



RUTHERFORD COUNTY PLANNING AND ENGINEERING DEPARTMENT

September 8, 2016



Outdoor Shooting Ranges

Consistent with the 2016 Work Schedule, Staff is presenting this report on the development of regulations for outdoor shooting ranges. Indoor shooting ranges are currently addressed in the Rutherford County Zoning Ordinance, so this report focuses solely on outdoor shooting ranges. The purpose of this report is to review the current, adopted regulations and to determine if it is the Planning Commission's desire to implement additional, specific standards for outdoor shooting ranges. This report will discuss the background of the current regulations for outdoor entertainment/amusement uses, current regulations in the Tennessee Code Annotated (TCA), examples of how other Tennessee Communities regulate these uses and possible changes to the County's Zoning Ordinance.

Background/Existing Regulations

Prior to the adoption of the current Zoning Ordinance, outdoor shooting ranges were classified as either a Type II or Type III Conditional Use Permit. Since 1990, five applications have been filed with the Board of Zoning Appeals (Four of which were either denied or withdrawn) and two sites involving a total of four applications (One application was denied) filed with the Planning Commission requesting the use of a firing/shooting range or trap and skeet field. The most recent case was in 2007. The following table describes the approved cases and the conditions that were applied to their approvals:

Case Details	Conditions of Approval
BZA 98-39 Approved 06-10-1998 shooting range for handgun permit training and involved a property located at 8934 Almadale Road.	<ol style="list-style-type: none"> 1. An off-street parking area shall be provided for students, and it shall be located on site. 2. Facilities for vehicular access to and from the site shall be arranged to permit vehicles to exit from the site without backing out onto Almadale Road. 3. The firing area shall be enclosed with a privacy fence on three sides and an earthen berm containing no rock on the down range side shall be installed. 4. There shall be a sign placed on all three sides of the property that this is a live firing range. 5. Sunday hours shall be limited to 1:30 p.m. to 5:00 p.m. 6. The firing range shall be enclosed with a 10' high walls on both sides 60' long, there shall be a roof over the range for the entire length of the range, there shall be a 70' long by 10' high brick wall at the rear of the range 10' from the side walls, and the downrange berm shall be at least 10' high to protect potential stray bullets onto State Route 840.
A-286 Approved 11-09-1992 Trap and Skeet Field located at 8890 Big Springs Road	<ol style="list-style-type: none"> 1. No artificial lighting. 2. No alcoholic beverages. 3. No shooting after 7 PM.
A-840 Approved 12-13-2007 Trap and Skeet Field located at 8890 Big Springs Road (The rezoning of 10 acres in A-286 was deemed invalid by the Courts.	<ol style="list-style-type: none"> 1. A twenty (20) foot wide strip of the applicant's property parallel to the right-of-way of Big Springs Road shall be grassed or landscaped except for points of ingress and egress. 2. No alcoholic beverages to be located/consumed on-site. 3. No shooting past 7:00 PM, or dusk. 4. No lighting of the fields/business areas. 5. No shooting into residentially developed property. 6. Summer hours to be Friday and Saturday from 9:00 AM – 7:00 PM and Sunday from 12:00 PM (noon) to 7:00 PM and winter schedule to be Friday and Saturday from 9:00



A-840 was processed to correct the original error.

AM – 6:00 PM and Sunday from 12:00 PM (noon) to 6:00 PM. Summer hours will be those days on Daylight Savings Time; Winter Hours will be those days not on Daylight Savings Time.

7. Leland Cypress trees are to be planted as a buffer and are to be continually replaced if any die. They shall also be placed so that they overlap each other.
8. To be closed Thanksgiving, Christmas Day, New Year’s Day, Easter.
9. A lead management strategy will need to be implemented. Every two (2) years a licensed environmental water testing firm is to be selected by the Planning staff, with the cost covered by the applicant. This firm will check any stream or water present within the 10 acres for the presence of lead and report the results back to the Planning Commission.

