



NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo

MEETING DATE: November 13, 2018
TO: Board of Supervisors
FROM: **Hank Weston, District IV Supervisor**
SUBJECT: An Ordinance Amending Section 1.27 to Chapter VII Article I of the General Code of the County of Nevada pertaining to Discharging a Firearm. (4/5 Affirmative Vote Required)

RECOMMENDATION: Adopt the attached Ordinance.

FUNDING: N/A

BACKGROUND: On September 25, 2018 the Board engaged in discussion and directed staff to develop recommendations for the Board's consideration on reasonable regulations to mitigate nuisance impacts in residential zoned neighborhoods and communities from discharging firearms. Specifically the Board directed staff to develop recommendations and bring forward a draft ordinance for the Board's consideration for a reasonable balance for shooting on residential zoned parcels that include RA, R1, R2 and R3 to mitigate the negative impacts that shooting can create as a nuisance to the neighboring community. Specifically, staff was directed to include recommendations on a) the distance of shooting near neighboring dwellings and residences, b) allowable times for shooting, c) restrictions or guidance on continuous shooting, d) restrictions on shooting near schools, and e) restrictions for shooting on Red Flag Warning Days to prevent wildfire. Moreover, staff was also directed to identify the allowable locations that allow for long range sighting and shooting to inform members of the public.

Allowable and unlawful activities as they relate to the discharging of firearms are outlined in County General Code G-VII 1.27 which was adopted by the Board via Ordinance 1500 on May 10, 1988. In summary, County Code currently allows for shooting throughout the County with the following restrictions: 1. Discharging a Firearm is not allowed on County Property; 2. Discharging any firearm is not permitted within 50 yards of any dwelling house, residence, or other building or any barn or any outbuilding (unless all buildings are owned by the individual shooting or a family member thereof); 3. Discharging a firearm in a manner that its projectile does not remain on the parcel upon which it was fired, with the exception of hunting; and 4.

Discharging firearms between ½ hour after sunset and ½ hour before sunrise. Shooting restrictions do not include the discharge of a firearm for the express purpose of lawful slaughtering of animals, shooting ranges operated by law enforcement and Sheriff registered shooting ranges, any discharge of firearms in the defense of a direct threat to life or to protect property, and to any person conducting a predatory control program on behalf of or licensed by and federal, state, or county agency.

Therefore, per the Board’s direction, staff has developed the attached draft Ordinance that addressed the aforementioned requested recommendations outlined above. Following is a summary analysis of staff’s research per each recommendation.

Issue: Nuisance caused by the discharging of firearms for RA, R1, R2, and R3 zoned parcels

Recommendation: Restrict the discharging of firearms on R1, R2, and R3 zoned parcels and RA parcels under 5 acres

Residential zoned parcels have been the primary source of complaints regarding nuisances caused by shooting. In respect to previous discussion by the Board regarding nuisance impacts caused by other activities (i.e. cannabis), the Board has been very clear that in RA, R1, R2, and R3 zoned parcels, a resident’s quality of life is the primary objective as outlined by the County’s General Plan. Specifically, within RA residential designations, single-family dwelling is of primary importance and agriculture use is secondary. R1 zoning implements the General Plan’s Urban Single-family designation with R2 and R3 zoning implementing the General Plan’s Urban Medium and High density multi-family housing and other dwelling types. As such, staff recommends that the discharge of firearms be restricted on R1, R2, and R3 zoned parcels. Moreover, it is also recommended to restrict the discharge of firearms on RA parcels less than 5 acres in size. The primary consideration for RA zoned parcels, is that for parcels of 5 acres or more, adequate land availability exists for shooting as a secondary activity of importance on the parcel.

Issue: Distance of shooting near neighboring dwellings and residences

Recommendation: Increase the distance that a firearm can be discharged from a building to 150 yards (450 feet).

To develop recommendations, research was conducted that reviewed several neighboring counties and jurisdictions. It became evident that 150 yards (450 feet) was a general safety zone standard distance applied by the majority of jurisdictions reviewed.

