. Reynolds
WSBA #04762
Dennis D. Reynolds Law Office
200 Winslow Way W., #380
Bainbridge Island, WA 98110
206-780-6777

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. ARGUMENT	3
A. KCC 10.25 Regulates the Discharge of Firearms and the Superior Court Was in Error by Holding that “Nothing in KCC 10.25 Directly Regulates the ... Possession...or Discharge of Firearms.”	4
B. The Ordinance is Preempted by RCW 9.41.290: “The State of Washington Hereby Fully Occupies and Preempts the Entire Field of Firearms Regulation.”	7
1. The State of Washington preemption of firearm regulation is not limited to local ordinances with criminal penalties.	8
2. KCC 10.25 Provides for the Criminal Penalties for its Violation.	11
3. The County Failed to Meet its Burden and Provide Proof that the Ordinance Qualified for an Exception Pursuant to RCW 9.41.300(2).....	13
4. The County Offered No Evidence to Prove the Ordinance Was Enacted to Prevent a “Reasonable Likelihood That Humans, Domestic Animals, or Property Will be Jeopardized.....	15
5. RCW 9.41.300(2) Only Allows for the Regulation of the Discharge of Firearms.	17
6. The Trial Court Violated the Club’s Procedural and Substantive Due Process Rights.....	18
C. The Ordinance Regulates and Burdens Conduct Falling Within Fundamental Rights Embodied in the 2 nd Amendment and Washington’s Constitution Art. 1 § 24.....	18
1. The Activity of the Club is Protected by the Second Amendment and Washington’s Constitution Article I § 24.	19

2.	The Constitutional Protections Under the Second Amendment and the Washington Constitution Apply to the Club and Its Members.....	20
D.	Because the Ordinance Burdens a Fundamental Second Amendment and Washington Constitutional Right, the County Has the Burden to Justify Its Ordinance.....	22
1.	The County had the Burden to Prove the Validity of the Ordinance.....	22
2.	Generalized Public Safety Goals Do Not Satisfy the Strict Scrutiny Burden on the County Which Requires the County to Prove the Least Intrusive Grounds to Burden a Fundamental Constitutional Right.....	22
III.	CONCLUSION.....	23
	CERTIFICATE OF SERVICE	25
APPENDIX –		
A-1.	Shooting Facility Range Data Sheet CP 403-435	
A-2.	Safety Evaluation, Scott Kranz, EMEC Earth & Environmental, Inc. CP 437-442	
A-3.	Memorandum Opinion and Order on Summary Judgment CP 603-611	

TABLE OF AUTHORITIES

	Page(s)
<i>Amunrud v. Board of Appeals</i> , 158 Wn.2d 208, 220, (2006).....	22
<i>Cherry v. Mun. of Metro Seattle</i> , 116 Wash.2d 794 (1991).....	10
<i>District of Columbia v. Heller</i> , 554 U.S. 570, 128 S.Ct. 2783, 171 L.Ed.2d 637 (2008)	19, 20, 21
<i>In re Eaton</i> , 110 Wash.2d 892, 898, 757 P.2d 961 (1988).....	8, 15-16
<i>In re Parentage of C.A.M.A.</i> , 154 Wash.2d 52, 57, ¶ 10, 109 P.3d 405 (2005)	22
<i>Isla Verde International Holdings v. City of Camas</i> , 146 Wash.2d 740, 49 P.3d 867 (2002).....	14,15
Kitsap County v. Kitsap Rifle and Revolver Club Pierce County cause no. 10-2-12913-3	17
<i>McDonald v. City of Chicago</i> , 561 U.S. 742 (2010).....	21, 22
<i>Open Door Baptist Church of Clark County</i> , 140 Wash.2d 143, 995, P.2d 33 (2000).....	23
<i>Pacific Northwest Shooting Park Ass'n</i> , 158 Wn.2d 356 (2006).....	9, 10
<i>PruneYar Shopping Ctr. v. Robins</i> , 447 U.S. 74, 81, 100 S.Ct. 2035 64 L.Ed.2d 741 (1980).....	23
<i>Queets Band of Indians v. State</i> , 102 Wash.2d 1, 5, 682 P.2d 909 (1984).....	7
<i>Rhonda Ezell v. City of Chicago</i> 651 F.3d 684 (Seventh Circuit, 2011).....	18, 20
<i>Rhonda Ezell v. City of Chicago</i> 8461 F.3d 888 (Seventh Circuit, 2017).....	19, 20, 21

<i>Silvester v. Harris</i> , 843 F.3d 816, 817 (9 th Cir. 2016).....	18
<i>State v. Breazeale</i> , 144 Wn. 2d 829, 842, 31 P.3d 1155 (2001).....	12
<i>State v. Gunwall</i> , 106 Wash.2d 54, 59, 720 P.2d 808 (1986).....	23
<i>State ex rel. Hagan v. Chinook Hotel, Inc.</i> , 65 Wash.2d 573, 578 399 P.2d 8 (1965).....	7,8,9
<i>State v. Knight</i> , 79 Wn.App. 670, 680, 904 P.2d 1159 (1995).....	8
<i>State v. Roadhs</i> , 71 Wash.2d 705, 707, 430 P.2d 586 (1967).....	8
<i>State v. Sieyes</i> , 168 Wn.2d 276, 225 P.3d 995 (2010).....	20, 21, 23
<i>Sumner v. First Baptist Church of Sumner</i> , 97 Wash.2d 1, 639 P.2d 1358 (1982).....	23
<i>Sundowner Ass'n v. Wood County Commission</i> , 2014 LWL 3962495 (S.D.W. VA., August 13, 2014).....	20
<i>Weden v. San Juan County</i> , 135 Wash. 2d 678, 689, 958 P.2d 273 (1998).....	21

WASHINGTON AND FEDERAL CONSTITUTION

United States Constitution 2 nd Amendment.....	1, 4, 18, 19, 20, 21, 22
Washington Constitution Article I § 24	1, 4, 18, 21, 23

Washington Statutes

RCW 7.21.....	12, 13
RCW 9.41.290	1,2, 3, 4, 7, 8, 9, 10, 11, 17
RCW 9.41.300.....	9
RCW 9.41.300(2).....	2, 3, 7, 13,14,15,16, 17

RCW 9.41.300(2)(a).....	14, 15, 17
RCW 9.41.300(4).....	13
RCW 9A.82	11
RCW 9A.82.100(1)(a).....	11
RCW 26.18.050.....	11
RCW 26.50.110.....	11
RCW 82.02.020.....	14, 15

Kitsap County Code

KCC 1.12.....	12
KCC 1.12.010.....	12, 13
KCC 10.25.....	3, 4, 6, 8, 11, 12, 13, 18
KCC 10.25.070	5
KCC 10.25.090(1).....	5, 10, 11, 12, 13, 16
KCC 10.25.090(4)(f).....	5
KCC 10.25.090(4)(i)-(v).....	6
KCC 17.460.020	18

I. INTRODUCTION

This case presents important questions relating to the lack of authority of Kitsap County (hereinafter the “County”) to circumvent the State of Washington’s preemption of firearm regulations per RCW 9.41.290; the use of an ordinance to abolish a conceded, and long-standing, legal non-conforming use; and a blatant infringement upon the Second Amendment and Washington’s Constitution, Article I § 24 rights of the Kitsap Rifle and Revolver Club (hereinafter the “Club.”) its members and guests.

Safe shooting practices and structures are about people – the Club members and the general public. In this matter, the County’s innuendo regarding safety does not substitute for physical facts on the ground, which include a 40-foot back stop/berm. *See* Site Maps, Safety Fan Diagrams and the Clubs Standard Operating Procedures, Emergency Plan and Range Safety Officer Training manuals submitted to Kitsap County to support an application request made “under protest.”¹

During the Club’s 90 plus years of operation as a recreational and training shooting range, no damage to persons, animals or property from

¹ *See* CP 403-435, **Appendix A-1**. *See* also CP 436-441, **Appendix A-2**, a comprehensive safety evaluation of the Club’s facility and operations.

facility's operation has been documented from a projectile leaving the property.²

Despite the rhetoric of the County about the importance of the Ordinance for public safety, the County failed to identify any specific public safety concern and has candidly admitted that "Whether or not KRRC [Club] is safe is immaterial to whether it is required to comply with local shooting range regulations. The Ordinance applies to **all** new and existing shooting ranges."³ The issues in this appeal are thus straight forward and not bound to questions of a threat associated with operation of the KRRC's gun range.

With regards to the application and enforcement of RCW 9.41.290 in the context of local firearm regulations involving a fundamental constitutional right to keep and bear arms subject to strict scrutiny, that unless and until the Washington legislature amends RCW 9.41.290, the State of Washington fully occupies and preempts the entire field of firearm regulation whether the regulation is civil or criminal.

The arguments of the County with regards to the exception for local regulation of firearms allowed per the RCW 9.41.300(2), a reasonable likelihood that humans, domestic animals or domestic animals will be jeopardized, is broader than proscribed by the Washington

² CP 184.

Legislature and would impermissibly abolish any type of formal proof or evidence of an exception. When a challenge is raised to the validity of local firearm regulation as preempted by RCW 9.41.290, the local jurisdiction has the burden of proving that its local regulation qualifies for an exception per RCW 9.41.300(2). To meet its burden requires specific and articulable facts or findings adopted or accepted by the local government governing body, and not generalized and speculative findings, as the County has done in this instance. Any local regulation qualifying for an exception under RCW 9.41.300(2) may restrict the discharge of firearms within the limits of the area determined to present a reasonable likelihood of harm to humans, domestic animals or property and may not otherwise make other conditions or regulations regulating shooting activities other than the discharge of firearms.

II. ARGUMENT

The County is unable, or unwilling, to directly address the issues and errors of law. It has resorted to offering a “counter statement “of the issues which by design, confuses and misstates the issues and the applicable law. The counter statement is a “straw man” argument to redirect the focus of this Court from the core issues. The County’s

³ CP 623.

Response avoids, or summarily dismisses, well-established legal precedent in its defense of the superior court decision.

The County is asking this Court to accept, as the central tenant of its argument, that “Chapter 10.25 only regulates the operation of a shooting facility and does not prohibit shooting activity.” (Response, p.3, Counterstatement of the Issues.) In other words, only prohibitions on shooting, and not the regulation of the use and discharge of firearms, are subject to the statutory provisions of RCW 9.41.290 or the Constitutional protections of the Second Amendment and Washington’s Right to Bear Arms, Article I § 24. This clever and misleading legal position impermissibly ignores that the County has applied KCC 10.25 to prohibit shooting activity by injunction⁴ and other prohibitions in the Ordinance as to the use of the Club’s facility for training or events.

A. KCC 10.25 Regulates the Discharge of Firearms and the Superior Court Was in Error by Holding that “Nothing in KCC 10.25 Directly Regulates the ... Possession...or Discharge of Firearms.”⁵

The ruling of the trial court, and the argument of the County that the Ordinance does not regulate firearms and firearm discharge, or only incidentally regulates firearms and firearm discharge, defies reason, facts, and the language and applied enforcement of the Ordinance.

⁴ CP 130-136.

⁵ CP 609.

The Respondent's Complaint⁶ makes clear that the Club's shooting activities, "the discharge of firearms", is subject to the requirements of the Ordinance. The County's Complaint alleges: Paragraph 4.3, the Club operates a shooting facility "allowing the discharge of firearms;" Paragraph 5.3, the Ordinance was adopted "to address safety concerns of existing and future shooting ranges ... from the discharge of firearms at shooting facilities ... ;" Paragraph 5.5 "prohibits existing shooting facilities from operation without a permit;"⁷ and paragraph 6.5 asks for injunctive relief to prevent the Club from "operating shooting facility until Defendant is issued an Operating Permit."⁸

The Ordinance regulates "shooting facilities." KCC 10.25.070 defines a shooting facility as: "(21) 'Shooting facility' or 'facility' means an entity with a site having one or more shooting ranges, but does not include residential property." Paragraph number 22, under definitions, KCC 10.25.070 defines a shooting range as: "(22) 'Shooting range' or 'range' means a place set aside and designated for the safe **discharge of firearms** for individuals wishing to practice, improve upon or compete as

⁶ CP 3-9

⁷ CP 5.

⁸ CP 7-8.

to their shooting skills. There may be one or more ranges located at a shooting facility.” (Emphasis added.)⁹

By its express terms, KCC 10.25.090(1) provides: “No proposed or existing shooting facility may operate without an operating permit issued pursuant to this chapter, except as provided in subsection (2) of this section.¹⁰ The Ordinance restricts military and law enforcement training including types and calibers of firearms (KCC 10.25.090(4)(f) and restricts the number of shooting matches or events (KCC 10.25.090(4)(i)-(v).

The County asserts “Chapter 10.25 regulates the ability of a shooting facility to operate but otherwise does not prohibit any firearm or shooting activity.” (Respondent’s Response, p.3.) These are words without distinction in meaning. The candid acknowledgment by the County that that the Ordinance regulates shooting facility operations (discharge of firearms) affirms that the Ordinance is subject to state preemption per RCW 9.41.290. The County’s claim that the Ordinance does not prohibit any firearm or shooting activity is directly contradicted by the Ordinance and the actions taken by the County to enforce the Ordinance. *See* KCC 10.25.090(1) cited above, and the April 24, 2015

⁹ CP 16

¹⁰ CP 16-17

temporary injunction that specifically restrained, per paragraph 4 of the Order for Injunction, the Club from discharging firearms.¹¹

B. The Ordinance is Preempted by RCW “The State of Washington Hereby Fully Occupies and Preempts the Entire Field of Firearms Regulation.”

The County does not dispute that the entire field of firearm regulation is preempted by the State of Washington, RCW 9.41.290. (Appellant’s Opening Brief, pp.19-20). To avoid the unequivocal statutory preemption, the County makes two basic arguments as to why RCW 9.41.290 does not apply, to wit: (1) RCW 9.41.290 only applies when an Ordinance has criminal penalties; and (2) the Ordinance qualifies for an exception per RCW 9.41.300(2). Both arguments fail legally and factually.

Well-established legal principals of statutory construction and application support the Club’s assignment of error of the trial court. In this regard, the Club emphasizes the following case law relating to statutory construction: “This court has many times held that it will not insert, in legislative acts, words which were seemingly unintentionally omitted, nor disregard any words which may appear to us to have been inadvertently included.” *State ex rel. Hagan v. Chinook Hotel, Inc.*, 65 Wash.2d 573, 578. 399 P.2d 8 (1965) and “Where a statute specifically

¹¹ CP 135.

designates the things upon which it operates, there is an inference that the Legislature intended all omissions.” *Queets Band of Indians v. State*, 102 Wash.2d 1, 5, 682 P.2d 909 (1984); *State v. Roadhs*, 71 Wash.2d 705, 707, 430 P.2d 586 (1967). “The court cannot read into a statute anything which it may conceive that the legislature has unintentionally left out.” (citations omitted.) *Chinook Hotel*, supra, at 579.

In its Response, the County dismisses the legal principals of *Chinook*, supra, stating that the facts of that case are “different” and ignores “supporting legal citations.” The underlying legal principals remain the same, which legal principals are not refuted by the County. Specifically, “[W]here a statute provides for a stated exception, no other exceptions will be assumed by implication.” *In re Eaton*, 110 Wash.2d 892, 898, 757 P.2d 961 (1988); *State v. Roadhs*, 71 Wash.2d 705, 707, 430 P.2d 586 (1967). *State v. Knight*, 79 Wn.App. 670, 680, 904 P.2d 1159 (1995). The Club now turns to applying the rules of statutory construction in the context of the statutes and ordinances at issue in this appeal.

1. The State of Washington preemption of firearm regulation is not limited to local ordinances with criminal penalties.

Despite the clear legislative mandate that the State of Washington “fully occupies” the entire field of firearm regulation, the County argues that because KCC 10.25 does not impose criminal penalties, it is not

preempted by RCW 9.41.290. The County's rationale is that the preemption statute is codified under the Washington Criminal Code.

The County's argument is directly contradicted by the plain and unequivocal language of RCW 9.41.290 which specifically states in pertinent part: "The state of Washington hereby fully occupies and preempts the entire field of firearms regulation . . . including the discharge . . . or any other element relating to firearms. . . ." Local laws and ordinances that are inconsistent with, . . . state law shall not be enacted and are preempted and repealed, **regardless of the nature of the code**, charter, or home rule status of such city, town, county, or municipality."