In 2007, the Rutherford County Board of Commissioners adopted a resolution establishing noise control regulations. In Section 1.4 of the Resolution addresses major subdivision and lists activities that could cause a violation, which includes “the firing and discharge of firearms except by police officer or permitted variance by law.” The Resolution also establishes maximum permissible sound pressures based on “octave band center frequency cycles per second”. Even though the “Noise Control Resolution” is separate from the Rutherford County Zoning Ordinance, variances to the regulations contained in the resolution can be granted by the Board of Zoning Appeals. Private, recreational use of one’s own property for discharging firearms, provided it is done in accordance with the Rutherford County Noise Resolution, is permitted “by right”.

The County’s current Zoning Ordinance was adopted on November 15, 2012 with an effective date of January 1, 2013. There was one land use classification for entertainment and amusement services that did not differentiate between indoor and outdoor uses. Staff quickly realized that outdoor recreational uses have unique challenges that were not being addressed with the regulations as they were written. To remedy this situation, amendments to split the category were approved in August of 2014. The Entertainment and Amusement Services-Outdoor category is allowed by special exception, requiring Board of Zoning Appeal approval, for all zoning districts. Special exception criteria for outdoor entertainment and amusement services are addressed in Section 1408 F.2. of the Rutherford County Zoning Ordinance and are listed below:

2. Entertainment and Amusement Services – Outdoor

a. General Standards

- i. There shall be a minimum lot size of 5 acres, unless otherwise specified in this Section.
- ii. Accessory uses, such as snack bars, offices, maintenance facilities, refreshment stands or retail sales, which are designed and intended primarily for the use of patrons, shall be allowed.
- iii. Site plan approval is required consistent with Section 1404 C. of this Ordinance.
- iv. Uses approved in this Section shall abide by the Parking Requirements found in Section 1102 of this Ordinance. Parking areas are not required



to be of a hard-surfaced, dustless material but must be approved by Planning and Engineering Staff. If an agreement cannot be reached with Staff, the Board of Zoning Appeals shall have the authority to determine the surface material to be used.

- v. Uses approved in this Section shall abide by the Landscaping, Screening and Buffering requirements and Performance Standards found in Sections 1104 and 1106 of this Ordinance, respectively, unless otherwise specified in this Section.
- vi. All regulations enforced through other agencies, (i.e. Federal, State, and other Local authorities) must be met.

When these criteria were developed in 2014, Staff had originally intended to include specific standards for outdoor shooting ranges. It was determined, however, that these standards were going to require more time and scrutiny and should be considered separately. Some preliminary criteria were identified and are listed below:

Shooting Range, Outdoor – In addition to the General Standards in 1408 F.2.a., Outdoor shooting ranges shall also abide by the following requirements:

- i. There shall be a minimum lot size of 10 acres.
- ii. The point of discharge of any firearm shall be meet the following minimum distances from all occupied structures, public or private roads:
 - o “Rear” of the shooting range (direction of the line of fire) – 1,000 feet.
 - o 250 feet in all other directions.
- iii. All projectile and shot shall fall within the property of the shooting range
- iv. The County Engineer shall have the discretion to require a lead mitigation plan if conditions warrant such a plan.
- v. A Type III Buffer must be installed along the “rear” of the shooting range
- vi. Applicants are encouraged to review the most recent edition of the National Rifle Association’s Range Source Book for guidelines on range design, operation and maintenance when planning their site.
- vii. The State of Tennessee Department of Safety and Homeland Security maintains range requirements that can be accessed at www.tn.gov/safety/handgun/firingrange.shtml and are incorporated into this Section by reference.

In absence of any specific criteria, outdoor shooting ranges simply fall under the general standards for Entertainment and Amusement Services – Outdoor (Section 1408 F.2.), as explained above.

Shooting Ranges and the Tennessee Code Annotated

Shooting ranges are addressed in Section 13-3-412 of the Tennessee Code Annotated (TCA). This section requires new subdivisions within 1,000 feet of “any portion of the outside boundary of any land on which is contained a sport shooting ranged that was established, by clear and convincing



evidence, constructed or operated prior to the development of the subdivision, the owner of the development shall provide on any plat filed with the appropriate municipal or county official, or both” to have a note shown on the plat indicating the *“property is located in the vicinity of an established sport shooting range. It can be anticipated that customary uses and activities at this shooting range will be conducted now and in the future. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from these uses and activities.”*

Section 13-3-412 also defines “sport shooting range” as well as details the criteria to determine whether a shooting range is “established”.