Jurisdiction Reviewed	Restriction from Structure	Code Section
Placer County	No restriction on private land	Placer County Code ¹
Yuba County	150 yard safety zone	Yuba County Code ²
Sierra County	150 yard safety zone	Sierra County Code ³
El Dorado County	Requires written permission of property owner	El Dorado County Code ⁴
National	150 yards safety zone	36 Code of Federal Regulations

¹ Placer County Code, Chapter 9 Public Peace, Safety and Welfare, Article 9.20 Weapons

² Yuba County, CA Code of Ordinances, 8.80.030 – Urban and rural areas

³ Sierra County Code, 8.40.100 Shooting Prohibited

⁴ El Dorado County, CA Code of Ordinances, Chapter 9344 Weapons, Sec. 9.44.030 Entry on private land with weapon

Issue: Allowable times for shooting**Recommendation: Restrict the discharge of a firearm from 5 p.m. to 9 a.m.**

The sound of shooting on nearby parcels is at the crux of why the discharging of firearms can be a nuisance to neighboring parcels and community members. Because the Nevada General Code does not provide guidance on noise restrictions, staff reviewed the Nevada County Noise Element as a starting point. The Noise Element⁵ excludes permitted residential uses. However, the policy imposes Exterior Noise Limits during the hours of 7 am to 7 pm. As stated in the Nevada County Land Use and Development Code⁶ permitted residential land uses are not subject to these standards. However, Table L-II 4.1.7 imposes Exterior Noise Limits on RA, R1, R2, and R3 during the hours of 7 am to 7 pm, 7 pm to 10 pm, and 10 pm to 7 am with a maximum decibel of 75-db, 65-db, and 60-db respectively. To provide further context, according to the American Speech – Language Hearing Association, almost all firearms create noise that is over the 140-db level with some firearms creating noises up to 175-db levels. As such, a firearm is almost twice as loud as the maximum noise level that is allowed in the Noise Element. This helps provide context to the nuisance complaints that have been lodged due to the noise generated from shooting. Moreover, current code prohibits the discharge of firearms between ½ hour after sunset and ½ hour before sunrise, which prevents shooting after dark for public safety. Therefore, any recommendations of narrowing allowable shooting times, need to take into account the changes of daylight throughout the year for public safety, yet be simple and clear enough for the public to understand and implement. Staff has determined that 7:24 a.m. is the latest time in the year that the sunrise will occur and that 4:42 p.m. is the earliest that the sunset will occur. Therefore, it is recommended to change the allowable times for the discharge of firearms to 9 a.m. to 5 p.m. which would allow for a reasonable balance for shooting and neighboring communities peace and tranquility in the morning and the evening because a) it aligns with a general workday time schedule, b) it ensures that all shooting still occurs in the daytime when adequate light is available and c) provides nine hours for allowable shooting.

Issue: Restrictions on continuous shooting**Recommendation: Restrict the continuous discharge of a firearm of more than two (2) hours and require a two hour break after two hours of continuous shooting**

The Board directed staff on September 25, 2018 to provide a recommendation on restrictions on continuous shooting. It was noted that the challenge of including a provision on continuous shooting is the ability to enforce a restriction on the duration of shooting. However, excessive shooting for long durations is a core issue of complaint over the years, as indicated by the Board. Therefore, staff has reviewed several other local ordinance as they relate to the discharge of firearms and noise restrictions on continuous noise. As such, staff is recommending a provision in the Ordinance that a requires at least a two hour break after two hours of continuous shooting has occurred. Additionally, various factors can be taken into consideration when assessing whether a violation has occurred and whether to issue a citation which include:

1. The volume of the noise, or related sound;
2. The intensity of the noise, or related sound;
3. The duration, continuousness or repetitive nature of the noise, or related sound;

⁵ Nevada County General Plan, Volume 1, Chapter 9: Noise

⁶ Nevada County Code, Title 3 Land Use and Development Code, Chapter II: Zoning Regulations, Article 4 Comprehensive Site Development Standards, Division 4.1 Site Development Standards Sec. L-II 4.1.7 Noise