(Emphasis added)

The County is asking this Court to act as the legislature and insert or create, via a judicial edict, an exception or limitation to the State's preemption of the entire field of firearm regulations merely because of the placement of RCW 9.41.290 under the Washington criminal code. This the Court cannot do. *See Chinook Hotel, Inc.*, supra, 578.

The Respondent offers incomplete and misleading citations to *Pacific Northwest Shooting Park Ass'n*, 158 Wn.2d 356 (2006), stating the purpose of RCW 9.41.290 was to eliminate conflicting municipal criminal codes. In *Pacific Northwest Shooting Park Ass'n*, the issue before the court was the application of RCW 9.41.290 and a local government's

authority to regulate the sale of firearms on County owned land as part of a gun show. The City of Sequim also claimed, as the County has in this case, that RCW 9.41.290 only applies to criminal firearm regulations. Contrary to the argument of the City of Sequim that RCW 9.41.290 only applies to criminal regulations, the court in *Pacific Northwest Shooting Park Ass'n*, citing *Cherry v. Mun. of Metro Seattle*, 116 Wash.2d 794 (1991), rejected the criminal regulation argument when the Court held: “We construed the clause [RCW 9.41.290] to apply only to laws or regulations of general application.” *Pacific Northwest Shooting Park Ass'n*, *supra*, at 356. Affirming the limited exception for the use of public owned property the court held: “The critical point is that the conditions the city imposed related to a permit for private use of its property. They were not laws or regulations of application to the general public.” (emphasis added) *Northwest Shooting Park Ass'n*, *supra*, at 357.

Northwest Shooting Park Ass'n, *supra*, was decided in 2006. In 2008, the Washington State Legislature amended 9.41.300. At the time the statute was amended, the Washington Legislature did not change or otherwise restrict the State’s preemption of the entire field of firearm regulation. The Legislature’s reaction to *Pacific Northwest Shooting Park* suggests that preemption of the entire field of firearms regulations was not confined to only local criminal ordinances but that state preemptions of

the entire field of firearms regulations apply “regardless of the nature of the code.”¹²

2. KCC 10.25 Provides for the Criminal Penalties for its Violation.

One of the purposes in adopting RCW 9.41.290 has been to make criminal laws concerning firearms more universal, it does not mean that the application of RCW 9.41.290 is limited only to ordinances relating to criminal law. However, if the Court were to construe RCW 9.41.290 otherwise, the Ordinance provides for criminal penalties through its enforcement mechanisms.

KCC 10.25.090(1) states:

Failure to obtain a range operational permit will result in closure of the range until such time as a permit is obtained. Ranges that operate without a permit are subject to code compliance enforcement, including but not limited to injunctive relief.

¹² There are several excellent examples of current Washington law demonstrating that the placement of a statute under a particular code section limits it as civil, criminal or domestic. For instance, RCW 9A.82, **Criminal Profiteering**, adopted under Washington’s criminal code, provides for criminal prosecution **and** a civil cause of action. RCW 9A.82.100(1)(a). Under RCW Title 26, Domestic Relations, RCW 26.50.110 provides that a violation of an order for protection has criminal penalties. RCW 26.18.050 provides for civil and criminal contempt proceedings for failure to pay maintenance or child support.

KCC Chapter 1.12, the general penalty relating to

Code compliance, provides in pertinent part:

1.12.010 Adopted.

Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the resolutions or ordinances of Kitsap County is guilty of a misdemeanor. Any person convicted of a misdemeanor under the resolutions or ordinances of Kitsap County shall be punished by a fine of not more than one thousand dollars, and/or by imprisonment not to exceed ninety days, unless otherwise required by the laws of Washington. . . .

KCC 10.25.090(1) allows issuance of an injunction if the

Ordinance is violated. Violation of a court ordered injunction is enforced

through an action for contempt of court. *See* RCW 7.21, Contempt of

Court. “Contempt may be criminal or civil” (citation omitted). *State v.*

Breazeale, 144 Wn. 2d 829, 842, 31 P.3d 1155 (2001).

In the Order Granting Preliminary Injunction,¹³ p.7, ¶ 10, the Court ordered:

10. If Defendant fails to comply with these orders, Plaintiff may obtain further relief upon further motion to this Court, including but not limited to **contempt sanctions** and fines against Defendant, its officers or members, or any person or entity using the facility for discharging a firearm. (emphasis added)

¹³ CP 136.

RCW 9.41.300(4) provides: “(4) Violations of local ordinances adopted under subsection (2) of this section must have the same penalty as provided for by state law.” The unlawful discharge of a firearm, per state law, may be charged depending, on the crime, as a misdemeanor or a felony.

It is misleading for the County to claim there are no criminal penalties provided for disobedience of the Ordinance; KCC 10.25, KCC 1.12.010 and RCW 7.21 show otherwise.

3. The County Failed to Meet its Burden and Provide Proof that the Ordinance Qualified for an Exception Pursuant to RCW 9.41.300(2).

The Washington legislature adopted a narrow exception allowing local government agencies to restrict the discharge of firearms. The County’s restated issues attempt to cast the Club’s challenge of the Ordinance as a substantive due process challenge to general legislation of the State of Washington. That is not so. The Club is challenging the validity of the Ordinance as an exception to the state preemption of all firearm regulations and the application of the law to its legal nonconforming use.¹⁴ On the latter, *see* KRRC Opening Brief, pp. 36-39.

¹⁴ The Ordinance, KCC 10.25.090(1), provides that it is “... not intended to alter the legal non-conforming use status of rights of existing ranges which are governed by Title 17 and the common law,” but further states “each owner of operator of an established shooting facility in active use on the effective date of the ordinance must apply for an ‘initial facility operating permit.’” On May 31, 2016, the Kitsap County Superior Court

The limited and narrowly tailored exception is under RCW

9.41.300(2)(a), which provides in pertinent part:

(2) Cities, town, counties and other municipalities may enact laws and ordinances: (a) Restricting the discharge of firearms in any portion of their respective jurisdiction where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized.

The County cites *Isla Verde Int'l v. City of Camas*, 146 Wn.2d 740, 49 P.3d 867 (2002) for the proposition that the Club carried the initial burden of establishing invalidity of local regulation. That was not the holding in *Isla Verde* with regards to state statutes of preemptions. The County failed to point out in *Isla Verde, supra*, that the primary statute at issue, RCW 82.02.020 (state preemption the field of imposing taxes upon retail sales tangible personal property), required strict compliance with the exemptions allowed to state preemption. The “burden of establishing that a condition is reasonably necessary ... is on the City.” *Isla Verde, supra*, at 756. “Under RCW 82.02.020, however, the City has the burden of showing that one of the statute’s exceptions applies.” *Isla Verde, supra*, at 759.

issued a permanent injunction terminating all shooting operations of the Club. *See CP 603-611 Appendix A-3, Memorandum Opinion.*

The County has the burden of proving it qualifies for an exception, per RCW 9.41.300(2) to the State of Washington's preemption of the entire field of firearms regulations. *Isla Verde*, supra, cited by the County provided strict compliance with the terms of RCW 82.02.020 the preemption of the field of state taxes. The County is arguing that generalized goals of a local government meets the narrow statutory exception allowing for local firearm per RCW 9.41.300(2)(a).

The trial court record is void of the evidence required to fall within an exception found in RCW 9.41.300(2), as set out in more detail immediately below. The County has not contested the argument and citations by the Club, pp.32- 35, that are verities on appeal, that it was error for the trial court to supplement, infer or create findings to support the Ordinance.

4. The County Offered No Evidence to Prove the Ordinance Was Enacted to Prevent a "Reasonable Likelihood That Humans, Domestic Animals, or Property Will be Jeopardized.

RCW 9.41.300(2) provides a narrowly worded exemption which may allow a local jurisdictions adopt firearm regulations. For the County to legally adopt the Ordinance, it must establish "a reasonable likelihood that humans, domestic animals, or property will be jeopardized." RCW 9.41.300(2)(a). "[W]here a statute provides for a stated exception, no

other exceptions will be assumed by implication.” *In re Eaton*, supra, at 898. The County brushes its legal burden aside by arguing that generalized public safety concerns allow the County to preempt state law. Because firearm discharges inherently pose some risk of harm to people, animals, etc., adopting the County’s argument would mean that any local firearm regulation would automatically qualify for the exemption per RCW 9.41.300(2).

In the first hearing in which the County sought an injunction, the Club challenged that there was public danger from the Club’s operation. The County’s response to the question of the harm or danger of the Club’s operations was to claim that the failure of the Club to secure a permit is “the damage,” or stated differently, the justification to apply the Ordinance.¹⁵

The Ordinance is county wide and includes all existing and future firearm ranges. It is impossible for the Ordinance to comply with the exception allowed by RCW 9.41.300(2) since not only is there lack of evidence of a reasonable likelihood that humans, domestic animals, or property will be jeopardized, it applies county wide and to current and future shooting range. KCC 10.25.090(1).¹⁶

¹⁵ CP 107.

¹⁶ CP 16.

To accept the trial court's ruling (and the County's arguments) requires this Court to change the plain and unequivocal language of RCW 9.41.290 and 300(2), to allow a local ordinance to circumvent RCW 9.41.290 in its entirety with broad statements of intent, to make proof of a qualified exemption per RCW 9.41.300(2) a matter of speculation and conjecture.

5. RCW 9.41.300(2) Only Allows for the Regulation of the Discharge of Firearms.

In another disjointed and incomplete response, the County argues that RCW 9.41.290 only preempts firearm regulations and does not prevent the County from regulating "other conduct." The exemption for local shooting regulations per RCW 9.41.300(2)(a) is narrow and limits qualifying local regulations to restricting the discharge of firearms. The exception does not allow a local government to dictate other aspects of the operation of a shooting facility such as hours of operation, lighting, types of shooting events, etc. Either a local regulation allows the discharge of firearms, or it doesn't. The exception is not a wholesale abandonment of the State of Washington's preemption of the entire field of firearms regulation.

6. The Trial Court Violated the Club's Procedural and Substantive Due Process Rights.

The Club challenged the lack of evidence to support an exemption per RCW 9.41.300(2). For the first time during the year plus long proceeding and numerous hearings, in a Reply, the County argued that the Pierce County case, *KRRC I*, was the basis for the adoption of the Ordinance. The Club had no prior notice of this alleged basis for the Ordinance and relied upon the prior ruling of the trial court that the cases were distinct and separate, plus the language of the Ordinance relating to legal nonconforming uses and rights.¹⁷

C. **The Ordinance Regulates and Burdens Conduct Falling Within Fundamental Rights Embodied in the 2nd Amendment and Washington's Constitution Art. 1 § 24.**

The trial court failed to apply any analysis to determine if the Ordinance burdens or involves any fundamental Constitutional rights under the Second Amendment to the United States Constitution or Article 1 subsection 24 of the Washington Constitution. A two-part test is required to determine if the Ordinance unduly burdens Constitutional rights. First, the court must ask whether the restricted activity is protected by the Second Amendment. *Rhonda Ezell v. City of Chicago* 651 F.3d 684, 703 (*Seventh Circuit*, 2011); *Silvester v. Harris*, 843 F.3d 816, 817

(9th Cir. 2016); and if the activity is protected, the County has the burden to justify its actions under a heightened scrutiny—either strict or intermediate, as argued below.

1. The Activity of the Club is Protected by the Second Amendment and Washington’s Constitution Article I § 24.

The County questions whether the Second Amendment applies to the Club’s operation as a shooting facility includes training in the safe use of firearms, firearm safety and handling, youth education including marksmanship and safety, individual shooting practice and competitive shooting matches to name a few of the Club’s firearm involved activities.¹⁸

As argued above, pp 3-6, the Ordinance regulates the use and discharge of firearms. The trial court was clearly in error when it ruled that the Ordinance does not directly regulate firearms.¹⁹ The protections afforded by the Second Amendment include firearm-related activities, including armed defense (*District of Columbia v. Heller*, 554 U.S. 570, 635-636, 128 S.Ct. 2783, 171 L.Ed.2d 637 (2008)) and the right to acquire and maintain proficiency in firearm use through target practice at a range.” *Rhonda Ezell v. City of Chicago*, 846 F3D. 888, 892 (7TH Circuit, 2017).

¹⁷ See N.14, *infra*. That case explicitly held the Club was a legal nonconforming use. KCC Chapter 10.25 references KCC Title 17. KCC 17.460.020 explicitly provides continuation of a legal nonconforming use.

¹⁸ CP 184, Dec. Marcus Carter.

The Ordinance directly restricts the fundamental rights afforded under the Second Amendment of the United States Constitution and Article 1 subsection 24 of the Washington Constitution.

2. The Constitutional Protections Under the Second Amendment and the Washington Constitution Apply to the Club and Its Members.

The County implies that the Club, and by extension its members, have no Second Amendment rights. To support this proposition, the County cites one sentence of an unpublished case from the Fourth Circuit of the United States District Court, *Sundowner Ass'n v. Wood County Commission*, 2014 LWL 3962495 (S.D.W. VA., August 13, 2014). Several important points about the unpublished opinion in *Sundowner, supra*, make it irrelevant to support the County's argument that the Club has no Second Amendment rights. The court in *Sundowner, supra*, found that because the plaintiff was unincorporated association with no separate legal existence it therefore has no constitutional rights. See *Sundowner, supra*, at 12. The Club is a nonprofit corporation with a separate legal existence. The Court specifically declined to decide the issue of whether the Second Amendment extends to the right to operate a gun range stating "However, I need not decide that issue today" *Sundowner, supra*, at 16.

¹⁹ CP 609.

Washington law is clear, “The Second Amendment right to bear arms applies to the states through the due process clause of the Fourteenth Amendment.” *State v. Sieyes*, 168 Wn.2d 276, 291, 225 P.3d 995 (2010). Per *Heller, supra*, at 622, the Second Amendment confers the “the right to keep and bear arms” and those activities closely related to those rights. Per *Ezell*, the Second Amendment necessarily implies the right to maintain proficient in the use of arms. The County ignored the legal authority and principals addressed in the second *Ezell* decision rendered in January 2017. *Ezell II* involved facts like this case, a regulatory plan by a local government seriously infringes on the Second Amendment rights of citizens to train with firearms. In *Ezell II*, the City of Chicago developed an elaborate licensing scheme to regulate shooting ranges in the City of Chicago. Neither *Heller, supra*, *McDonald v. City of Chicago*, 561 U.S. 742 (2010) or *Ezell, supra* 2017 and 2011 excluded incorporated shooting clubs from the protections of the 2nd Amendment.

We have noted the individual right to bear arms under article I, section 24 may be broader than the Second Amendment but had not yet determined our provision's distant reaches when the Court decided *Heller*.” *Sieyes, supra*, at 292.

D. Because the Ordinance Burdens a Fundamental Second Amendment and Washington Constitutional Right, the County Has the Burden to Justify Its Ordinance.

1. The County had the Burden to Prove the Validity of the Ordinance.

The County's Response repeatedly, and mistakenly, tries to place the burden on the Club to prove the constitutional invalidity of the Ordinance. The County cites to case law not involving fundamental constitutional rights. Because the Ordinance burdens a fundamental constitutional right, the presumption of validity is reversed and imposed to the County to prove the validity of the Ordinance. *Weden v. San Juan County*, 135 Wash. 2d 678, 689, 958 P.2d 273 (1998)

2. Generalized Public Safety Goals Do Not Satisfy the Strict Scrutiny Burden on the County Which Requires the County to Prove the Least Intrusive Grounds to Burden a Fundamental Constitutional Right.

It is the well-established law of Washington that: "State interference with a fundamental right is subject to strict scrutiny. *In re Parentage of C.A.M.A.*, 154 Wash.2d 52, 57, ¶ 10, 109 P.3d 405 (2005)" *Amunrud v. Board of Appeals*, 158 Wn.2d 208, 220, (2006)

To justify overcoming the barriers of interference with a fundamental right, the County raised speculative claims of harm to public health and safety and the Court declined to engage in any type of

Constitutional scrutiny. This does not survive the heightened scrutiny that applies to burdens on Second Amendment rights. In all cases the government bears the burden of justifying its law under heightened standard of scrutiny; rational-basis review does not apply. *Heller, supra*, at 628.