Section 39-17-316 TCS discusses noise control at sport shooting ranges. It states:

b) (1) A person who operates or uses a sport shooting range is not subject to civil or criminal liability for noise or noise pollution, nuisance or any other claim not involving physical injury to another human, resulting from the operation or use of the sport shooting range as a sport shooting range if the sport shooting range is in compliance with any applicable noise control laws, resolutions, ordinances or regulations issued by a unit of local government, that applied to the range at the time that the range began operation.

(2) A person or entity that operates or uses a sport shooting range is not subject to an action for nuisance, abatement, or any other type of action or proceeding which would have the effect of limiting, reducing, eliminating or enjoining the use or operation of the sport shooting range as a sport shooting range if the sport shooting range is in compliance with any applicable noise control laws, resolutions, ordinances or regulations issued by a unit of local government, that applied to the range and its operation at the time that the range began operation.

(3) A person who subsequently acquires title to or who owns real property adversely affected by the use of property with a sport shooting range shall not maintain any action against the owner of the range to restrain, enjoin, or impede the use of the range except to the extent allowed by this section.

(4) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level that may occur in the outdoor atmosphere shall not apply to a

sport shooting range exempted from liability under this section.

(5) Notwithstanding any other law to the contrary, nothing in this section shall be construed to limit civil liability for compensatory damage arising from physical injury to another human, physical injury to tangible personal property, or physical injury to fixtures or structures placed on real property.

(c) To the extent that any sport shooting range has been issued permission, whether by special exception, variance, or otherwise, by any entity having zoning or zoning appeal authority to operate as a range, the right to operate as a range shall not be amended, restricted, or terminated due to a change of circumstances regarding the use of adjacent or surrounding properties. Further, with respect to any sport shooting range that is open to the public and was in continuous operation for at least thirty (30) years immediately preceding December 16, 2008, the right to operate as a shooting range shall not be amended, restricted or terminated due to any land use planning or zoning applicable to the shooting range's location if:

(1) The shooting positions operate no closer than:

(A) One hundred fifty feet (150') from any adjoining boundary line or county road that extends from the southeast corner to the southwest corner;

(B) One hundred eighty feet (180') from any adjoining boundary line that extends from the southwest corner to the northwest corner;



(C) One hundred eighty feet (180') from any adjoining boundary line that extends from the northwest corner to the northeast corner;

(D) One hundred eighty feet (180') from any adjoining boundary line or county road that extends from the northeast corner to the southeast corner; and

(E) One hundred eighty feet (180') from any adjoining residential property boundary line, notwithstanding subdivisions (c)(1)(A)-(D); and

(2) Any vegetation between the appropriate distance requirement described in subdivision

(c)(1) and the adjoining boundary line or county road remains undisturbed.

(d) With respect to any range that is open to the public and that begins operation after July 1, 2004, and for which there are no local zoning resolutions, ordinances or regulations affecting its establishment as a sport shooting range as of the date it began operation, the range shall not be protected by the exemptions from nuisance actions contained herein until one (1) year after the date the sport shooting range begins operation.

TCA Section 39-17-1314, Local regulation of firearms and ammunition and knives preempted by state regulation -- Actions against firearms or ammunition manufacturers, trade associations or dealers, states that a *“city, county, town, municipality or metropolitan government is expressly authorized to regulate by ordinance, resolution, policy, rule or other enactment...the location of a sport shooting range, except as otherwise provided in §§ 39-17-316 and 13-3-412; ...”*

The full text of the citations described above can be found in Appendix A.

How Other Communities Regulate Outdoor Shooting Ranges

Various communities throughout the state of Tennessee regulate shooting ranges either as a special exception or permitted uses by right. The table below includes a sample of the Tennessee communities whose zoning regulations address outdoor shooting ranges:

TENNESSEE COUNTY	DISTRICTS/PROCESS SHOOTING RANGE PERMITTED	SPECIFIC REQUIREMENTS
Anderson County	Special Exception in Agricultural district.	Minimum acreage, minimum setback, berm, buffers, site plan, etc.
Blount County	Special exception in Suburbanizing District, Rural District, Commercial and Industrial District	Site plan, setback, shot containment, signage, lead mitigation plan
Bradley County	Permitted by right in Forestry/Agricultural and Residential district, Industrial district and Special Impact Industrial Districts	Permitted on review, setback requirement from discharge to occupied structures, and property lines
Fayette County	Permitted by right in Special Activity District	N/A
Hamilton County	Special permit in Agricultural District	Site is reviewed for access, locations, parking, bathroom, backstop and proximity to adjacent “existing” residential uses
Knox County	Permitted on review in Agricultural District	N/A
Williamson County	Categorized as Recreational/Entertainment Use Category	Allows for accessory uses.



