

CHAPTER 24

SHOOTING RANGE ORDINANCE

TOWN OF CAPE ELIZABETH, MAINE

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TABLE OF CONTENTS
[Page numbers subject to change]

ARTICLE I.	PURPOSE	1
ARTICLE II.	INTENT	1
24-2-1	Permitting, registration, and compliance	1
24-2-2	Shot containment	1
24-2-3	Noise mitigation	1
ARTICLE III.	DEFINITIONS	2
ARTICLE IV.	APPLICABILITY	3
ARTICLE V.	SHOOTING RANGE LICENSE PROCEDURE	3
24-5-1	Applicability	63
24-5-2	Review Procedure	63
24-5-3	Submission Requirements	7
24-5-4	License Standards of Review	8
ARTICLE VI.	LICENSE ADMINISTRATION	11
24-6-1	Annual Renewal	12
24-6-2	Renewal	12
24-6-3	Abandonment and Discontinuance	12
24-6-4	License Transferability	12
ARTICLE VII.	EXCEPTIONS	13
24-7-1	Exceptions	13
24-7-2	Additional Findings	13
24-7-3	Hours of Operation	4
24-7-4	Liability insurance	5
ARTICLE VIII.	ENFORCEMENT, REMEDIES, AND PENALTIES	13
24-8-1	Enforcement and Remedies	13
24-8-1	Civil Penalties	14

ARTICLE I. PURPOSE

This Shooting Range Ordinance (this “Ordinance”) is intended to regulate the establishment and operation of outdoor Shooting Range Facilities pursuant to 12 M.R.S.A. § 13201 (1), 25 M.R.S.A. § 2011 (3) and 30-A MRS § 301, as they may be amended, and 30-A M.R.S.A. § 3001 *et seq.* (Maine’s Home Rule Law). Due to their potential noise impacts and safety concerns, Shooting Range Facilities merit careful review to minimize adverse effects on adjoining properties. This Ordinance does not otherwise apply to the general discharge of Firearms or the use of bows and arrows in accordance with all other applicable laws or regulations.

ARTICLE II. INTENT

It is the intent of this Ordinance to accomplish the following:

SEC. 24-2-1. PERMITTING, REGISTRATION, AND COMPLIANCE

All Shooting Range Facilities shall be established and operated in accordance with a valid license issued by the municipal officers.

SEC. 24-2-2. SHOT CONTAINMENT

Each Shooting Range Facility shall be designed to contain the bullets, shot, and ricochets of same discharged at or within the Shooting Range Facility.

SEC. 24-2-3. NOISE MITIGATION

Each Shooting Range Facility shall be designed to minimize off-site noise impacts generated by the activities conducted on the Shooting Range Facility.

ARTICLE III. DEFINITIONS

As used in this Ordinance, the following terms shall have the respective meanings ascribed to them:

dBA: The sound pressure level, in decibels, as measured on a precision sound level meter on the A-weighted scale.

EPA Lead Management Guidelines: Shall mean, at any given time, the latest edition of the United States Environmental Protection Agency's Best Management Practices for Lead at Outdoor Shooting Ranges.

Firearm(s): A weapon, including but not limited to pistols, rifles, and shotguns, capable of firing a projectile using an explosive charge as a propellant.

NRA Range Source Book: Shall mean, at any given time, the latest edition of The Range Source Book, as published by the National Rifle Association.

Occupied Dwelling(s): Shall mean any residential Structure which is legally occupied by one or more Persons.

Person(s): Any individual, corporation, association, club, firm, or partnership.

Shooting Range(s): An area designed and improved to encompass shooting stations or firing lines, Target areas, berms and baffles, and other related components.

Shooting Range Facility(ies): A public or private facility, including individual Shooting Ranges, safety fans or Shotfall Zones, Structures, parking areas, and other associated improvements, designed for the purpose of providing a place for the discharge of various types of Firearms; provided, however, that a Shooting Range Facility shall not include incidental Target practice areas on private property.

Shotfall Zone(s): An area within which the shot or pellets contained in a shotgun shell typically fall.

Structure(s): A walled and roofed building that is principally above ground or any other permanent, manmade facilities.

Surface Danger Zone: Any area that may reasonably expect projectile impact resulting from direct fire, including misdirected and accidental discharges, and ricochets from any Firearm

which takes into consideration all mitigation efforts as submitted by the applicant and determined by a certified engineer.

Target(s): Any object or area which is used as the intended recipient of the projectiles fired from a Firearm.

Town: Shall mean the town of Cape Elizabeth, Maine.

ARTICLE IV. APPLICABILITY

This Ordinance is applicable to all existing and future Shooting Range Facilities in the Town.