Ignoring any proof of a real and identifiable harm, the County resorts to generalized claims of public safety. Generalized claims of public safety were also made, and rejected in *Heller, supra*, and *McDonald, supra*. The “Supreme Court application of the United States Constitution establishes a floor below which state courts cannot go to protect individual rights. But states of course can raise the ceiling to afford greater protections under their own constitutions. Washington retains the “sovereign right to adopt in its own Constitution individual liberties more expansive than those conferred by the Federal Constitution’.” *State v. Gunwall*, 106 Wash.2d 54, 59, 720 P.2d 808 (1986) (quoting *PruneYar Shopping Ctr. v. Robins*, 447 U.S. 74, 81, 100 S.Ct. 2035, 64 L.Ed.2d 741 (1980)).” *Sieyes, supra*, at 292. The County has failed to present any evidence which would remotely approach the standards of “strict scrutiny” as required by the Washington State Constitution.

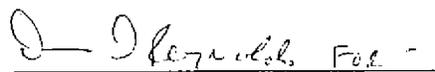
The County also impermissibly attempts to incorporate findings from another matter involving the Club, which issues were separate and distinct from the current matter, as justification for countywide firearm regulation. *See infra*, p., 16.

Of importance with regard to the alleged basis for the Ordinance, The County ignored Article I §24 of the Washington Constitution which prohibits the government, without a well-defined and articulable rationale, from impairing a citizen's right to bear arms. *Sumner v. First Baptist Church of Sumner*, 97 Wash.2d 1, 639 P.2d 1358 (1982) and *Open Door Baptist Church of Clark County*, 140 Wash.2d 143, 995, P.2d 33 (2000).

III. CONCLUSION.

For the reasons stated, the KRRC's appeal should be granted.

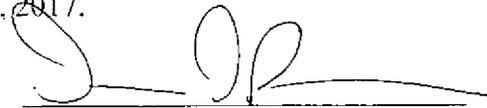
DATED this 15th day of May, 2017.



Bruce O. Danielson
WSBA #14018
DANIELSON LAW OFFICE, PS
1001 - 4th Avenue, #3200
Seattle, WA 98154
(206) 652-4550 Phone
(206) 652-4551 Fax

Counsel for Appellants

By *AMM-L PERMISSION*
dated May 15, 2017



Dennis D. Reynolds
WSBA #04762
DENNIS D. REYNOLDS LAW OFFICE
200 Winslow Way West, Suite 380
Bainbridge Island, WA 98110
(206) 780-6777 Phone
(206) 780-6865 Fax
dennis@ddrlaw.com

Counsel for Appellants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify under penalty of perjury under the laws of the State of Washington, that I am now, and have at all times material hereto been, a resident of the State of Washington, over the age of 18 years, not a party to, nor interested in, the above-entitled action, and competent to be a witness herein.

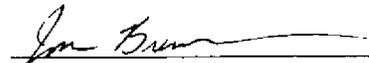
I further certify that the original of the foregoing brief was timely filed on May 15, 2017 pursuant to RAP 18.6(c), as follows:

Clerk of Court
Court of Appeals, Division II
950 Broadway, Suite 300, MS TB-06
Tacoma, WA 98402-4454
Via Court's JIS-Link Electronic Filing System

I further certify that on this date, I caused a copy of the document to which this certificate is attached to be delivered to the following via hand delivery, as well as electronic delivery via JIS-Link:

Christine M. Palmer, WSBA #42560
Laura F. Zippel, WSBA #47978
Deputy Prosecuting Attorneys
Kitsap County Prosecuting Attorney's Office
614 Division Street, MS-35
Port Orchard, WA 98366

Declared under penalty of perjury under the laws of the State of
Washington at Bainbridge Island, Washington this 15th day of May, 2017.



Jon Brenner

KRRC – Reply Brief

APPENDIX A-1



Historic Non Conforming Use Right (Grandfathered) as per WA state

SUPPORTING DOCUMENT

SHOOTING FACILITY RANGE DATA SHEET

Court of Appeals: 184 Wn. App. 252, 337 P.3d. 328 (2014)

Name of Range: 200 yd. Rifle Range Shooting Facility: Kitsap Rifle & Revolver Club
Address: 4900 Seabeck Hwy, Bremerton, WA 98312
Phone #: 360-373-1067 Cell Phone #: _____
Email Address: info@gunsafety.org

COPY

Shooting Facility Range Data:

1. Number of firing points: 24
2. Distance between firing points: 4 ft.
3. Distance between firing points and most distance target line: 200 yds
4. Backstop/back berm behind target line:
 - a. Height: 40 ft.
 - b. Construction material type: Earthen; concrete, etc.: Earthen
 - c. Show how the backstop/back berm meets the height criteria established in National Rifle Association Sourcebook 2012, 2.04 Backstop? Reference 2.04.1.1
5. Are there Intermediate targets on the range? Yes No
 - a. If so, at what distance? In yards 0-25, 50, 75, 100 & 150
6. Overhead/Safety baffles at firing line:
 - a. Number of baffles: 0
 - b. Spacing distance: N/A
 - c. Construction material type: N/A
 - d. Show how Safety baffles meet the criteria established in National Rifle Association Sourcebook 2012, 2.06
7. Side berms and baffles:
 - a. Height: 8-12 ft.
 - b. Construction material type: Earthen, concrete, blocks, etc.: Earthen
 - c. Show how the side berms/walls/baffles meet the criteria established in National Rifle Association Sourcebook 2012 2.05, Side Berms, Walls. Reference 2.05.1.4
8. Largest caliber weapon fired on range: Any Legal Fire Arm
 - a. Distance round can travel unimpeded: 203 yds
 - b. A safety fan diagram of the most powerful firearm used on the range. The diagram will:
 - i. Identify the firearm. See Section 1-5, Page 3 of 14
 - ii. Start from the firing line.
 - iii. Show the extreme distance a round could go unimpeded.
 - iv. Show the physical methods used to contain rounds.
9. Are there any shorelines, wetlands or wetland buffers within 500 yards of any firing line on the range



200 yard Rifle Range
Section 1-5
Page 1 of 14

property or directly adjacent to the range property? Yes No

If yes, answer the following questions:

a. Is the range firing line oriented away from the shoreline, wetland or wetland buffers?

yes

b. What is the distance between the firing line and the shoreline, wetland, or wetland buffer?

Approximately 150 ft

c. What physical protections are constructed to protect the shoreline, wetland, or wetland buffer?

Earthen Impact Berms and Backstops

10. Are there any structures housing people or domestic animals within 500 yards of any firing line on the range property or directly adjacent to the range property? Yes No

If yes, answer the following questions.

a. Is the range firing line oriented away from the structures?

yes

b. What is the distance between the firing line and the structures?

400 yards

c. What physical protections are constructed to protect the structures from stray projectiles?

Earthen Impact Berms and Backstops

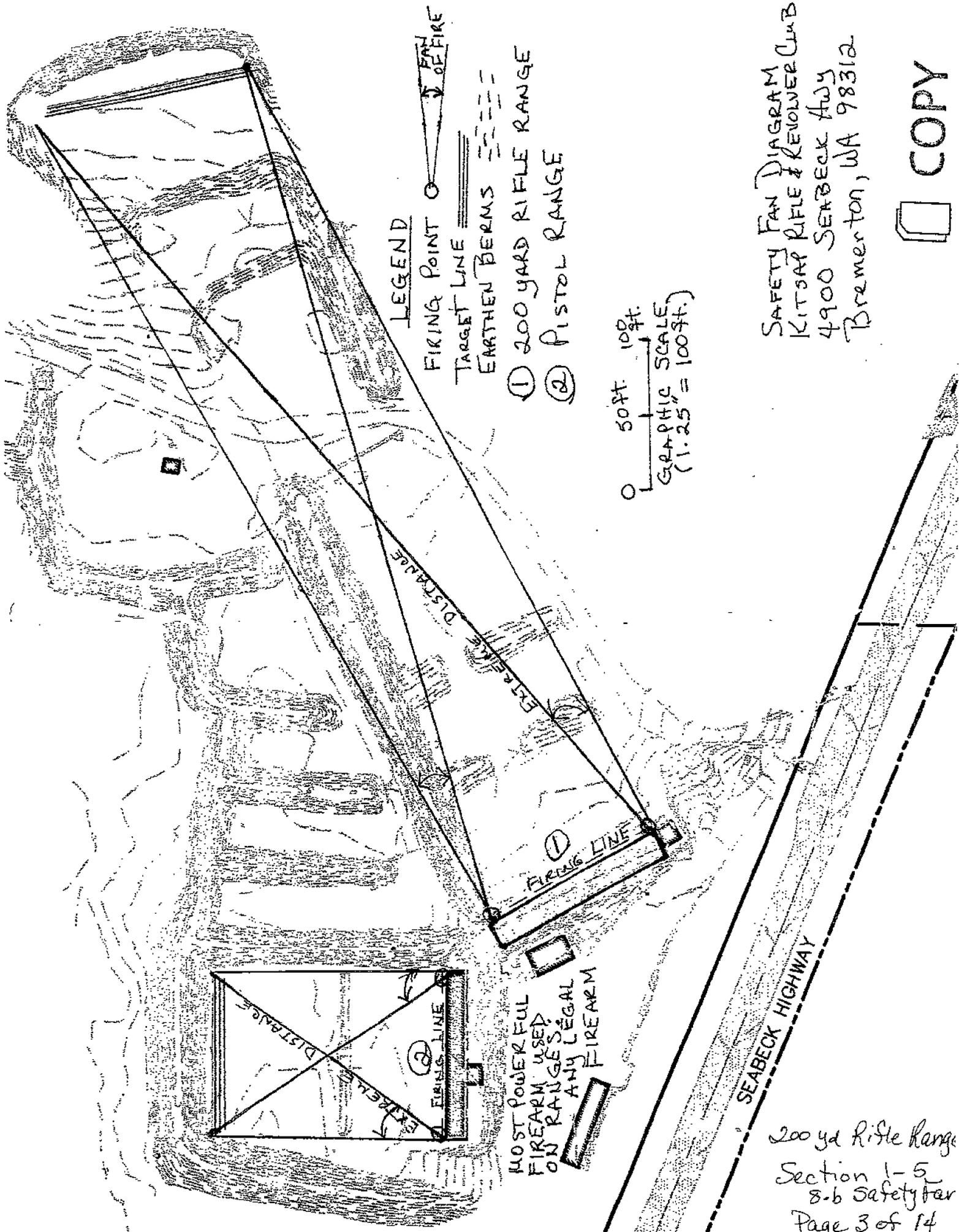
Note:

1. The above answers for this Range Data Sheet is for the primary use of this range, and;
2. Special events may necessitate varied application, for example: Including but not limited to USPSA Competition, Steel Challenge, Glock Match and/or Training Applications.
3. Alternative use has a 1-on-1 Range Officer.
4. Contour and shape of Berms & Backstops change due to normal use, lead recovery & weather.



200 yard Rifle Range
Section 1-5
Page 2 of 14

COPY



LEGEND

FIRING POINT ○ → FAN OF FIRE

TARGET LINE ———→

EARTHEN BERMS ————

① 200 YARD RIFLE RANGE

② PISTOL RANGE

○ 50ft. 10ft.
 GRAPHIC SCALE
 (1.25" = 100ft.)

MOST POWERFUL
 FIREARM USED
 ON RANGES
 ANY LEGAL
 FIREARM

SAFETY FAN DIAGRAM
 KITSAP RIFLE & REVOLVER CLUB
 4900 SEABECK HWY
 BREMERTON, WA 98312

COPY



Historic Non-Conforming Use Right (Grandfathered) as per WA state Court of Appeals: 184 Wn. App. 252, 337 P.3d. 328 (2014)

SUPPORTING DOCUMENT

SHOOTING FACILITY RANGE DATA SHEET

COPY

Name of Range: Pistol Range Shooting Facility: Kitsap Rifle & Revolver Club
Address: 4900 Seabeck Hwy, Bremerton, WA 98312
Phone #: 360-373-1007 Cell Phone #:
Email Address: info@gunsafety.org

Shooting Facility Range Data:

- 1. Number of firing points: 24
2. Distance between firing points: 4 ft.
3. Distance between firing points and most distance target line: 50 yds.
4. Backstop/back berm behind target line:
a. Height: 12 ft.
b. Construction material type: Earthen; concrete, etc.: Earthen
c. Show how the backstop/back berm meets the height criteria established in National Rifle Association Sourcebook 2012, 2.04 Backstop? Reference 2.04.1.1
5. Are there Intermediate targets on the range? [X] Yes [] No
a. If so, at what distance? 25 yds
6. Overhead/Safety baffles at firing line:
a. Number of baffles: 0
b. Spacing distance: N/A
c. Construction material type: N/A
d. Show how Safety baffles meet the criteria established in National Rifle Association Sourcebook 2012, 2.06
7. Side berms and baffles:
a. Height: 8-12 ft
b. Construction material type: Earthen, concrete, blocks, etc.: Earthen
c. Show how the side berms/walls/baffles meet the criteria established in National Rifle Association Sourcebook 2012 2.05, Side Berms, Walls. Reference 2.05.1.4
8. Largest caliber weapon fired on range: Any legal firearm
a. Distance round can travel unimpeded: 50 yds
b. A safety fan diagram of the most powerful firearm used on the range. The diagram will:
i. Identify the firearm. See Section 1-5 Page 6 of 14
ii. Start from the firing line.
iii. Show the extreme distance a round could go unimpeded.
iv. Show the physical methods used to contain rounds.

9. Are there any shorelines, wetlands or wetland buffers within 500 yards of any firing line on the range



Pistol Range
Section 1-5
Page 4 of 14

If yes, answer the following questions:

a. Is the range firing line oriented away from the shoreline, wetland or wetland buffers?
No

b. What is the distance between the firing line and the shoreline, wetland, or wetland buffer?
60-70 yards

c. What physical protections are constructed to protect the shoreline, wetland, or wetland buffer?
Earthen Impact Berms & Backstops

10. Are there any structures housing people or domestic animals within 500 yards of any firing line on the range property or directly adjacent to the range property? Yes No

If yes, answer the following questions.

a. Is the range firing line oriented away from the structures?
yes

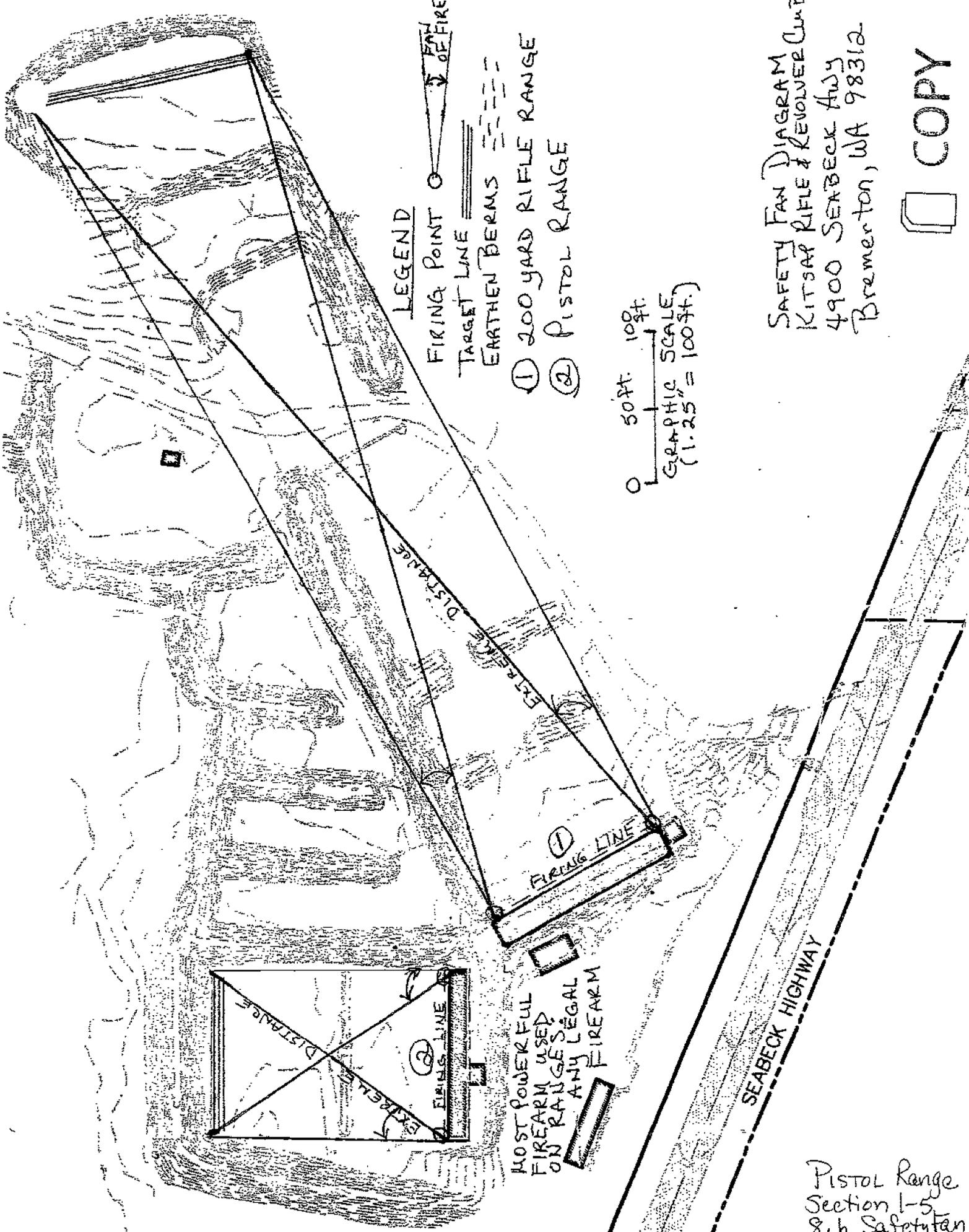
b. What is the distance between the firing line and the structures?
Approximately 400 yards

c. What physical protections are constructed to protect the structures from stray projectiles?
Earthen Impact Berms & Backstops

Note:

1. The above answers for this Range Data Sheet is for the primary use of this range, and;
2. Special events may necessitate varied application, for example; including but not limited to USPSA Competition, Steel Challenge, Glock Match, and/or Training Applications.
3. Alternative use has a 1-on-1 Range Officer.
4. Contour and shape of the Berms change do to normal use, lead recovery & weather.