Conclusion and Future Steps

As stated earlier, if an application was made today to establish an outdoor shooting range, it would undergo the process for special exception approval contained in Section 1408 F.2. of the Rutherford County Zoning Ordinance. Should the Planning Commission opt to move forward with drafting additional standards that would apply to outdoor shooting ranges, it should consider the following items:



1. Add a definition for “Shooting Range” (and any related terms that may apply) to Appendix A – Definitions and Rules for Construction of Language;
2. Amend the Land Use Activity Table (Appendix B) to identify the proper (What classification, should we include it as Entertainment and Amusement Services-Outdoor with an asterisk note, indicating that Shooting Ranges are only allowed by special exception in AR zoning district);
3. Amend the Land Use Index (Appendix C) to include shooting ranges; and
4. Amend Section 1408 F to include special exception criteria specifically for shooting ranges that could include:
 - a. Site Plan submittal and approval;
 - b. Lead mitigation plans;
 - c. Range design criteria;
 - d. Accessory uses- concessions, etc.;
 - e. Bathrooms;
 - f. Parking and ingress/egress issues;
 - g. Buffering Requirements;
 - h. Security provisions; and
 - i. Noise issues.

This is not meant to be an exhaustive list. Other items may be added as the amendment process proceeds.

Staff welcomes any suggestions and/or direction that Planning Commission members would like to provide after reviewing this report.

APPENDIX A

Title 13 Public Planning
And Housing
Chapter 3 Regional
Planning
Part 4 Regional Planning
Regulations
Tenn. Code Ann. § 13-3-
412 (2016)

13-3-412. New subdivision developments in the vicinity of established sport shooting ranges.

(a) For any new subdivision development that is located in whole or in part within one thousand feet (1,000') of any portion of the outside boundary of any land on which is contained a sport **shooting range** that was established, by clear and convincing evidence, constructed or operated prior to the development of the subdivision, the owner of the development shall provide on any plat filed with the appropriate municipal or county official, or both, the following notice:

Sport Shooting Range Area

This property is located in the vicinity of an established sport **shooting range**. It can be anticipated that customary uses and activities at this **shooting range** will be conducted now and in the future. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from these uses and activities.

.....
(b) As used in this section, unless the context otherwise requires:

(1) "Established" means a sport **shooting range** that is known by custom, reputation or otherwise to exist within a community or area prior to the time of the proposed subdivision development. Indicia of a sport **shooting range** being "established" are:

(A) The range is listed in the area telephone book;

(B) The range is, from time to time, advertised in the yellow pages of a telephone book, newspapers, billboards or flyers;

(C) There are directional signs on public roads, streets or highways indicating the correct route to the **shooting range**;

(D) The range is indicated on a road or other map of the area that predates the proposed subdivision development;

(E) The **shooting range** is listed with the better business bureau or chamber of commerce of the area in which it is located; or

(F) The owner of the range has a business license on file with the appropriate clerk; and

(2) "Sport **shooting range**" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

(c) This section shall only apply to counties that have a planning commission and subdivision regulations.

HISTORY: Acts 2004, ch. 494, § 1.

Title 38 Prevention And
Detection Of Crime
Chapter 8 Employment
and Training of Police
Officers
Part 1 General Provisions
Tenn. Code Ann. § 38-8-
116 (2016)

38-8-116. Law enforcement shooting ranges -- Methods for retired law enforcement officer to meet annual requirements to carry firearm shipped or transported in interstate or foreign commerce --Maintenance of a list of approved certified firearms instructors.