ARTICLE V. SHOOTING RANGE LICENSE PROCEDURE

SEC. 24-5-1. APPLICABILITY

Any new or existing Shooting Range Facility shall obtain a Shooting Range license. If any Shooting Range Facility is intended to be substantially changed or expanded to include types of Shooting Ranges, operations, or activities not covered by an existing license, a license amendment shall be secured in accordance with all of the provisions of Article V, Shooting Range License Procedure. Further, any license issued hereunder does not relieve the licensee of compliance with all other applicable Town ordinances.

Such license shall be secured prior to issuance of any grading, or any building permit or other improvement permit by the Town, but any licensee may thereafter construct any Structure or other improvement deemed necessary for the purpose of issuing said license.

SEC. 24-5-2. REVIEW PROCEDURE

The following procedures shall be used to review a Shooting Range license application. The applicant shall be responsible to reimburse the Town for engineering and other professional services needed to review the application.

1. Background Check. An application, which shall include 3 paper copies and one electronic copy, for a Shooting Range license shall be submitted to the Police Chief. Upon receipt of an application for a new Shooting Range Facility, the Town's Police Department will conduct a criminal records check on the owner and lessee, if any, of the property on which the Shooting Range Facility is to be located and on the individual designated by the owner to operate the Shooting Range Facility, if different from the owner, and on the principals of a corporation or partnership or trustees of a trust, in the event such an entity is the owner or lessee. Upon completion of the criminal records check, the Police Department shall add its findings to the application.
2. Completeness. The Police Chief will review the application for completeness. If the application is deemed incomplete, a list of the items needed to make the application complete shall be provided to the applicant. If the application is deemed complete, review of the application for compliance with the License Standards of review shall commence.

3. License review. Once the Police Chief finds the application complete, the Police Chief shall review the application for compliance with the License Standards of Review. The review shall be completed within thirty (30) days of the determination that the application is complete. Upon conclusion of the review, the Police Chief shall provide a written recommendation to the Town Council and to the applicant. The written determination shall include one of the following findings:

- a. Recommend that the license be approved with or without conditions, which conditions may include specific findings regarding phasing for said application; or
- b. Recommend that the license be denied.

4. Municipal Hearing. Once the Police Chief has provided a recommendation to the Town Council, the Town Council shall hold a public hearing. The public hearing shall be scheduled for the next regular Town Council meeting for which the submission deadline has not yet passed. Public notice of the public hearing shall be provided to the abutters in accordance with the procedures in Sec. 16-2-1(b) of the Subdivision Ordinance.

5. Town Council decision. Once a public hearing has been held, the Town Council has thirty-five (35) days to grant the license, with or without conditions, which conditions may include specific findings regarding phasing of said application, or deny the license. A decision to table the license vote to the next Town Council meeting may be considered with the consent of the applicant.

6. Approval. If the license is approved by the Town Council, the license shall be valid for three (3) years from the date of the Town Council vote for approval. Any conditions placed on the approval shall be satisfied prior to use of the Shooting Range facility. The Shooting Range Facility shall be used only as specified in the approval. The Town shall provide a written notification of the Town Council decision, including the expiration date of the license if the license has been granted. Denial of a license may be appealed to the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure within thirty (30) days of the Town Council decision.

7. Renewal. Prior to the license expiration, the Shooting Range facility may request a license renewal, in accordance with Sec. 24-6-1, Renewals.

SEC. 24-5-3. S U B M I S S I O N R E Q U I R E M E N T S

The Shooting Range License application shall include the following information:

1. Ownership. Information demonstrating that the applicant is the legal property owner(s) or lessees (or their agent), and shall also include the contact information for the applicant.
2. Written description. Written description of the shooting range facility, its location and uses abutting the property.
3. Survey. A standard boundary survey made and certified by a licensed land surveyor in the State of Maine, a copy of the deed for the property and copies of any easements, restrictions or covenants.
4. Site Plan. A site plan for the entire shooting range to a scale of no less than one (1) inch equals one hundred (100) feet. The site plan shall depict the property lines for any parcel upon which the shooting range is located, north arrow, plan scale, date, and ownership information for the site. The complete layout of the shooting range facility, including existing and proposed

structures, shooting stations, firing lines, target areas, shot fall zones, surface danger zone, berms, baffles and other significant elements of the shooting range. The site plan shall also depict adjacent streets, access roads, and parking areas for the shooting range facility. The Town may allow different site plan scales where it deems appropriate.