LEGEND

FIRING POINT ○ → FAN OF FIRE

TARGET LINE ≡≡≡

EARTHEN BERMS ≡≡≡≡≡

① 200 YARD RIFLE RANGE

② PISTOL RANGE

0 50ft. 100ft.
GRAPHIC SCALE
(1.25" = 100ft.)

MOST POWERFUL
FIREARM USED
ON RANGES IS
ANY LEGAL
FIREARM

SAFETY FAN DIAGRAM
KITSAP RIFLE & REVOLVER CLUB
4900 SEABECK HWY
Bremerton, WA 98312

□ COPY

Pistol Range
Section 1-5
S.B. Safety Fan

Historic Non-Conforming Use Right (Grandfathered) as per WA State Court of Appeals: 184 Wn. App. 252, 337 P.3d. 328 (2014)



SUPPORTING DOCUMENT

SHOOTING FACILITY RANGE DATA SHEET



Name of Range: Multi Use Bays 1-4 Shooting Facility: Kitsap Rifle & Revolver Club
 Address: 4900 Seabeck Hwy, Bremerton, WA 98312
 Phone #: 360-373-1007 Cell Phone #: _____
 Email Address: info@gun.safety.org

Shooting Facility Range Data:

- Number of firing points: Firing Zone: Leach for each bay with varied location
- Distance between firing points: N/A
- Distance between firing points and most distance target line: up to 34 yds
- Backstop/back berm behind target line:
 - Height: 8-12 ft.
 - Construction material type: Earthen; concrete, etc.: Earthen
 - Show how the backstop/back berm meets the height criteria established in National Rifle Association Sourcebook 2012, 2.04 Backstop? Reference 2.04.1.1
- Are there Intermediate targets on the range? Yes No
 - If so, at what distance? In yards: 0-34
- Overhead/Safety baffles at firing line:
 - Number of baffles: 0
 - Spacing distance: N/A
 - Construction material type: N/A
 - Show how Safety baffles meet the criteria established in National Rifle Association Sourcebook 2012, 2.06
- Side berms and baffles:
 - Height: 8-12 feet
 - Construction material type: Earthen, concrete, blocks, etc.: Earthen
 - Show how the side berms/walls/baffles meet the criteria established in National Rifle Association Sourcebook 2012 2.05, Side Berms, Walls. Reference 2.05.1.4
- Largest caliber weapon fired on range: Any Legal Fire A.
 - Distance round can travel unimpeded: up to 34 yds
 - A safety fan diagram of the most powerful firearm used on the range. The diagram will:
 - Identify the firearm. These bays are for alternative uses.
 - Start from the firing line. Because of the varied use, fan drawings are not relevant for this application.
 - Show the extreme distance a round could go unimpeded.
 - Show the physical methods used to contain rounds.
- Are there any shorelines, wetlands or wetland buffers within 500 yards of any firing line on the range



Multi Use Bays 1-4
 Section 1-5
 Page 7 of 14

Historic Non-Conforming Use Right (Grandfathered) as per WA State Court of Appeals: 184 Wn. App. 252, 337 P.3d. 328 (2014)
property or directly adjacent to the range property? Yes No

If yes, answer the following questions:

a. Is the range firing line oriented away from the shoreline, wetland or wetland buffers?

No

b. What is the distance between the firing line and the shoreline, wetland, or wetland buffer?

60-70 yards

c. What physical protections are constructed to protect the shoreline, wetland, or wetland buffer?

Earthen Impact Berms & Backstops

10. Are there any structures housing people or domestic animals within 500 yards of any firing line on the range property or directly adjacent to the range property? Yes No

If yes, answer the following questions.

a. Is the range firing line oriented away from the structures?

Yes

b. What is the distance between the firing line and the structures?

400 yds.

c. What physical protections are constructed to protect the structures from stray projectiles?

Earthen Impact Berms & Backstops

Note:

1. The above answers for this Range Data Sheet is for the primary use of this range;
2. Special Events may necessitate varied application. For Example: Including but not limited to USPSA Competition, Steel Challenge, Glock Match, and/or Training Applications.
3. Alternative use has a 1-on-1 Range Officer.
4. Contour & shape of Berms change due to normal use lead recovery, and weather.

COPY

Historic Non-Conforming Use Right (Grandfathered) as per WA State Court of Appeals: 184 Wn. App. 252, 337 P.3d. 328 (2014)



SUPPORTING DOCUMENT

SHOOTING FACILITY RANGE DATA SHEET



Name of Range: Multi Use Bay 5 Shooting Facility: Kitsap Rifle & Revolver Club
Address: 4900 Seabeck Hwy, Bremerton, WA 98312
Phone #: 360-373-1007 Cell Phone #: _____
Email Address: info@gunsafety.org

Shooting Facility Range Data:

1. Number of firing points: 1
2. Distance between firing points: N/A
3. Distance between firing points and most distance target line: 93 ft.
4. Backstop/back berm behind target line:
 - a. Height: 6 ft * Targets are set lower to prevent bullets from going over the berm
 - b. Construction material type: Earthen; concrete, etc.: Earthen
 - c. Show how the backstop/back berm meets the height criteria established in National Rifle Association Sourcebook 2012, 2.04 Backstop? Reference 2.04.1.1
5. Are there Intermediate targets on the range? Yes No
 - a. If so, at what distance? 0-93 ft
6. Overhead/Safety baffles at firing line:
 - a. Number of baffles: 0
 - b. Spacing distance: N/A
 - c. Construction material type: N/A
 - d. Show how Safety baffles meet the criteria established in National Rifle Association Sourcebook 2012, 2.06
7. Side berms and baffles:
 - a. Height: 6-8 ft
 - b. Construction material type: Earthen, concrete, blocks, etc.: Earthen
 - c. Show how the side berms/walls/baffles meet the criteria established in National Rifle Association Sourcebook 2012 2.05, Side Berms, Walls. Reference 2.05.1.4
8. Largest caliber weapon fired on range: Any legal fire arm.
 - a. Distance round can travel unimpeded: 93 feet
 - b. A safety fan diagram of the most powerful firearm used on the range. The diagram will:
 - i. Identify the firearm. This bay is for alternative use.
 - ii. Start from the firing line. Because of varied use, fan drawings are not
 - iii. Show the extreme distance a round could go unimpeded. relevant for this application.
 - iv. Show the physical methods used to contain rounds.

9. Are there any shorelines, wetlands or wetland buffers within 500 yards of any firing line on the range



Multi Use Bay 5
Section 1-5_i

Historic Non-Conforming Use Right (Grandfathered) as per WA State
Court of Appeals: 184 Wn. App. 252, 337 P.3d. 328 (2014)
property or directly adjacent to the range property? Yes No

If yes, answer the following questions:

a. Is the range firing line oriented away from the shoreline, wetland or wetland buffers?

No

b. What is the distance between the firing line and the shoreline, wetland, or wetland buffer?

Approximately 60-70 yds

c. What physical protections are constructed to protect the shoreline, wetland, or wetland buffer?

Earthen Impact Berms & Backstops

10. Are there any structures housing people or domestic animals within 500 yards of any firing line on the range property or directly adjacent to the range property? Yes No

If yes, answer the following questions.

a. Is the range firing line oriented away from the structures?

yes

b. What is the distance between the firing line and the structures?

400 yds.

c. What physical protections are constructed to protect the structures from stray projectiles?

Earthen Impact Berms & Backstops

Note:

1. The above answers for this Range Data Sheet is for the primary use of this range;

2. Special events may necessitate varied application.
For Example: Including but not limited to U.S.P.S.A. Competition, Steel Challenge, Glock Match, and/or Training Applications.

3. Alternative use has a 1-on-1 Range Officer.

4. Contour & shape of Berms change due to normal use, lead recovery, & weather.



Multi Use Bay 5
Section 1-5

COPY



SUPPORTING DOCUMENT

**SHOOTING FACILITY
RANGE DATA SHEET**

COPY

Name of Range: Multi Use Bays 6-8 Shooting Facility: Kitsap Rifle & Revolver Club
Address: 4900 Seabeck Hwy, Bremerton, WA 98312
Phone #: 360-373-1007 Cell Phone #: _____
Email Address: info@gunsafety.org

Shooting Facility Range Data:

1. Number of firing points: Firing Zone: leach for each bay with varied location
2. Distance between firing points: N/A
3. Distance between firing points and most distance target line: Up to 26 yds
4. Backstop/back berm behind target line:
 - a. Height: 30 ft
 - b. Construction material type: Earthen; concrete, etc.: Earthen
 - c. Show how the backstop/back berm meets the height criteria established in National Rifle Association Sourcebook 2012, 2.04 Backstop? Reference 2.04.1.1
5. Are there Intermediate targets on the range? Yes No
 - a. If so, at what distance? 0-26 yds
6. Overhead/Safety baffles at firing line:
 - a. Number of baffles: 0
 - b. Spacing distance: N/A
 - c. Construction material type: N/A
 - d. Show how Safety baffles meet the criteria established in National Rifle Association Sourcebook 2012, 2.06
7. Side berms and baffles:
 - a. Height: 12-14 ft
 - b. Construction material type: Earthen, concrete, blocks, etc.: Earthen
 - c. Show how the side berms/walls/baffles meet the criteria established in National Rifle Association Sourcebook 2012 2.05, Side Berms, Walls. Reference 2.05.1.4
8. Largest caliber weapon fired on range: Any Legal Fire Arm
 - a. Distance round can travel unimpeded: Up to 26 yds.
 - b. A safety fan diagram of the most powerful firearm used on the range. The diagram will:
 - i. Identify the firearm. Bays are for alternative use.
 - ii. Start from the firing line. Because of varied use, fan drawings are not
 - iii. Show the extreme distance a round could go unimpeded. relevant to this
 - iv. Show the physical methods used to contain rounds. application.

9. Are there any shorelines, wetlands or wetland buffers within 500 yards of any firing line on the range



Multi Use Bays 6-8
Section 1-5

property or directly adjacent to the range property? Yes No

If yes, answer the following questions:

a. Is the range firing line oriented away from the shoreline, wetland or wetland buffers?

yes

b. What is the distance between the firing line and the shoreline, wetland, or wetland buffer?

300 yds.

c. What physical protections are constructed to protect the shoreline, wetland, or wetland buffer?

Earthen Impact Berms & Backstops

COPY

10. Are there any structures housing people or domestic animals within 500 yards of any firing line on the range property or directly adjacent to the range property? Yes No

If yes, answer the following questions.

a. Is the range firing line oriented away from the structures?

yes

b. What is the distance between the firing line and the structures?

400 yds.

c. What physical protections are constructed to protect the structures from stray projectiles?

Earthen Impact Berms & Backstops

Note:

1. The above answers for this Range Data Sheet is for the primary use of this range;
2. Special events may necessitate varied application. For example: Including but not limited to USPSA Competition, Steel Challenge, Glock Match, and/or Training Applications.
3. Alternative use has a 1-on-1 Range Officer.
4. Contour and shape of Berms change due to normal use, lead recovery, and weather.



Multi Use Bays 6-8
Section 1-5
Page 12 of 14



SUPPORTING DOCUMENT

SHOOTING FACILITY RANGE DATA SHEET



Name of Range: MULTI USE BAYS 9-12 Shooting Facility: Kitsap Rifle & Revolver Club

Address: 4900 Seabeck Hwy, Bremerton, WA 98312

Phone #: 360-373-1007 Cell Phone #: _____

Email Address: info@gunsafety.org

Shooting Facility Range Data: ^{NOTE:} Rifle Line Primary Firings are closed when Bays 9-12 are in use.

1. Number of firing points: Firing Zone: 1 each for each bay with varied location
2. Distance between firing points: N/A
3. Distance between firing points and most distance target line: Up to 28 yds.
4. Backstop/back berm behind target line:
 - a. Height: 20-40 ft
 - b. Construction material type: Earthen; concrete, etc.: Earthen
 - c. Show how the backstop/back berm meets the height criteria established in National Rifle Association Sourcebook 2012, 2.04 Backstop? Reference 2.04.1.1
5. Are there Intermediate targets on the range? Yes No
 - a. If so, at what distance? 0-28 yds
6. Overhead/Safety baffles at firing line:
 - a. Number of baffles: 0
 - b. Spacing distance: N/A
 - c. Construction material type: N/A
 - d. Show how Safety baffles meet the criteria established in National Rifle Association Sourcebook 2012, 2.06
7. Side berms and baffles:
 - a. Height: 12-16 ft
 - b. Construction material type: Earthen, concrete, blocks, etc.: Earthen
 - c. Show how the side berms/walls/baffles meet the criteria established in National Rifle Association Sourcebook 2012 2.05, Side Berms, Walls. Reference 2.05.1.4
8. Largest caliber weapon fired on range: Any legal Firearm
 - a. Distance round can travel unimpeded: Up to 28 yds.
 - b. A safety fan diagram of the most powerful firearm used on the range. The diagram will:
 - i. Identify the firearm. Because of varied use, fan drawings
 - ii. Start from the firing line. are not relevant for this application.
 - iii. Show the extreme distance a round could go unimpeded.
 - iv. Show the physical methods used to contain rounds.

9. Are there any shorelines, wetlands or wetland buffers within 500 yards of any firing line on the range



Multi Use Bay 9-12
Section 1-5
Page 13 of 14

If yes, answer the following questions:

a. Is the range firing line oriented away from the shoreline, wetland or wetland buffers?

yes

b. What is the distance between the firing line and the shoreline, wetland, or wetland buffer?

150 St.

c. What physical protections are constructed to protect the shoreline, wetland, or wetland buffer?

Earthen Impact Berms & Backstops

COPY



10. Are there any structures housing people or domestic animals within 500 yards of any firing line on the range property or directly adjacent to the range property? Yes No

If yes, answer the following questions.

a. Is the range firing line oriented away from the structures?

yes

b. What is the distance between the firing line and the structures?

400 yds

c. What physical protections are constructed to protect the structures from stray projectiles?

Earthen Impact Berms & Backstops.

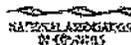
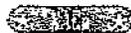
Note:

1. The above answers for this Range Data Sheet is for the primary use of this range, and;

2. Special Events may necessitate varied application. For Example: Including but not limited to USPSA Competition, Steel Challenge, Glock Match and/or Training Application

3. Alternative use has a 1-on-1 Range Officer

4. Contour & shape of Berms changed due to use, lead recovery, & weather.



Multi Use Bay 9-12
Section 1-5

Section 1 - 6

KRRC Facility Safety Plan

KRRC

Standard Operating Procedure

including

Emergency Plan Procedure

And

Training Plan for

Range Safety Officers

(18 Pages)

KITSAP RIFLE & REVOLVER CLUB

BREMERTON, WASH.