4. The proximity of the noise, or related sound to neighboring dwelling house, residence, or other building;
5. The proximity to offices, places of business or other areas where work is known to be carried on, of the noise, or related sound;
6. The nature and zoning of the area within which the noise, or related sound emanates;
7. The time of day the noise, or related sound occurs and the relationship of this time to the normal activities of the area in which it occurs and in relation to the other factors listed in this subsection;
8. Whether the noise, or related sound is recurrent, intermittent, or constant beyond two (2) hours without an equal break absent of the noise for at least two (2) hours;
9. Whether the person or business responsible for the noise, or related sound has been previously warned that complaints have been received about the noise, or related sound and such person or business has failed to reduce it to an appropriate level.
10. Whether the duration of continuous noise is captured on a date/time stamped recording device that includes cellular or other recording device technologies.

Issue: Restrictions on shooting near schools

Recommendation: Restrict the discharge of firearms within 1,000 feet of any private or public school.

The Board directed staff to provide recommendation on the discharging of firearms near schools. California Penal Code 626.9, known as the California "Gun-Free School Zone Act" the possession of a firearm outside of allowable exceptions, is restricted within 1,000 feet of a public or private school. However, this does not include the possession of a firearm on private property. As such, staff recommends to provide a provision that further restricts the discharge of any firearm within 1,000 feet of any public or private school on private property.

Issue: Restrictions for shooting on Red Flag Warning Days to prevent wildfire

Recommendation: Restrict the discharge of firearms during and in areas that have been issued Red Flag Warnings.

Wildfires are a major threat to Nevada County and wildfires have been caused by sparks from firearm projectiles (bullets). In fact the Bureau of Land Management (BLM) has begun restricting the discharge of firearms on its property where conditions of high-fire dangers are present. Additionally, Red Flag warnings are issued by the National Weather Service, which are also referred to as a Fire Weather Watch. As such, staff recommends providing a provision that restricts the discharge of firearms during and in the area that has been issued a Red Flag warning.

Last but not least, the Board directed staff to research allowable locations, both public and private, that allow for shooting range activity, including but not limited to the ability to sight a firearm. As such, Attachment A attached herewith provides staff's findings as directed by the Board.

In conclusion, the aforementioned recommendations have been identified by staff in order to update the County's General Code on the discharge of firearms to ensure a reasonable balance between leisure activities of shooting with the nuisances that can result from the discharging of firearms. As such, I respectfully request that the Board consider and adopt the attached Ordinance amending Section 1.27 to Chapter VII Article I of the General Code of the County of Nevada pertaining to Discharging a Firearm.

Respectfully submitted,

Hank Weston

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District IV Supervisor

Attachment A

SR 18-0993: (Introduction/Waive further reading) An Ordinance amending Section 1.27 to Chapter VII Article 1 of the General Code of the County of Nevada pertaining to discharging a firearm. (4/5 affirmative vote required).

Private Shooting Range Locations

- The Range
13235 Grass Valley, CA 95945
530-273-4440
- Hobart Mills Shooting Range
Hobart Mills Road, Truckee, CA 96161
916-782-2163
- Nevada County Sportsmen
11296 Banner Mountain Trail
530-265-5131

Public Areas and Shooting Range Locations

- California Department of Parks and Recreation (State Parks)

Per California Code of Regulations possession of firearms are prohibited on State Park lands with the exception of possession within temporary lodging or mechanical mode of conveyance.

- Bureau of Land Management (BLM)

Target shooting is prohibited on all BLM lands within the South Yuba River corridor. BLM public land outside of the South Yuba River corridor is open to target shooting with adherence to all state law regarding the discharge of firearms. BLM does not have any "designated ranges" and does not maintain a list of where shooting is recommended. Additionally, all BLM land is closed to shooting during fire season.

- United States Forest Services – Tahoe National Forest

(Pending final list from USFS)