5. Occupied Dwelling. A map depicting Occupied Dwellings within one-half (1/2) mile (two thousand six hundred forty (2,640) feet)).
6. Secure Access. Fencing, gates, and other features used by the Shooting range facility to control access to the facility.
7. Hours of Operation. A note shall be added to the site plan stating the hours of operation of the shooting range.
8. Shot Containment. The license application shall include a plan describing how all of the bullets, shot or other projectiles or any other debris shall be contained on the Shooting Range facility. Structures or devices that shall be installed for shot containment shall be shown on the site plan. Shooting Range rules of operation that promote shot containment shall be provided when applicable.
9. Noise. A plan showing the projected dBA levels at the property line and at the sixty-five (65) dBA level prepared by a professional noise expert. For existing shooting ranges, dBA levels shall also be provided for any new firearm with a caliber not currently used or ammunition not currently used.
10. Firearms. A detailed description of the types and uses of firearms and ammunition used and proposed to be used at the site.
11. Lead. A plan describing how lead will be managed on the site and how that plan complies with the EPA lead management guidelines.
12. Warning signs. Locations where warning signs will be installed, a detail indicating the size and material of the warning sign, and a description of how the proposed signage compares to the NRA Source Book.
13. Maintenance. A maintenance plan for the shooting range and a description of how the maintenance plan compares with the NRA Range Source Book.
14. Safety Design. A description of how the proposed shooting range design compares to the design standards in the NRA Range Source Book.
15. Insurance. Documentation of the insurance coverage of the shooting range facility.

SEC. 24-5-4. LICENSE STANDARDS OF REVIEW

The following standards shall be used to review a shooting range license application. The license shall be issued unless the Town Council determines that one or more standards have not been met. In each instance, the burden of proof shall be on the applicant to produce sufficient information to warrant a finding that the standards have been met.

1. Surface Danger Zone. The Surface danger zone shall be contained within the property boundary line. For new shooting ranges, the surface danger zone is satisfactory when all shooting stations and

targets on a shooting range facility shall be located a minimum of three hundred (300) feet from any property line. For existing shooting ranges, no new shooting stations or targets shall be placed within 300' of the property boundary, unless they can demonstrate that the surface danger zone will be reduced in size. For existing shooting stations and targets, the applicant shall demonstrate that the shooting range facility will contain the surface danger zone within the property boundary.

2. Occupied Dwelling. For new shooting ranges, all shooting stations, targets and firing lines shall be located at least one-half (1/2) mile (two thousand six hundred forty (2,640) feet) from any existing Occupied Dwelling. For existing shooting ranges located closer than one-half (1/2) mile from any existing Occupied Dwelling, shooting range facilities shall not be permitted to relocate or enlarge said range to further encroach within said setback, unless they can demonstrate that shot containment will be improved and the surface danger zone will be reduced in size.

3. Access. Access to the shooting range facility and shooting range shall be secured and controlled, with ingress and egress permitted only during approved operating hours, except for access to perform routine maintenance or other business that does not involve discharge of firearms.

4. Hours of Operation. The Shooting range shall be allowed to operate between 8 a.m. to one-half hour before sunset Monday through Saturday and from noon to one-half hour before sunset on Sundays.

5. Shot Containment. Shooting range facilities shall be designed to contain all of the bullets, shot or other projectiles or any other debris within the Shooting range facility.

6. Noise. For new shooting ranges, noise levels measured at the property line where the Shooting range facility is operated or, in the case of leased land, at the property line of any leased parcel, shall not exceed sixty-five (65) dBA when said property line is located within one thousand (1,000) feet of an Occupied Dwelling. For existing shooting ranges, noise shall be mitigated where practicable and subject to the limitations of 30-A M.R.S.A.3011, as it may be amended, regarding existing shooting ranges. Firearm types that have not previously been used at the Shooting Range shall not produce noise that exceeds sixty-five (65) dBA at the property line.

7. Lead. Shooting range facilities shall provide a plan using best management practices for lead management which meets or exceeds EPA lead management guidelines.

8. Warning Signs. Warning signs meeting or exceeding the standards set forth in the NRA Range Source Book shall be posted at one-hundred (100) foot intervals along the entire perimeter of the Shooting range and along the entire perimeter of the property boundary in the same intervals.

9. Maintenance. Shooting range facilities shall be operated and maintained in a manner that shall meet or exceed the standards specified in the NRA Range Source Book.

10. Safety Design. Shooting range facilities shall meet or exceed the design standards for general and utility type of range specified by the NRA Range Source Book, unless otherwise specified in this ordinance.

11. Insurance. The shooting range facility shall be covered by a minimum one million dollar (\$1,000,000) per occurrence of liability insurance. Such insurance shall name the Town as an additional insured and shall save and hold the Town, its elected and appointed officials, and employees acting within the scope of their duties harmless from and against all claims, demands, and causes of action of any kind of character, including the cost of defense thereof, arising in favor of a Person or group's members or employees or third parties on account of any property damage arising out of the acts or omissions of the licensee, his/her group, club, or its agents or representatives. The Town shall be notified of any policy changes or lapses in coverage.