Organized Nov. 11th, 1926



For Sport and National Defense

STANDARD OPERATING PROCEDURES

20 September 2015

KITSAP RIFLE AND REVOLVER CLUB STANDARD OPERATING PROCEDURES



COPY

Contents

1	Introduction	2
2	Organizational Description.....	2
3	Physical Description of Facilities	2
4	Basic Club Responsibilities.....	3
5	Range Officers Responsibilities.....	4
6	Member Responsibilities.....	4
7	Guest Privileges	5
8	General Public	6
9	General Range Permissions, Restrictions, and Prohibitions.....	6
10	Range Permissions and Prohibitions.....	8
11	Firing Line Conduct	9
12	Rules Enforcement	12
13	Organized Range Events	13
14	Committees.....	14
15	Glossary	15
	Appendix A: Emergency Plan Notification	16

1 Introduction

All Kitsap Rifle & Revolver Club (KRRC, "Club") members are responsible for ensuring compliance with these Standard Operating Procedures (SOPs). Club members are responsible for instructing their guests to ensure compliance with the contents of this SOP. Violation(s) of this SOP may result in the loss of range privileges, membership, or other appropriate actions under the provisions of this SOP, KRRC By-Laws, or local, state, or federal law.

- 1.1 1.1 This document is reviewed and revised as necessary to facilitate the responsible stewardship of KRRC.

2 Organizational Description

- 2.1 KRRC is operated under its by its regular members in good standing, represented through an elected Executive Committee (ExCom), and exists to promote the safe and responsible use of firearms, sportsmanship and marksmanship among members and their families, potential members, and authorized guests for Sport and National Defense through:
 - 2.1.1 Promoting and training safe firearms handling practices;
 - 2.1.2 Disseminating proven firearms techniques, marksmanship, and defensive training;
 - 2.1.3 Promoting firearms competitions among members/organizations and the general public in cooperation, when possible, with the State of Washington, National Rifle Association of America (NRA), the Civilian Marksmanship Program (CMP), United States Practical Shooting Association (USPSA), and other appropriate and compatible organizations.
- 2.2 KRRC is a self-sustaining non-profit organization. Donations generated by KRRC annual membership dues, special events, competitions, and general range use provide funds for operations, maintenance, and improvements.
- 2.3 KRRC By-Laws serve as the framework of the Club organization, including, but not limited to:
 - 2.3.1 Defining purpose membership;
 - 2.3.2 Defining KRRC Executive Committee Members and responsibilities;
 - 2.3.3 Defining meeting criteria;
 - 2.3.4 Member suspensions and expulsions procedures.

3 Physical Description of Facilities

- 3.1 The physical and mailing address of KRRC is
 - 4900 Seabeck Hwy NW
 - Bremerton, WA 98312, USA.
- 3.2 The range complex currently consists of:
 - 3.2.1 Approximately 72.41 acres of total property.
 - 3.2.2 Approximately 8 acres of historic heavy use area for structured ranges, parking, buildings, and related infrastructure.

**Kitsap Rifle & Revolver Club
Standard Operating Procedures**

- 3.2.3 Approximately 62 acres of lighter use and environmental buffer.
- 3.3 KRRC utilizes impact/containment berms that are constructed, maintained, reconstructed and modified daily, weekly, monthly and yearly to facilitate the containment of projectiles to the KRRC property for the approved activities of the moment. The berms consist of sandy loam and are non-compacted to absorb, trap and keep projectiles stable until they are recycled.
- 3.4 KRRC property is bordered by county, federal and private properties. Care must be taken to minimize the risk that projectiles are not intentionally or unintentionally fired, or allowed to ricochet, off KRRC property. Strict adherence to the Commandments of Firearms Safety, and KRRC rules and policies
- 3.5 Due to the KRRC's multi-use design and limited land space, operational restrictions shall be imposed to ensure safe, responsible, efficient, and environmentally sound operations.

4 Basic Club Responsibilities

- 4.1 The basic responsibilities of KRRC are as follows:
 - 4.1.1 To ensure the most current data is available for reference, copies of the most recent SOP shall be maintained in the Range Office;
 - 4.1.2 KRRC strives to provide facilities in good repair for use by members and guests;
 - 4.1.3 To ensure that all authorized users of KRRC property understand and assume the personal responsibility associated with the discharge of firearms;
 - 4.1.4 First aid kits containing basic supplies will be available on both the primary heavy use shooting ranges and shall be restocked at regular intervals;
 - 4.1.5 Emergency contact information shall be posted outside the range office;
 - 4.1.6 KRRC will provide Range Officer staffing and training on a regularly scheduled basis.
- 4.2 Environmental Responsibilities
 - 4.2.1 KRRC strives to exceed the best management practices for outdoor shooting ranges per the guidelines published by the United States Environmental Protection Agency (www2.epa.gov/lead/best-management-practices-lead-outdoor-shooting-ranges);
 - 4.2.2 KRRC restricts the sound generated at the facility in keeping with WAC 173-60-050 and strives to minimize impacts to the surrounding community. Sound deadening material on the rifle line will be maintained.
- 4.3 Range Use Safety Briefing and Test
 - 4.3.1 KRRC administers an annual range use safety briefing and test to all Range Officers, range members, and members of the public.

5 Range Officers Responsibilities

- 5.1 Range Officers will be on duty any time the range is open to the public.
 - 5.1.1 Range officers will receive 8 hours of classroom and 20 hours of practical training as a minimum under a Lead Range Officer;
 - 5.1.2 Range Officers must complete an average of 8 hours duty per month to maintain status as a Range Officer;
 - 5.1.3 Ranger officers must attend one Safety/Training session per calendar quarter.
- 5.2 Safety
 - 5.2.1 KRRC provides all Range Officers with first aid and CPR classes annually;
 - 5.2.2 Range Officers may provide first aid for all minor injuries, but are directed to call emergency services (call 911) and the Club's Executive Officer as necessary;
 - 5.2.3 Range Officers will enforce the **Primary Rules for use of KRRC Ranges** (see section 11).
- 5.3 The following defines and applies to all Range Officers:
 - 5.3.1 Range Officer (RO): Maintains an environment for the responsible and safe use of the ranges; instructs shooters in safe and responsible operations; assists shooters in function, operation, or safety of firearms;
 - 5.3.2 Lead Range Officer (LRO): An experienced Range Officer who instructs other Range Officers on range operations, safe use and oversees general range operations while on duty;
 - 5.3.3 Chief Range Officer (CRO): An experienced Lead Range Officer who instructs other Range Officers on range operations, safe use and oversees general range operations while on duty. The CRO is generally the most knowledgeable on range operations;
 - 5.3.4 Range Master (RM): Oversees all aspects of range operations. The Range Master is the final arbiter of all disputes regarding range operations and safety.

6 Member Responsibilities

- 6.1 KRRC members shall not be in arrears on their dues, pursuant to the KRRC By-Laws.
- 6.2 All KRRC members may be issued a main gate key and a membership badge, following successful completion of the Member RSO class and subject to the following restrictions:
 - 6.2.1 Upon entering or leaving KRRC property, members shall ensure that the gates are secured to prevent unauthorized access to KRRC property when no Range Officer is on duty;
 - 6.2.2 Membership cards must be in the KRRC member's possession at all times while on KRRC property;
 - 6.2.3 Membership cards, badges, key cards, and keys are controlled items, property of KRRC, and shall not be duplicated;

**Kitsap Rifle & Revolver Club
Standard Operating Procedures**



- 6.2.4 Cards and keys utilized by anyone other than the individual to whom they were issued shall be confiscated and the individuals involved shall face disciplinary action;
- 6.2.5 Any person discovered firing on KRRC ranges without current Club-approved authorization shall be considered unsafe, armed trespassers on KRRC property and shall be reported immediately to a member of the ExCom. The report must include all relevant information regarding the trespass. All trespass violations shall be reported to legal authorities.
- 6.3 All KRRC members must fulfill a minimum of ten (10) participation credits annually to possibly maintain status as a member in good standing and are specifically encouraged to attend organized work parties which shall be as follows:
 - 6.3.1 Work parties shall be scheduled by the Executive Officer, and every attempt shall be made to limit the impact on range activities;
 - 6.3.2 All maintenance will be directed by the Executive Officer or his/her designated representative;
 - 6.3.3 All ranges will be **COLD** and all firearms secured from the firing lines during maintenance sessions where personnel shall be forward of any firing line;
 - 6.3.4 Range maintenance may consist of, but is not limited to, general area trash pickup and disposal, brass and lead recovery/recycling, grass mowing, weed control, general facilities repair, and range improvements;
 - 6.3.5 Each member is responsible to maintain his/her participation credits card and obtain from a range officer proper credit for work performed. This will serve as proof of club participation for member renewal credit;
 - 6.3.6 Members who are not available during scheduled maintenance sessions may contact the Executive Officer or his designee to arrange alternate times and duties in lieu of scheduled sessions.
- 6.4 All KRRC members shall abide by the permissions, restrictions, and prohibitions detailed in the entire SOP.
- 6.5 All KRRC members shall be responsible for their guests' adherence to the permissions, restrictions, and prohibitions detailed in the entire SOP.

7 Guest Privileges

- 7.1 Each member shall be allowed to sponsor non-member visits to the KRRC range with the following restrictions:
 - 7.1.1 Members are warned that any misconduct on the part of their guest reflects on the member's good standing and can result in disciplinary action;
 - 7.1.2 All guests must sign a hold-harmless agreement prior to entering the shooting areas;
 - 7.1.3 All guests shall be advised that their use of the range is predicated on the understanding that they will accept responsibility for each shot they fire;
 - 7.1.4 Each member is limited to two (2) guests per visit;
 - 7.1.5 Each guest is allowed one visit per calendar year without making a donation;

- 7.1.6 Each member shall be responsible to make a \$15 donation for each visit of a guest after their first visit;
- 7.1.7 Guests shall not perform the duties of Range Safety Officer, however, they are expected to immediately identify any safety concerns.

8 General Public

KRRC facilities are open regularly to the public in agreement with the Bargain and Sale Deed. KRRC reserves the right to refuse access to club facilities for any reason.

9 General Range Permissions, Restrictions, and Prohibitions

- 9.1 Definitions of specific range related terms.
 - 9.1.1 **HOT** is a condition of a range where firearms may be safely handled and responsibly discharged in accordance with this SOP;
 - 9.1.2 **COLD** is a condition of a range where no handling of firearms is allowed;
 - 9.1.3 **CLEAR** is a condition of firearms when they are totally unloaded, magazine removed (if applicable), action locked open and visible, safety on, and properly secured on a bench or in a designated rack or case;
 - 9.1.4 **STOP** or **CEASE FIRE** are emergency terms to get everyone on the firing line to stop shooting immediately in the event an emergency safety situation arises;
 - 9.1.5 **Berms** are mounds of material constructed to trap projectiles fired into them;
 - 9.1.6 **Secured** is a condition where a firearm is stowed within a case or properly carried in a holster or other designed device prohibiting access to the firing mechanism during transport.
- 9.2 General Rules:
 - 9.2.1 Illegal drug use and persons under the influence of illegal drugs are not permitted on KRRC property;
 - 9.2.2 Persons appearing to be negatively impaired for any reason will be prohibited from participating in any firearms handling activity;
 - 9.2.3 Climbing of berms is specifically prohibited except when approved by the Executive Officer;
 - 9.2.4 Any event or class requiring deviation from KRRC SOPs must submit a written request for variance, including supporting rationale, for exception to KRRC Executive Committee two (2) weeks prior to the intended date of the event or class;
 - 9.2.5 Generally, regular members in good standing have access to the primary parking lot, 50 yard and 200 yard ranges and restroom facilities. Access to most other KRRC property, structures and ranges, except as noted above, are granted on a need or qualification basis. Not all members shall have access to these other areas of KRRC property and facilities. The Executive Officer or Executive Committee may approve access upon proof of need for the access.



**Kitsap Rifle & Revolver Club
Standard Operating Procedures**

- 9.3 Firearms authorized for use on KRRC shooting ranges shall include all lawfully owned and possessed firearms in good working condition.
- 9.4 KRRC authorizes the use of lead, copper, brass, and bismuth ammunition projectiles.
- 9.5 KRRC prohibits incendiary, tracer, armor-piercing, explosive, and steel ammunition projectiles without specific permission.
- 9.6 The following targets are authorized for use on KRRC shooting ranges:
 - 9.6.1 Any commercially available or home-made paper, cardboard target or clay pigeons when properly placed to assure projectile containment in the impact berms;
 - 9.6.2 Exotic targets (targets other than those described in 9.6.1) must be properly maintained, used according to the manufacturer's instructions, placed in locations that limit the potential for injuries from bullet fragmentation and ricochet, and only when specifically approved by a Lead Range Officer.
 - 9.6.3 Explosive targets (e.g. *Tannerite*) may be used when placed in accordance with manufacturers' instructions with a Lead Range Officer's approval;
 - 9.6.4 Non-hazardous targets which can, and must, be cleaned up (e.g., golf balls, tennis balls, plastic drink bottles, soda cans, etc.), and specifically approved by a Lead Range Officer.
- 9.7 Targets prohibited from use on KRRC shooting ranges without specific permission from the Executive Committee:
 - 9.7.1 Glass targets of any type;
 - 9.7.2 Any target containing hazardous materials;
 - 9.7.3 Any wildlife.
- 9.8 Conditions for use of KRRC shooting ranges:
 - 9.8.1 When loading, firing, and clearing pistols, rifles, and slugged shotguns, the muzzle must never be pointed above a containment berm. All members and guests must ensure that they are firing directly downrange or into containment berms/backstops;
 - 9.8.2 All members and guests may furnish their own appropriate target frames and targets unless provided during club-sponsored functions;
 - 9.8.3 All members and guests will clean up targets, target frames, or target remnants when done shooting;
 - 9.8.4 All members and guests will keep the firing line clean of debris and expended cartridge casings, and will dispose of everything in appropriate casing buckets and trash and hull disposal cans;
 - 9.8.5 Wanton destruction or molestation of wildlife is expressly prohibited and is grounds for immediate expulsion from the club and may be subject to criminal prosecution;
 - 9.8.6 Un-aimed or indiscriminate firing is expressly prohibited;
 - 9.8.7 Firing off-property is expressly prohibited and subject to criminal prosecution and/or civil liability;
 - 9.8.8 Intentional and willful damage to KRRC property is expressly prohibited and is grounds for immediate expulsion from the club and subject to criminal and/or civil liability;

**Kitsap Rifle & Revolver Club
Standard Operating Procedures**

- 9.8.9 Members and guests may carry a holstered firearm anywhere on the KRRC grounds, but can only remove it when on the firing line while the line is **HOT** or in accordance with the rules of other approved activities and locations.

