

Wayne T. Adams  
Christian L. Barner  
Milda A. Castner  
Laura Shortill Curtis  
Susan Bernstein Driscoll  
Scott M. Edmunds  
William J. Gallitto, III  
Jason G. Howe  
David C. Johnson  
Erin K. Kalakowsky  
Benjamin T. McCall



Courtney S. Michalec  
Brin M. Moore  
Sarah B. Neault  
Durward W. Parkinson  
Leah B. Rachin  
Laura H. White

*Of Counsel*

Jonathan Bangs  
Barbara I. Belik

*In Memoriam*

C. Wesley Crowell  
1955-2015

May 25, 2017

[dparkinson@bergenparkinson.com](mailto:dparkinson@bergenparkinson.com)

**VIA E-MAIL**

Town of Cape Elizabeth Town Council  
Attn: Maureen O'Meara, Town Planner  
320 Ocean House Road  
Cape Elizabeth, ME 04107

**Re: Proposed Changes to Shooting Range Ordinance**

Dear Members of the Council:

On May 8, 2017, the Town received two written communications from James J. Richard, whose property abuts the existing Spurwink Rod and Gun Club, located at 1250 Sawyer Road. These letters outlined Mr. Richard's disagreement with two particular portions of the Town's Shooting Range Ordinance (the "Ordinance"), and his belief that by adopting the Ordinance as written, the Town would be committing "an act of negligence." We understand and appreciate Mr. Richard's concerns, as well as the efforts he has taken to raise these concerns. However, as this letter highlights, we conclude that the Ordinance remains in compliance with generally accepted shooting range safety standards.

First, Mr. Richard is concerned by Section 24-5-3 of the Ordinance, which requires that a potential shooting range licensee provide "rules of operation that promote shot containment . . . when applicable." In particular, we anticipate that Mr. Richard is concerned that the Town's intention here is to *never* review a manual of operations for a proposed or existing shooting range. While such an outcome would certainly raise concerns, it is our understanding this Ordinance section requires a potential licensee to produce its Range Manual of Operations at *any time* that it is required to verify its shot containment policies. Such a limitation is sensible and within our understanding of what is typically done in such circumstances. As such, it does not appear that the effect of this provision matches the concerns that Mr. Richard has raised.


Second, Mr. Richard is concerned by Section 24-5-4(1) of the Ordinance, which requires that all new shooting range facilities demonstrate that no shooting stations or targets are located closer than three hundred (300) feet from any property line. Here, while we understand Mr. Richard's desire to ensure that any shooting range within the Town is as safe as

possible, we believe that his concern is founded on a simple misunderstanding regarding the drafted language. To the best of our knowledge, the NRA Range Source Book requires that the "surface danger zone" be contained within the property line of the range. Based on our reading of Section 24-5-4(1), the Town is in fact adding an *additional requirement*: that the edge of the "surface danger zone" not be located *at* the property line, but three hundred feet *from* the property line. Thus, the Town is adopting a policy that produces a far larger buffer zone around the range than is typically required, effectively making the Ordinance *more compliant* with the Range Source Book guidelines. The Council may wish to amend the section in order to clarify any misunderstanding; however, given the current language, the Ordinance does more than enough to comply with generally accepted safety standards.

We appreciate this additional opportunity to review portions of the Ordinance. Please let us know if we can be of more assistance in this matter.

Very truly yours,

BERGEN & PARKINSON, LLC

  
Durward W. Parkinson