ARTICLE VI. LICENSE ADMINISTRATION

SEC. 24-6-1 ANNUAL INSPECTION

A licensed shooting range facility shall be inspected by the Town's Police Department at least once during a calendar year for compliance with the license and general protection of public safety. The code enforcement officer may also attend the inspection.

SEC. 24-6-2 RENEWAL

Prior to the expiration of a license, the Shooting Range Facility may request a three (3) year renewal of the license. The request shall be submitted in writing to the Police Chief. The request shall include an assertion that there have been no material changes to the Shooting Range Facility that are not in compliance with the current license. Upon receipt of a request for a renewal, the Police Chief shall inspect the Shooting Range Facility, and may request the attendance of the Code Enforcement officer at the inspection. The Police Chief shall prepare a report of any complaints received during the license period and a summary of the site inspection. Within thirty (30) days of receiving a request for renewal, the Police Chief shall determine if the license will be renewed or if there are facility concerns that warrant forwarding the renewal request to the Town Council. The Police Chief shall provide the licensee with written notification that the license has been renewed with the date of expiration of the renewal or that the renewal request has been forwarded to the Town Council. Upon final decision of the Town Council, a written notification of the Town Council's decision, including an expiration date if the license has been renewed, shall be provided to the licensee. There shall be no limit on the number of renewals of a license that remains in good standing.

A Shooting Range Facility which received a license prior to [the effective date of these amendments] shall have thirty (30) days from [the effective date of these amendments] to submit a request for a renewal, at which time it shall be considered" prior to the expiration of its license."

SEC. 24-6-3. ABANDONMENT AND DISCONTINUANCE

When an existing Shooting Range Facility is discontinued without the intent to reinstate the Shooting Range use, the property owner shall notify the Town of such intent as soon as practicable. In any event, the discontinuance of the Shooting Range Facility or non-use of the Shooting Range Facility for a period in excess of one year shall create the presumption said Shooting Range Facility is abandoned, and any current, valid permits issued shall terminate. As established by 30-A M.R.S.A. § 3011, if there has been no shooting activity for a period of three (3) years, resumption of shooting shall require a license as a new Shooting Range Facility for purposes of this Ordinance.

SEC. 24-6-4. LICENSE TRANSFERABILITY

A license issued pursuant to this Ordinance may not be transferred to another operator without the written approval and consent of the Town Council.

ARTICLE VII. EXCEPTIONS

SEC. 24-7-1. EXCEPTIONS

The Town Council shall have the authority to accept phased applications and approve exceptions from the terms of this Ordinance, including extending the deadlines for performance where appropriate, when literal enforcement of provisions of this Ordinance will, in an individual

case:

1. Result in hardship;
2. The hardship results from an application of this Ordinance;
3. The hardship is related to the specific Shooting Range Facility involved and predates the adoption of this Ordinance;
4. The hardship was not self-induced or self-created following the effective date of this Ordinance; and
5. The hardship is peculiar to the specific Shooting Range Facility involved.

SEC. 24-7-2. ADDITIONAL FINDINGS

In granting an exception, the Town Council shall find in addition to the above hardship that the requirements of this Section 24-7-1 also have been met and a written notice of the decision shall be prepared and furnished to the applicant detailing the following:

1. There are unique conditions pertaining to the Shooting Range Facility in question because of its history, size, shape or topography;
2. A literal interpretation of the provisions of this Ordinance would deprive the applicant of its rights to operate an existing Shooting Range Facility;
3. The requested exception will not materially affect the safety of surrounding neighborhoods or the general public welfare; and
4. The exception requested is the minimum needed to allow continued use of the Shooting Range Facility in question.

ARTICLE VIII. ENFORCEMENT, REMEDIES, AND PENALTIES

SEC. 24-8-1. ENFORCEMENT AND REMEDIES

The Town's Police Department shall be responsible for the enforcement of this Ordinance. Complaints, preferably in writing, regarding non-conformance with any license shall be reported to the Police Department, which shall investigate the same and file a report of its findings with the Town Council. Any violation of this Ordinance or of any condition or requirement adopted pursuant to these provisions may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings as allowed by state law. Any license issued under this Ordinance may be suspended or revoked following a public hearing before the Town Council, which may include a review and recommendation by the Police Chief.

SEC. 24-8-2. CIVIL PENALTIES

Any Person who violates any of the provisions of this Ordinance shall be subject to a civil penalty of not less than \$100.00 per violation plus costs of prosecution, including but not limited to attorney's fees. No penalty shall be assessed until the Person alleged to be in violation has been notified of the violation. Each day of a continuing violation shall constitute a separate violation and any such penalty shall be recovered for the use of the Town.