10 Range Permissions and Prohibitions

- 10.1 The following generally pertains to all ranges:
- 10.1.1 KRRC recommends that members do not shoot alone at the facility;
 - 10.1.2 A visual inspection of the facility and targets shall be performed before ranges are declared **HOT**. This shall include all firing lines, all impact areas, and all space between;
 - 10.1.3 Clear vocal communication shall be used to declare all ranges **COLD** or **HOT** with all users of the range agreeing to the change in **COLD** or **HOT** status;
 - 10.1.4 KRRC recommends that one member stay at the firing line to ensure that all ranges remain **COLD** while persons are downrange;
 - 10.1.5 If so equipped, **COLD** range lights (blue strobes) shall be activated by each person wishing to proceed down range during a **COLD** range (target changes, range maintenance, etc.). To activate a **COLD** range lights, the shooter flips up the **COLD** range light switch nearest his or her position and hangs his or her badge from the switch;
 - 10.1.6 Each member and guest is responsible to assure that everyone has returned from down range prior to calling the line **HOT** and handling any firearm;
 - 10.1.7 Members shall not unduly affect or restrict firing on the ranges with extended or repeated **COLD** sessions. **COLD** sessions should be restricted to 10 minutes or less when possible.
Note: This does not apply during scheduled range maintenance or scheduled matches/events.
- 10.2 The following pertains to the Rifle Line:
- 10.2.1 The Rifle line is our 200 yard range and is for use by all members of KRRC, pursuant to the provisions of this SOP;
 - 10.2.2 The Rifle line may be used for any firearm or device allowed at KRRC.
 - 10.2.3 Target frames/targets may be placed at distances ranging from 7 feet out to the 200 yard berm as long as placement of the frames/targets does not produce a safety risk due to deflection or ricochet, subject to any other restrictions in this SOP.
- 10.3 The following pertains to the Pistol Line:
- 10.3.1 The *pistol range* is for use by all members of the KRRC, pursuant to the provisions of this SOP;
 - 10.3.2 The *pistol range* may be used for pistols/handguns firing ammunition with velocities LESS than 1800 FPS, 22 LR rifles, or under special circumstances, any other legal firearm or device approved by the Lead Range Officer;

**Kitsap Rifle & Revolver Club
Standard Operating Procedures**

- 10.3.3 Target frames/targets may be placed at distances ranging from 7 feet out to the 50 yard berm as long as placement of the frames/targets does not produce a safety risk to users or other property due to deflection or ricochet, subject to any other restrictions in this SOP.
- 10.4 The following pertains to the Action Bays:
- 10.4.1 The Action Bays 1 - 4 are primarily used for KRRC-sponsored competitions and events;
- 10.4.2 Members may gain full access to use of bays 1 - 4 through a structured process including:
- USPSA/KRRC Safety training;
 - Passed live fire exercise;
- 10.4.3 Regularly-scheduled USPSA or similar practical shooting training sessions including the above process shall be provided by KRRC;
- 10.4.4 Members who successfully complete the required training shall be issued a blue bay access card identifying them as having privileges on bays 1 - 4;
- 10.4.5 Range equipment in each of the bays shall not be re-arranged except with explicit permission from a Range Officer;
- 10.4.6 All exotic targets shall be inspected prior to each use. Damaged range equipment must be removed and reported to a Range Officer, or discipline chairman immediately;
- 10.4.7 Action Bays 5 - 8 shall be used for KRRC sponsored competitions, events, and training;
- 10.4.8 Action Bays 9 - 12 shall be used for KRRC sponsored competition, events, and training. **NOTE:** The 200 Yard Rifle Range's primary firing points shall be closed.

11 Firing Line Conduct

- 11.1 The following is the minimum range safety plan and procedures briefing that will be administered to all users of KRRC facilities:

Primary Rules for use of KRRC Ranges. Please read often!

1. Safety is EVERYONE'S responsibility! You must attempt to rectify and report any safety concerns to a Range Officer immediately!
2. You will be held responsible for every projectile you fire.
3. You must follow the 4 COMMANDMENTS of Firearms Safety, which are:
 - Treat all firearms as though they are always loaded.
 - Never allow the muzzle to cover anything you are not willing to destroy.
 - Keep your finger off the trigger and out of the trigger guard until your sights are on target and you are ready to fire.
 - Be sure you have an acceptable target, know its surroundings and what lies beyond.
4. All firearms are to be kept pointed into the impact berms to load and fire.
5. Transporting uncased firearms to and from the firing line: Muzzles up, action open, unloaded, magazine removed and safety on. (A firearm in a *gun sock* is NOT considered cased)
6. **HOT** range. When the range is **HOT** you may safely handle your firearms and fire when ready. Everyone must keep their eye and hearing protection on.
7. **COLD** range. When the range is **COLD**, DO NOT HANDLE FIREARMS for any reason. If you are going down range, after everyone has agreed and declared the line **COLD**, turn on the **COLD** range light switch nearest your shooting position and hang your badge from it. Once you've returned, remove your badge and turn off your switch. Once everyone has returned to the firing line, and the **COLD** range lights are off, everyone on the line must agree and declare the line **HOT** prior to handling firearms.
8. **CLEAR** firearms. Prior to proceeding to a **COLD** range, all firearms on that range must be **CLEAR**. **CLEAR** is defined as totally unloaded, magazine removed, action open and up (visible) and properly secured in a rack, case or on the bench pointing down range.
9. Emergency Stoppage of shooting. If you see an unsafe condition that requires everyone to stop shooting immediately, yell **STOP! STOP! STOP!** or **CEASE FIRE! CEASE FIRE! CEASE FIRE!** If you hear either of these commands, you **MUST** assist in correcting the situation. First, remove your finger from the trigger guard immediately, keeping your firearm pointed in the safest possible direction, clear and secure your firearm, and provide additional assistance in correcting the condition as necessary.
10. Paper and cardboard targets **ONLY**. Exotic targets must be approved by Lead Range Officer.
11. The top of all targets will be placed no higher than 4000% of the largest projectile diameter to be used, down from the top of the final impact berm.
12. Malfunctions. Firearms malfunctions are to be remedied on the firing line. **DO NOT** bring it up to the office. Misfires or dud ammunition is to be placed in the red misfire cans on the wall at back of the ranges.
13. Keep the range clean and free of debris. It is **YOUR** range, take pride in it!

KITSAP RIFLE AND REVOLVER CLUB COPY

STANDARD OPERATING PROCEDURES

11.2 Eye and hearing protection:

Eye and hearing damage is a very real possibility when spending time at a shooting range. All users of the KRRC facilities are encouraged to research, purchase and utilize the best protection possible for the activity engaged in.

11.2.1 Hearing protection is strongly recommended to be used at all times when at the range, and **mandatory** when the range is **HOT**; Properly worn ear plugs along with properly worn ear muffs, both having a high noise reduction rating (NRR) is strongly recommended;

11.2.2 Eye protection is strongly recommended to be used at all times when at the range and **mandatory** when the range is **HOT**. High quality, wrap-around eye protection or safety glasses with side/temple shields are strongly recommended.

11.3 Transport of firearms

11.3.1 All uncased/unholstered firearms being transported to and from the parking area, to and from the shooting ranges, and at any other place on KRRC property shall have actions opened (or blocked with a chamber flag or piece of expended brass), the safety engaged, and magazine removed (if applicable);

11.3.2 No uncased/unholstered firearms may be transported to or from the shooting ranges while the line is **COLD**, unless the designated Range Officer specifically allows it.

11.4 Range Officers (ROs) and Range Safety Officers (RSOs)

11.4.1 The Range Master (RM) is the final safety authority for all activities on KRRC properties;

11.4.2 The on duty RM, CRO, or Lead Range Officer is the final safety authority for activities on each given range;

11.4.3 The final safety authority for determining the activity in a particular range area shall be as follows:

1. Any KRRC designated RM or CRO
2. Any KRRC designated lead RO
3. Any KRRC designated RO
4. Any National Firearms Institute (NFI) designated RO
5. Any National Range Officer Institute (NORI) designated RO
6. Any National Rifle Association (NRA) designated RSO
7. Any member chosen by agreement of the shooters on the line.

11.4.4 The RO shall be in control of all shooting activities on the shooting ranges;

11.4.5 The RO shall be the only person to make the final determination in calling the line **HOT** or **COLD** although any person on the firing line can call **STOP** or **CEASE FIRE** for safety reasons;

11.4.6 The RO shall be responsible for verifying that all firearms have been properly benched, grounded and cleared or secured prior to calling the range **COLD** and authorizing persons forward of the firing line;

**Kitsap Rifle & Revolver Club
Standard Operating Procedures**

11.4.7 The RO shall assist any person on the firing line with clearing of a malfunction after calling for all firearms to be made **CLEAR**;

11.5 Basic Range Commands to be used when an RSO is in control of the firing line: (Barring an emergency, all changes in range status are to be done in a manner most convenient to the majority and with courtesy extended to all shooters on the line. For example, if a shooter wants to set up or change targets, the shooter should inform others of his or her desire but allow them to finish the string/magazine/shot they are currently engaged in.)

Table 1. Basic Range Commands

Command	Response
"The line is HOT"	Eye and hearing protection on, shooters may handle their firearms and begin firing when ready.
"CLEAR your firearms"	In preparation to go to a COLD range, shooters shall cease firing, remove magazines, clear all firearms, lock actions open or block them with appropriate devices (chamber flag or expended brass), and ground/bench the firearm.
"The line is COLD"	Shooters shall step to the rear of the firing line. No one shall handle/touch/transport any uncased/unholstered firearm at this point. Persons going downrange may proceed to do so.
"STOP! STOP! STOP!" —OR— "CEASE FIRE!" CEASE FIRE! CEASE FIRE!"	Everyone must stop shooting immediately, remove their finger from the trigger and trigger guard, determine the reason for the emergency command then safely "CLEAR" their firearms and assist as needed in solving the emergency. EVERYONE USING THE RANGE MUST USE THIS COMMAND IF THEY PERCEIVE AN IMMINENT SAFETY ISSUE.

12 Rules Enforcement

KRRC members, KRRC Officers, KRRC Committee Chairs, guests, and competitors are expected to be aware of, adhere to and expect enforcement of KRRC By-Laws and Standard Operating Procedures. Failure to do so may result in disciplinary action, up to and including permanent expulsion from the KRRC, pursuant to the following:

- 12.1 Charges against any officer or member may be proffered by any member in good standing.
- 12.2 Such charges must be in writing, clearly state the facts, and must be accompanied by all affidavits or exhibits which are to be used in their support.
- 12.3 Such charges shall be filed with the Treasurer who will immediately notify the President.
- 12.4 The President shall call a meeting of the Executive Committee to hear the charges. The Treasurer shall give at least fifteen (15) days notice of the meeting to each member of the Executive Committee, the accuser, and the accused.

- 12.5 Notices shall be written and shall include a true copy of the charges and all supporting affidavits and exhibits.
- 12.6 The Executive Committee shall either reject or uphold the charges. If upheld by the Executive Committee, the charges shall be voted upon by the membership at the next regular meeting or at a special meeting called by the President for the purpose of hearing and voting on the charges.
- 12.7 Any officer may be removed from office for any cause deemed sufficient by the Executive Committee and by a two thirds (2/3) majority affirmative vote by the full members in good standing present at the meeting at which the vote is taken.
- 12.8 Any member may be expelled or suspended for any cause deemed sufficient by the Executive Committee and by a four-fifths (4/5) affirmative vote of the full members present at the meeting at which the vote is taken.
- 12.9 Any non-member can be expelled from the range for safety violations by the designated Range Safety Officer on duty, any elected Officer, or any elected committee Chair.

13 Organized Range Events

- 13.1 Scheduled KRRC-sponsored events:
 - 13.1.1 KRRC-sponsored events occur on a regularly scheduled basis. These events require one, some, or all ranges to be closed for a set period of time;
 - 13.1.2 The Match Director of any KRRC-sponsored event shall be in charge of all utilized ranges while the scheduled activity is taking place. The Match Director shall make every effort to minimize the amount of time that all ranges must be **COLD** as to reduce the impact on the general membership;
 - 13.1.3 Times and availability of ranges shall be posted at the range office and the KRRC website (GunSafety.org);
 - 13.1.4 KRRC-sponsored events include, but are not limited to escorted public access to competitions, classes, or other special events, including military and law enforcement training exercises and competitive events ran under the rules of the USPSA, National Rifle Association, International Handgun Metallic Silhouette Association, Civilian Marksmanship Program, Glock Sport Shooting Association and others;
 - 13.1.4.1 All use of KRRC facilities, and application of special event rules must comply with KRRC's safety rules for using the KRRC range facility. If a conflict exists, KRRC rules concerning the safety of the range users and the community shall govern.
 - 13.1.5 Sponsors of organized competitions open to the public shall ensure a pre-determined range usage fee is paid to the KRRC within five (5) business days after the event is completed;
 - 13.1.6 All guests participating in KRRC-sponsored events must remain under direct supervision of the event organizer(s) at all times;
 - 13.1.7 All participants of KRRC-sponsored events shall be briefed on range operations and applicable SOP prior to any live fire.



- 13.2 Other organized events:
- 13.2.1 Any recognized organization (military, police, Boy Scouts, church groups, etc.) or any member in good standing may conduct an organized event or training class;
 - 13.2.2 The KRRC ExCom must approve the event or class at least two (2) weeks prior to the planned event date, and the event will be listed at least ten (10) days prior to the event on the range message board and KRRC website;
 - 13.2.3 To be eligible for consideration, organized events must serve the primary purposes of the KRRC: promoting sportsmanship, marksmanship and national defense among members and their families, potential members, and authorized guests;
 - 13.2.4 Approved events which deny access to regular members for a significant period of time must compensate the KRRC appropriately.

14 Committees

- 14.1 The ExCom collectively may create both permanent and temporary committees to assist the ExCom in the execution of general duties. These Committees are subject to the following:
- 14.1.1 The formation of a committee shall be approved by a majority vote of the ExCom;
 - 14.1.2 The Executive Officer, Treasurer, and Secretary may propose both permanent and temporary committees to assist in the execution of their specific duties. The Officer shall outline the duties and/or purpose of the committee proposed. The formation of a committee shall be approved by a majority vote of the ExCom;
 - 14.1.3 Committee Chairs shall be appointed by the ExCom, and shall serve until the next January meeting of the KRRC, at which time they will have to be reappointed or replaced by the ExCom elected at that meeting;
 - 14.1.4 Resignation of any Committee Chair may be accepted by the members of the ExCom. Any vacancy of a Committee Chair shall be filled by appointment by a majority of the ExCom. The position shall be up for reappointment or replacement at the next annual January meeting of the club, regardless of the time the position was held;
 - 14.1.5 Committee Chairs manage their respective group, program, or discipline for which they serve and shall be the single voice from their group, program, or discipline in communication with the ExCom. Committee Chairs may appoint any current member in good standing to their committee;
 - 14.1.6 Committees do NOT make official KRRC policy;
 - 14.1.7 Committees, their Chairs, and their members may not indebt KRRC.

15 Glossary

Table 2. Terms and Definitions

Term	Definition
Berm	A mound of material constructed to trap projectiles fired into them.
Cease Fire	Emergency term to get everyone on the firing line to stop shooting immediately in the event an emergency safety situation arises. The same as Stop. Note: Some sports use <i>Cease Fire</i> to denote the completion of a course of fire.
Clear	A condition of firearms when they are totally unloaded, magazine removed (if applicable), action locked open and visible, safety on, and properly secured on a bench, in a designated rack.
Cold	A condition of a range where no handling of firearms is allowed.
Exotic targets	Targets made from anything other than paper or cardboard.
Gun Sock	A fabric cover for a firearm that still allows access to the fire control mechanism when in place.
Hot	A condition of a range where firearms may be safely handled and responsibly discharged.
Public	Not a member or an invited guest.
Range Officer	A range official who maintains a safe environment for the shooters, instructs shooters in safe operations, and assists shooters in function, operation, or safety of firearms.
Secured	A condition where a firearm is stowed within a case or properly carried in a holster or other designed device prohibiting access to the trigger during transport.
Splatter	Fragments of a bullet that has hit a hard surface.
Stop	Emergency term to get everyone on the firing line to stop shooting immediately in the event an emergency safety situation arises. Note: See also <i>Cease Fire</i> .

APPENDIX A

**Kitsap Rifle and Revolver Club
Emergency Plan Notification**

911 shall be called immediately in the event a catastrophic injury occurs on the range that is out of the scope and training of the Range Officers' CPR and First Aid Certifications.

The Executive Officer shall also be contacted and will inform the Kitsap County Sheriff's Office and the Department of Community Development in the instance of a ballistic trauma.

Kitsap Rifle & Revolver Club

Range Officer and Range Safety Officer Training

Kitsap Rifle & Revolver Club (KRRC) Range Officers are trained utilizing curriculum from the National Firearms Institute (NFI), the International Range Officer Association (IROA), National Range Officers Institute (NROI), and National Rifle Association (NRA). KRRC currently has 1 Range Master; 3 Chief Range Officers, 11 Lead Range Officers, and 41 Range Officers, plus 5 members who are in training.

Training consists of a minimum of 28 hours of classroom and practical training. CPR and First Aid Certification classes are provided to all Range Officers.

Range Officers (ROs) are trained to be cognizant of the safety of the community and users of the range; provide service to members, guests, and the community and security for the staff, visitors, and the facility.

Name: KRRC Level I Range Officer Course:

Short Description: Goal: To develop NFI Certified Range Officers who possess the KNOWLEDGE, SKILLS, and ATTITUDE essential to organizing, conducting, and supervising shooting activities and range operation in safest possible manner.

Detail: This course is conducted in an 8 hour classroom and shooting facility environment. A minimum additional 20 hours of supervised site specific practical experience is required before testing for complete certification. Range Officer candidates learn roles and responsibilities of a Range Officer, Range Standard Operation Procedure (KRRC SOP), range inspections, range rules, range briefings, emergency procedures, and firearm stoppages and malfunctions.