(a) All law enforcement agencies are allowed to open their **shooting ranges** for public use when such ranges are not being used by law enforcement personnel. The law enforcement agency in charge of a **shooting range** may establish reasonable regulations for the use of the firing range in order to promote the full use of the range without interfering with the needs of law enforcement personnel. The law enforcement agency may also charge a reasonable fee for persons or organizations using the range and may require users to make improvements to the range.

(b) A law enforcement officer acting as an individual and not as an employee, agent or on behalf of any governmental entity who has retired in good standing, as determined solely by the chief law enforcement officer of the retired officer's law enforcement agency, may utilize any one (1) of the following methods to meet the annual requirements to carry a firearm that has been shipped or transported in interstate or foreign commerce in the same manner and to the same extent as authorized for an active law enforcement officer to carry a firearm of the same type:

(1) Obtaining a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer that indicates that the individual has, not less recently than one (1) year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm;

(2) Meeting the standards established by the Tennessee peace officer standards and training (POST) commission for qualification for active law enforcement officers to carry a firearm of the same type by qualifying at and obtaining such an annual certification directly from the Tennessee POST commission; or

(3) Upon payment of any customary associated fees, utilize a private **shooting range** and engage the services of a certified firearms instructor to provide the training and verify that the retired law enforcement officer has met the standards established by the Tennessee POST commission for qualification for active law enforcement officers to carry a firearm of the same type. The certified firearms instructor is authorized to issue a certificate indicating that the retired law enforcement officer has met the applicable standards.

(c) (1) (A) For purposes of this subsection (c), "retired law enforcement officer" means a retired law enforcement officer, as described in subsection (b), or a retired correctional officer previously employed by the department of correction or a retired inmate relations coordinator previously employed by the department of correction.

(B) A retired law enforcement officer may become certified to carry a firearm within this state that has been shipped or transported in interstate or foreign commerce in the same manner and to the same extent as authorized for an active law enforcement officer.