Range Safety Officers

Kitsap Rifle & Revolver Club Members may obtain the status of Range Safety Officer upon successful completion of the KRRC RSO course.

Name: KRRC RSO course

Short description: The KRRC RSO course is a 6 hour classroom and 2 hour practical exercise developed to further educate members and have them demonstrate the knowledge, skills and attitude necessary for the use of certain KRRC facilities open to their use.

KRRC – Reply Brief

APPENDIX A-2

August 1, 2011

7-61M-116910

Kitsap Rifle and Revolver Club
Mr. Marcus Carter
Executive Officer
4900 Seabeck Highway NW
Bremerton, Washington 9831

Dear Mr. Carter:

**Re: Evaluation of Kitsap Rifle and Revolver Club Range Safety
Kitsap Rifle and Revolver Club, Bremerton, Washington**

Mr. Scott Kranz of AMEC Earth & Environmental, Inc. (AMEC) was asked to evaluate safety at the Kitsap Rifle and Revolver Club (KRRC) range and provide an opinion as to whether the KRRC ranges meet or exceed industry standards for ranges of their type. Mr. Kranz's opinion is that the KRRC facility is safe and meets or exceeds industry standards for small arms firing ranges used for self defense, small arms, and law enforcement training. In forming this opinion, Mr. Kranz considered information obtained during his inspection of the KRRC range, the Bremerton Police Department Range, which is used by the Kitsap County Sheriff's Office, and many other ranges of this type.

Introduction

KRRC uses institutional and engineering controls to operate its small arms firing range in a manner that is safe for members and the public. The information provided in this report demonstrates the KRRC operates the range safely, that it meets or exceeds industry standards for similar ranges, and that it is a typical small arms firing range, similar to the small arms firing ranges used by law enforcement. The following topics are discussed in this report:

- a description of the KRRC range,
- Mr. Kranz's inspection of the Bremerton Police Department Range,
- documentation of typical local law enforcement training ranges,
- a description of range construction standards, and
- KRRC range management

Kitsap Rifle and Revolver Club Ranges

The KRRC facility is a typical small arms firing range facility, operated as a not-for-profit facility for use by members, member's guests, law enforcement, and the general public. The KRRC facility includes a Rifle Range, Pistol Range, and 13 Shooting Bays. All ranges have earthen impact berms for capturing bullets and shot associated with range use. The shooting areas

Evaluation of Kitsap Rifle and Revolver Club Range Safety
Kitsap Rifle and Revolver Club

operated by KRRC are similar to shooting areas used by law enforcement agencies, including those used by the Kitsap County Sheriff and operated by the City of Bremerton Police Department. These ranges use institutional controls, including safety training, range safety officers, cameras, and signs, as well as engineering controls, including bullet impact berms and side berms to ensure safe operation within their respective communities.

KRRC is located on 72 acres of forested property at 4900 Seabeck Highway NW in Bremerton, Washington. The KRRC facility include conventional rifle and pistol ranges with fixed firing lines and targets, and shooting bays with moveable targets. The range layout and earthen berms of the KRRC facility are documented in photos included in Attachment A, Photos 1 to 8. The primary ranges and their uses include:

- **Rifle Range:** The Rifle Range includes a firing line cover with shooting benches, bullet impact berm, and side berms. The Rifle Range has about a ten- to twelve-foot tall side berm, and has multiple bullet impact berms at the target locations of 25, 50, 100, 150, and 200 yards. The Rifle Range is used for bench shooting, sight-in, and rifle practice. The Rifle Range is primarily used with rifles, but is also used for long range pistol practice.
- **Pistol Range:** The Pistol Range includes a firing line cover with shooting benches, bullet impact berm, and side berms. The Pistol Range has about eight- to twelve-foot tall bullet impact berm and side berms. The Pistol Range allows for training at distances up to 50 yards used for bench shooting, sight-in, and pistol practice.
- **Shooting Bays:** KRRC uses 13 Shooting Bays. The Shooting Bays include bullet impact berms and side berms about eight to twelve feet tall. The shooting bays are used for self defense training and action shooting sports.
- **Shoot House:** The Shoot House is located in Shooting Bay 7, and includes movable props used to represent walls, doors, and windows. The Shoot House is only used for special events and training. Specific designated safety personnel must be present when the Shoot House is in use.

KRRC Range Management

KRRC heavily emphasizes and requires safety training for members. New member range safety training includes a minimum of 5½ hours of training. Members who pass this training requirement are allowed to use the range only when an RSO is present. Eight total hours of range safety training are required for a member to have full access to the range, i.e., the right to use the range without the supervision of an RSO. Members are held fully responsible for the behavior and safety of their guests, who are required to participate in an approximately 30-minute safety training session with an RSO before using the range. All KRRC members must pass an annual safety test when renewing membership to the range, which is a mechanism to provide annual safety training. Members who fail the test must attend a safety refresher course before they are allowed to use the range again. KRRC is the only range I am aware of that conducts annual safety tests, demonstrating KRRC's proactive range management and dedication to safety.

The National Rifle Association (NRA) provides an RSO Program, which is used by most public ranges to train RSOs. KRRC uses a combination of both the NRA RSO training program and the National Range Officer Institute (NROI) training program to train KRRC RSOs, which covers roles and responsibilities, range standard operating procedures, range inspection and range rules, firearm stoppages and malfunctions, and range safety briefings which include emergency procedures. Trained RSOs is one of the key institutional controls used at most ranges to prevent accidents.

KRRC RSOs are trained using both the NRA RSO and the NROI training programs. The NROI training is required for RSOs by the United States Practical Shooting Association (USPSA), which is the governing agency for many of the practical shooting competitions. The combined training gives KRRC RSOs excellent qualifications for monitoring range use at KRRC, which includes rifle and pistol sight-in, general bulls-eye shooting, self defense training, and competitive shooting. KRRC RSOs are all members of the KRRC Range Safety Committee, and are responsible for attending monthly training meetings.

KRRC uses a video surveillance system to monitor range use, and regularly reviews the recorded video to determine if members, guests, and RSOs are using the range as allowed by KRRC range rules. KRRC RSOs or board members will contact members if a behavior is observed requiring correction. If necessary, the member's access to the range will be suspended until remedial safety training is conducted and the member demonstrates safe range use.

KRRC has a Range Safety Officer (RSO) designated as the Environmental Stewardship Chairman. The KRRC Environmental Stewardship Chairman position has existed for more than five years. The KRRC Environmental Stewardship Chairman inspects the ranges to determine if lead is accumulating and needs to be reclaimed and recycled, conducts soil pH monitoring, and completes projects to prevent the migration of lead in sediment associated with storm water runoff. KRRC uses an on-site lab to monitor soil and water at the property, Attachment A, Photo 8. The KRRC facility is one of only two small arms ranges I am aware of with an environmental stewardship position, demonstrating KRRC's proactive range management with respect to environmental issues as a component of its overall concern for human health and safety.

The environmental stewardship program and emphasis on range safety, documented by the comprehensive member training program and annual membership renewal tests, demonstrates that KRRC exceeds the standards for similar ranges and uses a proactive approach to protect range users and the public. In some ways KRRC is objectively superior to other ranges of its type with respect to safety and environmental concerns.

Range Construction Standards

There is no published or agreed upon set of standards for the design and construction of new or renovated privately operated ranges. The United States Department of Defense uses engineering standards for range design and construction, which are not directly applicable because, among other reasons, they are designed to accommodate the much more aggressive style of activities and users associated with the military. New and renovated ranges are

designed and constructed using a combination of engineering and institutional controls to protect the safety of range users and the public. Although the NRA is incorrectly cited from time to time as having range design standards, it does not. The NRA publishes the NRA Range Source Book, which states: "this source book may not be utilized to establish design standards or criteria for ranges," and which further states,

"The Range Source Book is **NOT** a code book or certification standard, but rather a publication listing general suggestions. Each range is site specific, fact sensitive, risk driven, and needs to be considered in that light."

(Emphasis in original.) Consistent with this, professionals preparing engineering and design drawings and specifications for shooting ranges do not recognize the NRA Range Source Book as a standard.

Furthermore the NRA is a lobbying organization related to the right to bear arms. The NRA is not a recognized authority on the design and construction of ranges. The NRA however is recognized as an authority for training RSOs, as discussed above.

Bremerton Police Department Range Inspection

The Bremerton Police Department small arms firing range is located on forested City of Bremerton property on West Belfair Valley Road, adjacent to the Gold Mountain Golf Course. The firing range is the primary small arms training range used by the Kitsap County Sheriff and operated by the Bremerton Police Department. The range includes four shooting areas used for weapons familiarization, sighting, and tactical training. The direction of fire is primarily southeast, towards the communities of Sunnyslope and North Lake.

The range layout and earthen berms of the Bremerton Police Department Range are documented in photos included in Attachment A, Photos 1 to 6. The primary shooting areas and their uses include:

- **100 Yard Range:** The 100 Yard Range includes a firing line cover with shooting benches, a target holder shack, bullet impact berm, and side berms. The 100 Yard Range has an eight to ten feet tall bullet impact berm and side berms. The range is used for bench shooting and sighting. Empty casings near the target holder shack indicate the range is also used for tactical training.
- **Main Range-Tactical:** The Main Range-Tactical is an open range space, which can be used from a maximum distance of 100 yards, but would more typically be used from a maximum of 50 yards. The Main Range-Tactical has an eight to ten feet tall bullet impact berm and a side berm on the left side. The range is used primarily for tactical small arms training. The Main Range-Tactical had fresh sandy gravel bullet impact material added to the bullet impact berm face in May of 2011.
- **Main Range-Bulls Eye:** The Main Range-Bulls Eye can be used from the Range Building and includes a target holder shack. The Main Range-Bulls Eye can be used from a maximum distance of 50 yards. The Main Range-Bulls Eye has an eight- to ten-foot tall

bullet impact berm and a tire wall and earthen side berm on the right side side. The range is used primarily for tactical small arms training.

- **Tire House:** The Tire House is constructed from old automobile tires and wooden beams driven into the ground. The Tire House is used to simulate shooting within a building as a form of tactical training.
- **Shotgun Range:** The Shotgun Range has a tire wall and earthen side berm on the left side of the range and an earthen berm less than 3 feet tall on the right side. The shot and bullet impact berm is about 6 feet tall. The bullet impact berm contains many pistol bullets. The Shotgun Range is used for shotgun and pistol training.

The Bremerton Police Department range is operated using institutional controls, including range safety officers, training, and range safety signs. Engineering controls implemented at the range include the fixed target holder shacks, bullet impact berms, and side safety berms. These institutional and engineering controls are similar to those used by KRRC to ensure safety.

Typical Law Enforcement Small Arms Training Ranges

The KRRC facility and the Bremerton Police Department range are similar to other privately operated not-for-profit and law enforcement ranges. Photographs of typical small arms training ranges used by the public and law enforcement are provided in Attachment A, Photos 7 to 21. All of the ranges shown in the attachment demonstrate that KRRC meets or exceeds the safety standards set by other similar ranges. Examples of similar ranges used safely by the public and law enforcement agencies, and their respective institutional and engineering controls, are summarized in Table 1.

Table 1: Typical Small Arms Firing Ranges

Range Name	Law Enforcement Agency Use	Photos
Kitsap Rifle and Revolver Club	Washington State Parks	1 to 8
Bremerton Police Department Range	Kitsap County Sherriff, Bremerton Police Department	9 to 16
Tri-County Gun Club (TCGC)	Portland Police Department, Salem Police Department, Beaverton Police Department, Tualatin Police Department, Clackamas Police Department, Washington County Sherriff, Multnomah County Sherriff, Clackamas County Sherriff, Oregon State Police, Oregon Department of Fish and Wildlife, United States Marine Corps,	17 to 22
FBI Range	Columbia County Sherriff, St Helens Police Department, Federal Bureau of Investigation	23 & 24

Oregon Department of Corrections, Gath Road Range	Oregon Department of Corrections	25 & 26
Oregon Department of Corrections, Deer Ridge Range	Oregon Department of Corrections	27 & 28
Chehalem Valley Sportsmen's Club	Dundee Police Department and Newberg Police Department	29 & 30
Douglas Ridge Rifle Club	Portland Police Department, Federal Game Wardens	31

The small arms training ranges included in Table 1 are used by more than 10,000 members of the public and law enforcement officers. The city, county, and state governments that use these ranges have determined these ranges are safe for fire arms training. These ranges are similar in design, operation, and use to the KRRC facility.

Conclusion

KRRC operates with sufficient engineering and institutional controls to protect range users and the public, and meets or exceeds industry standards for similar ranges. In particular, the KRRC facility is typical of small arms firing ranges used by the public and law enforcement in the Northwest. It is my opinion the KRRC facility does not pose a threat to its members or the public. There is nothing inherently dangerous about the design or operation of the KRRC range that would require it to be held to a standard different from that set by the other similar ranges listed above..

Sincerely,

AMEC Earth & Environmental, Inc.



Scott Kranz, RG
Senior Project Manager

SK/cw

KRRC – Reply Brief

APPENDIX A-3

1 RECEIVED FOR FILING
2 KITSAP COUNTY CLERK

3 MAY 31 2016

4 DAVID W. PETERSON

5
6
7
8 SUPERIOR COURT OF THE STATE OF WASHINGTON
9 FOR KITSAP COUNTY

10 KITSAP COUNTY, a political subdivision
11 of the State of Washington,

12 Plaintiff,

No. 15-2-00626-8

13 v.

14
15 KITSAP RIFLE AND REVOLVER CLUB,
16 a not-for-profit corporation registered in the
17 State of Washington,

18 Defendant,

19 and

20 IN THE MATTER OF THE
21 UNPERMITTED SHOOTING FACILITY
22 located at the 72-acre parcel at 4900
23 Seabeck Highway NW, Bremerton,
Washington, viz Kitsap County Tax Parcel
ID No. 362501-4-002-1006.

MEMORANDUM OPINION AND ORDER
ON PLAINTIFF KITSAP COUNTY'S
MOTION FOR SUMMARY JUDGMENT
RE: DECLARATORY RELIEF AND
PERMANENT INJUNCTION AND
PLAINTIFF'S MOTION TO DISMISS
COUNTERCLAIMS

24
25 THIS MATTER came on for hearing on April 20, 2016, on Kitsap County's Motion
26 for Summary Judgment and Kitsap County's Motion to Dismiss Counterclaims. Plaintiff
27 appeared through counsel Christine Palmer and Laura Zippel; Defendant Kitsap County
28 Rifle and Revolver Club ("KRRC") appeared through counsel Dennis Reynolds and Bruce
29 Danielson. At the April 20th hearing the County stated it no longer seeks a permanent

30 MEMORANDUM OPINION
AND ORDER

- 1 -

JUDGE JAY B. ROOF
Kitsap County Superior Court
614 Division Street, MS-24
Port Orchard, WA 98366
(360) 337-7140

1 injunction but still seeks a declaratory ruling regarding Kitsap County Code Chapter 10.25
2 and its applicability to KRRC as a matter of law. In ruling on these motions, this Court has
3 reviewed and considered all pleadings and filings in this matter and oral argument of both
4 parties.¹

5 6 **FACTUAL HISTORY**

7 In 2011, the Kitsap County Board of County Commissioners began evaluating
8 whether stricter local regulations were warranted to respond to citizen complaints regarding
9 the safety and compatibility of shooting ranges. A proposed ordinance was created, a
10 review process undergone, and Ordinance 515-2014 ("KCC 10.25") was adopted
11 September 22, 2014, effective December 22, 2014.

12 KCC 10.25 provides procedures for the development and operation of shooting
13 ranges. The provisions pertinent to this lawsuit, KCC 10.25.090(1)-(2), provide as follows:

14 (1) Shooting facilities shall be authorized and operated in accordance
15 with an operating permit issued by the department. The operating permit
16 shall govern the facilities and scope of operations of each shooting
17 facility, and shall be issued, denied or conditioned based upon the
18 standards set forth in this article. No proposed or existing shooting
19 facility may operate without an operating permit issued pursuant to this
20 chapter, except as provided in subsection (2) of this section. This
21 operating permit is not intended to alter the legal nonconforming use
22 status and rights of existing ranges, which are governed by Title 17 and
23 the common law, nor shall this operating permit authorize expansion of
24 range uses which otherwise require approval pursuant to a conditional
25 use permit or other land use permits per Title 17. Failure to obtain a
26 range operational permit will result in closure of the range until such time
27 a permit is obtained. Ranges that operate without a permit are subject to
28 code compliance enforcement, including but not limited to injunctive
29 relief.

30 (2) Each owner or operator of a shooting facility shall apply for and
obtain an operating permit. The owner or operator of a proposed new
shooting facility shall apply for the facility operating permit at the time of
application for any necessary building or land use permits. The owner or

¹ Including Defendant/Counterclaimant's Notice of Supplemental Authority in Response to Kitsap County's Motion for Summary Judgment, filed May 26, 2016; and Kitsap County's Response to KRRC's Notice of Supplemental Authority in Response to Kitsap County's Motion for Summary Judgment, filed May 25, 2016.

1 operator of an established shooting facility in active use on the effective
2 date of the ordinance codified in this article shall apply for the initial
3 facility operating permit not later than ninety days after the effective date
4 of the ordinance codified in this article. A shooting facility operating
5 permit is valid for five years from the date of issuance or renewal. The
6 owner or operator of each facility shall apply for a permit renewal at least
7 thirty days prior to the date of current permit expiration.

8 The relevant provisions provide that all new and existing shooting ranges apply for
9 an operating permit within 90 days of the Ordinance's effective date.²

10 On December 19, 2014, the Director of the County's Department of Community
11 Development, Larry Keeton, sent a letter to KRRC notifying it of the new ordinance's
12 requirement to submit an application within 90 days of December 22, 2014. KRRC is a
13 nonprofit organization which operates a shooting facility in Bremerton, Washington
14 ("Club"), and has been in operation for more than 80 years. The Club is private but is open
15 to the public for certain instructional classes.

16 KRRC did not submit an application within the 90 day deadline. On March 26,
17 2015, Larry Keeton again sent a letter to KRRC informing it of its noncompliance with the
18 ordinance and requesting that an application be sent by March 30, 2015. No application
19 was received.

20 On March 31, 2015, Kitsap County filed its complaint against KRRC, asserting one
21 count of violation of the Firearms Discharge Ordinance under KCC 10.25, and requesting
22 declaratory and injunctive relief. On April 2, 2015, the County filed a Motion for
23 Preliminary Injunction, which was granted by Order entered April 24th.

24 On March 17, 2016, KRRC filed a motion to dissolve the preliminary injunction,
25 arguing that it had filed a complete application for an operating permit, thus complying
26 with the terms of the preliminary injunction order. KRRC submitted the application "under
27 protest," preserving the Club's rights to continue to contest the requirement of an operating
28 permit for its activities. The County argued that the application was not "complete" within
29 the meaning of the April 24th Order, and therefore the injunction should remain.

30 ² KCC 10.25.090(2).

1 An evidentiary hearing was scheduled to occur on April 7, 2016, to determine
2 whether KRRC had filed a "complete" application, as required by the Court's April 24,
3 2015 Order. At the evidentiary hearing the County no longer opposed the lifting of the
4 preliminary injunction, thus, KRRC's Motion to Dissolve Preliminary Injunction was
5 granted by Order entered April 7, 2016.

6 With the injunction now lifted, the motion for summary judgment came on for
7 hearing on April 20, 2016, along with the County's Motion to Dismiss KRRC's
8 counterclaims, and KRRC's Motion to File Amended Answer, Affirmative Defenses and
9 Counterclaims ("Motion to Amend"). At the Hearing, the Court granted KRRC's Motion to
10 Amend and took the County's motions under advisement.³ At the hearing, the County
11 stated that it no longer seeks a permanent injunction, and that it only seeks a declaratory
12 judgment regarding KCC 10.25 and its enforceability in regard to KRRC.

13 ANALYSIS

14 Before the Court is the County's Motion for Summary Judgment and the County's
15 Motion to Dismiss KRRC's Counterclaims. In light of granting KRRC's Motion to Amend
16 on April 20, 2016, the Court will deny the County's Motion to Dismiss KRRC's
17 Counterclaims without prejudice. The County may refile the motion in light of the
18 amended counterclaims and this Order, if it so chooses.

19 Kitsap County's summary judgment motion requests an order declaring that
20 KRRC's operation of a shooting range without an operating permit violates KCC 10.25.
21 When faced with a motion for summary judgment the Court determines whether any
22 genuine issues of material fact exist and whether the moving party is entitled to judgment
23 as a matter of law.⁴ All facts and reasonable inferences are viewed in the light most
24

25
26 ³ Plaintiff filed the present Motion for Summary Judgment Re: Declaratory Relief and Permanent Injunction
27 on May 4, 2015, however the matter was delayed several times and was not argued until April 20, 2016. The
28 motion was originally noted for hearing on June 22, 2015, but was set over while KRRC sought discretionary
29 review from the Court of Appeals of this Court's Memorandum Opinion and Order granting Plaintiff's
30 Motion for Preliminary Injunction. The County renoted the hearing for August 24, 2015, and before the
hearing occurred, renoted it again for November 16, 2015. KRRC filed a Rule 36(f) Continuance of the
November 16th hearing, which the Court granted.

⁴ *Clark v. Falling*, 92 Wn. App. 805, 808-09, 965 P.2d 644 (1998).

1 favorable to the nonmoving party.⁵ The application of a statute is a matter of law.⁶ This
2 Court has the power to declare rights, status and other legal relations by declaratory
3 judgment.⁷

4 The County argues that KCC 10.25 applies to KRRC, and therefore, any operation
5 of the Club as a shooting range without the operating permit is in violation of the Kitsap
6 County Code. KRRC argues that KCC 10.25 does not apply to the Club because (1) KRRC
7 has an equitable servitude in the property, allowing it to continue operations without further
8 approval or regulation from the County; (2) the intent of the Deed raises a genuine issue of
9 material fact; and (3) the area of firearm regulation is preempted by the State of
10 Washington, RCW 9.41.290.⁸

11 **I. The 2009 Bargain and Sale Deed with Covenants did not grant the Club an**
12 **equitable servitude, nor does it raise a genuine issue of material fact**

13 In 2009, by way of a Bargain and Sale Deed with Covenants (“Deed”), the County
14 conveyed all of its “right, title, and interest” in the shooting range property directly to
15 KRRC. The Club argues that the “dealings back-and-forth”⁹ between the County and
16 KRRC during negotiations over the land swap created an equitable servitude, either
17 expressly or by estoppel, and that this equitable servitude “is enforceable as a property right
18 and a land use approval that specifically allows the continuation of the gun range
19 operations if certain conditions are met – which they are.”¹⁰ KRRC alleges that it relied on
20
21
22

23 ⁵ *Wutrich v. King Cty.*, 185 Wn.2d 19, 24, 366 P.3d 926 (2016).

24 ⁶ *Lund v. Benham*, 109 Wn. App. 263, 267, 34 P.3d 902 (2001).

25 ⁷ RCW 7.24.010.

26 ⁸ KRRC also argues that (1) as a legal non-conforming use, the Club is exempt from KCC 10.25; (2) that
27 KCC 10.25 is unconstitutionally vague; (3) that KCC 10.25 operates as a substantial impairment of a
28 contractual relationship; (4) that KCC 10.25 unconstitutionally limits the right to bear arms; and (5) that KCC
29 10.25 conflicts with the Growth Management Act, RCW 36.70A.200. The Court finds these arguments to be
30 without merit.

⁹ KRRC alleges that it “reasonably relied on the County’s representations and decided to enter the land swap
transaction after lengthy negotiations that allowed the Club’s concerns about future regulation of its
operations to be put at ease.” KRRC’s Supplemental Response in Opposition to Kitsap County’s Motion for
Summary Judgment (“KRRC Supp. Resp.”), at 4.

¹⁰ KRRC’s Supp. Resp., at 4.

1 the County's representations during the land swap negotiations¹¹ and summary judgment is
2 inappropriate because a genuine issue of material fact exists as to the exact intent of the
3 Deed.

4 The County argues that the intent of the parties in connection with the land transfer
5 agreement was already determined by the Court of Appeals in *Kitsap County v. Kitsap Rifle*
6 *and Revolver Club*, 184 Wn. App. 252, 337 P.3d 328 (2014) ("*Kitsap Rifle*"), and therefore
7 KRRC is not allowed a second bite at the apple on an argument that has already been
8 denied. The Court of Appeals held that "[i]t would be unreasonable to view a restrictive
9 covenant in the deed as an affirmative ratification of past development and a waiver of
10 future development permitting violations."¹² Therefore, the County argues, "[i]t would be
11 just as unreasonable to interpret the restrictive covenants in the Deed as an exemption from
12 future regulation under an equitable servitude argument."¹³

13 The Court of Appeals has already made a final determination as to the intent and the
14 agreement of the parties with respect to the Deed transfer, and the issue will not be re-
15 litigated here. Therefore, there is no genuine issue of material fact before this Court as to
16 the intent of the Deed. Further, KRRC has failed to put forward any evidence supporting its
17 contention that it relied on a representation from the County that it would be free from
18 County regulations going forward as part of the land swap. Finally, an equitable servitude
19 is a restriction on property that runs with the land, and KRRC offers no authority for the
20 proposition that an equitable servitude could exempt KRRC from future regulation by the
21 County under Washington law. Thus, KRRC's equitable servitude arguments fail.

22 II. KCC 10.25 is not preempted by State law

23 KRRC argues that KCC 10.25 is void on its face because it is preempted by
24 RCW 9.41.290, which states that "[t]he state of Washington hereby fully occupies and
25 preempts the entire field of firearms regulation within the boundaries of the state."¹⁴ An
26

27 ¹¹ KRRC has not put forward any evidence to support its assertion that it would not have agreed to the land
28 transfer absent a promise that it would be free from regulation.

¹² *Kitsap Rifle*, 184 Wn. App. at 292.

¹³ Kitsap County's Supplemental Reply in Support of Motion for Summary Judgment, at 3.

¹⁴ RCW 9.41.290 states in its entirety:

1 exception is found in RCW 9.41.300(2), which allows cities, towns, counties and other
2 municipalities to enact ordinances that restrict the discharge of firearms where "there is a
3 reasonable likelihood that humans, domestic animals, or property will be jeopardized."
4 KRRC argues that "[n]owhere in the recitals supporting adoption of KCC 10.25, is there
5 any claim, assertion, or finding that there is a reasonable likelihood of jeopardy as required
6 by RCW 9.41.300(2)."¹⁵

7 The County argues that KCC 10.25 is not a firearm regulation, and because Chapter
8 9.41 RCW "does not impose civil regulations on the operation of recreational and/or
9 sporting facilities on which firearms may be discharged" preemption does not apply.¹⁶ In
10 the alternative, the County argues that the RCW 9.41.300(2) exception applies, and that the
11 legislation itself did not need to expressly include a legislative finding as to the reasonable
12 likelihood of jeopardy to humans, domestic animals, or property.

13 Nothing in KCC 10.25 directly regulates the registration, licensing, possession,
14 purchase, sale, acquisition, transfer, discharge, or transportation of firearms. Where a
15 shooting range fails to obtain an operating permit, as required by KCC 10.25, the law
16 impacts the right to discharge firearms indirectly, and only in the narrow circumstance of
17 discharging firearms in the use of the shooting range facility. KRRC does not offer any
18 authority that such an indirect and narrow impact on firearms discharge is preempted by
19 RCW 9.41.290. Therefore, KCC 10.25 is not preempted by RCW 9.41.290.

20 And even if KCC 10.25 did directly regulate the discharge of firearms, the RCW
21 9.41.300(2) exception applies. As stated in *Kitsap Rifle*,

22
23 The state of Washington hereby fully occupies and preempts the entire field of firearms
24 regulation within the boundaries of the state, including the registration, licensing,
25 possession, purchase, sale, acquisition, transfer, discharge, and transportation of firearms,
26 or any other element relating to firearms or parts thereof, including ammunition and
27 reloader components. Cities, towns, and counties or other municipalities may enact only
28 those laws and ordinances relating to firearms that are specifically authorized by state law,
29 as in RCW 9.41.300, and are consistent with this chapter. Such local ordinances shall have
30 the same penalty as provided for by state law. Local laws and ordinances that are
inconsistent with, more restrictive than, or exceed the requirements of state law shall not be
enacted and are preempted and repealed, regardless of the nature of the code, charter, or
home rule status of such city, town, county, or municipality.

¹⁵ KRRC's Citation of Additional Case Authority, at 2.

¹⁶ County's Response to KRRC's Citation of Additional Authority, at 2.

1 [t]he trial court made unchallenged findings that (1) the Club's property was
2 a "blue sky" range, with no overhead baffles to stop accidentally or
3 negligently discharged bullets, CP at 4070; (2) more likely than not, bullets
4 have escaped and will escape the Club's shooting areas and possibly will
5 strike persons or property in the future based on the firearms used at the
6 range, vulnerabilities of neighboring residential property, allegations of
7 bullet impacts in nearby residential developments, evidence of bullets
8 lodged in trees above berms, and the opinions of testifying experts; and (3)
9 the Club's range facilities, including safety protocols, were inadequate to
10 prevent bullets from leaving the property.¹⁷

11 The trial court's findings in *Kitsap Rifle* show there was a reasonable likelihood that
12 humans, domestic animals, or property were jeopardized when the ordinance was put into
13 place. KRRC does not offer any authority for the proposition that RCW 9.41.300(2)
14 requires KCC 10.25 to have included such finding in the regulation itself. Therefore, even
15 if KCC 10.25 is considered to be a regulation of the discharge of firearms, the regulation is
16 permissible under the exception.

17 As stated in *Kitsap Rifle*, "[t]he County's sale of the land even for the purpose of
18 facilitating the Club's continued existence does not prevent the County from insisting that it
19 be operated in a manner consistent with the law."¹⁸ Despite the Club's insistence to the
20 contrary, KCC 10.25 is enforceable against KRRC's shooting range facility, and operation
21 of the shooting facility without an operating permit is a violation of Chapter 10.25 KCC.

22 **ORDER**

23 It is hereby

24 **ORDERED** that Plaintiff Kitsap County's Motion for Summary Judgment Re:
25 Declaratory Relief is **GRANTED**; it is further

26 **ORDERED** that Plaintiff Kitsap County's Motion to Dismiss KRRC's
27 Counterclaims is **DENIED** without prejudice.

28 Dated: This 31st day of May, 2016.

29 
30 JUDGE ROOF

¹⁷ *Kitsap Rifle*, 184 Wn. App. at 283.

¹⁸ *Kitsap Rifle*, 184 Wn. App. at 293.

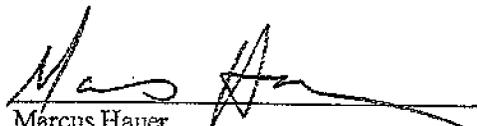
CERTIFICATE OF SERVICE

I, Marcus Hauer, certify under penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above entitled action, and competent to be a witness herein.

Today, I caused a copy of the foregoing document to be served in the manner noted on the following:

Christine Palmer Kitsap County Prosecutors Office MS 35A 614 Division St Port Orchard, WA 98366-4614	<input checked="" type="checkbox"/> Via Interdepartmental Mail <input checked="" type="checkbox"/> Via Email: cmpalmer@co.kitsap.wa.us
Bruce Danielson Danielson Law Office PS 1001 4th Ave Ste 3200 Seattle, WA 98154-1003	<input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email: bruce@brucedanielsonlaw.com
Dennis D. Reynolds Dennis D. Reynolds Law Office 200 Winslow Way W Unit 380 Bainbridge Island, WA 98110-4932	<input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email: dennis@ddrlaw.com

DATED this 31st day of May 2016, at Port Orchard, Washington.


Marcus Hauer
Judicial Law Clerk

DENNIS D REYNOLDS LAW OFFICE
May 15, 2017 - 3:32 PM
Transmittal Letter

Document Uploaded: 7-491303-Reply Brief.pdf

Case Name: Kitsap County, v. Kitsap Rifle and Revolver Club

Court of Appeals Case Number: 49130-3

Is this a Personal Restraint Petition? Yes No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: _____

Answer/Reply to Motion: _____

Brief: Reply

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: _____

Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

Sender Name: Jon Brenner - Email: jon@ddrlaw.com

A copy of this document has been emailed to the following addresses:

cmpalmer@co.kitsap.wa.us
lzipfel@co.kitsap.wa.us
dennis@ddrlaw.com
bruce@brucedanielsonlaw.com
christy@ddrlaw.com
jon@ddrlaw.com