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- (2)** To become certified pursuant to this subsection (c) for the first time, a retired officer may utilize any of the methods set out in subsection (b) to meet the standards established by the Tennessee POST commission for qualification for active law enforcement officers to carry a firearm of the same type.
- (3) (A)** To complete the criminal history background check requirement for certification, a retired officer shall go to the sheriff in the county where the officer resides to have fingerprints taken. The officer shall be required to present photo identification at the time the fingerprints are taken. If the presented photo identification does not accurately identify the officer, then the sheriff shall refuse to take the officer's fingerprints. The sheriff may charge a fee not to exceed six dollars (\$6.00) for taking the officer's fingerprints and sending two (2) copies of the same to the Tennessee POST commission.
- (B)** At the time an officer submits an application to be filed with the Tennessee POST commission, the officer shall present photo identification; if the name on the photo identification and the name on the application are not the same, the Tennessee POST commission shall refuse to accept the application. If the person whose picture appears on the photo identification is not the same as the officer, the Tennessee POST commission shall refuse to accept the application.
- (4)** Upon receipt of the two (2) copies of an officer's fingerprints from a county sheriff's office, the Tennessee POST commission shall send the fingerprints of the officer and the application filed by the officer to the Tennessee bureau of investigation (TBI).
- (5)** Upon receipt of the fingerprints from the Tennessee POST commission, the TBI shall:
- (A)** Within thirty (30) days from receipt of the fingerprints, conduct computer searches to determine the officer's eligibility for a permit under subsection (c) as are available to the bureau based solely upon the applicant's name, date of birth and social security number and send the results of the searches to the Tennessee POST commission;
- (B)** Conduct a criminal history record check based upon one (1) set of the fingerprints received and send the results to the Tennessee POST commission; and
- (C)** Send one (1) set of the fingerprints received from the Tennessee POST commission to the federal bureau of investigation (FBI), request a federal criminal history record check based upon the fingerprints, as long as the service is available, and send the results of the check to the Tennessee POST commission.
- (6) (A)** The Tennessee POST commission shall deny a permit application if it determines from information contained in the criminal history record checks conducted by the TBI and FBI pursuant to subdivision (c)(5), or from other information, that the applicant:
- (i)** Is prohibited from purchasing or possessing a firearm in this state pursuant to § 39-17-1316, § 39-17-1307(b) or (c), 18 U.S.C. § 922(g), or any other state or federal law, or is prohibited from obtaining a handgun carry permit pursuant to § 39-17-1351; or
- (ii)** Has been convicted of the offense of driving under the influence of an intoxicant in this or any other state two (2) or more times within ten (10) years from the date of the application and at least one (1) of the convictions has occurred within five (5) years from the date of application or renewal.
- (B)** The Tennessee POST commission shall not be required to confirm the officer's eligibility for certification beyond the information received from the TBI and FBI, if any.
- (7)** Certification of a retired officer under this section shall be valid for a period of four (4) years from the date the Tennessee POST commission issues the officer's certification under this subsection (c).
- (8)** For a retired officer to recertify under this subsection (c) upon the expiration of the initial certification, the officer shall only be required to undergo the criminal history background check portion of the certification process. No fewer than ninety (90) days prior to the expiration of the officer's initial certification under this subsection (c), the officer shall undergo a criminal history background check in accordance with the procedure set out in subdivisions (c)(3)-(5).
- (9)** Because the certification requirements of this subsection (c) do not meet the requirements of 18 U.S.C. § 926C(d), a retired officer certified under this subsection (c) is not permitted to carry a firearm outside this state unless otherwise authorized to do so with a handgun carry permit issued pursuant to § 39-17-1351.
- (10)** If the provisions of 18 U.S.C. § 926C(d), or any other provision of federal law change to permit an officer certified under this section to carry a firearm outside this state, such officer shall be permitted to carry a firearm as permitted by federal law.
- (d)** The Tennessee POST commission shall maintain a list of approved certified firearms instructors, which may include any instructor utilized by a person to receive a handgun carry permit under § 39-17-1351, that it considers qualified to train and verify that a retired law enforcement officer has met the standards established by the Tennessee POST commission for qualification for active law enforcement officers to carry a firearm of the same type.
- (e)** A retired officer may bring the certificate issued by the certified firearms instructor pursuant to subdivision (b)(3) to the Tennessee POST commission. If the certificate was issued by an instructor who is on the POST commission's approved list and the commission determines, in the manner prescribed in § 38-8-123, that the applicant is eligible to carry a firearm under federal law, the commission shall issue the officer a certification that the officer has met the standards established by the Tennessee POST commission for qualification for active law enforcement officers to carry a firearm of the same type. A certificate so issued by the Tennessee POST commission shall be considered a certification issued by the state for purposes of 18 U.S.C. § 926C(d)(2)(B). A certificate issued to a retired officer pursuant to this subsection (e) shall be automatically revoked by operation of law upon the officer becoming ineligible to carry a firearm under federal law.
- (f)** The Tennessee POST commission is authorized to establish and charge a fee for issuing a certification under this section.
- (g) (1)** If a retired law enforcement officer who has been certified to carry a firearm pursuant to this section is
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arrested and charged with a violation of § 55-10-401 and the officer has one (1) or more prior convictions for the same offense within the last ten (10) years, then the court first having jurisdiction over the officer with respect to the charge shall order the officer to surrender the certificate and send the certificate to the certifying agency with a copy of the court's order that required the surrender of the certificate, unless the officer petitions the court for a hearing on the surrender.

(2) If the officer does petition the court for a hearing, the court shall determine whether the officer will present a material risk of physical harm to the public if released and allowed to retain the certificate. If the court determines that the officer will present a material risk of physical harm to the public, it shall condition the release of the officer, whether on bond or otherwise, upon the officer's surrender of the certificate to the court. The certifying agency shall suspend the certificate pending a final disposition on the charge against the officer.

(3) If the officer is not convicted of the charge or charges, the certificate shall be restored and returned to the officer and the temporary prohibition against the carrying of a firearm as a law enforcement officer shall be lifted.

(4) If the officer is convicted of the charge or charges, the certificate shall be revoked by the court and the revocation shall be noted in the judgment and minutes of the court. The court shall send the surrendered certificate to the issuing agency.

HISTORY: Acts 2004, ch. 865, § 1; 2009, ch. 430, § 1; 2011, ch. 363, § 1; 2011, ch. 413, §§ 1, 2; 2012, ch. 783, § 1; 2016, ch. 1054, §§ 1, 2.

Title 39 Criminal Offenses
Chapter 17 Offenses
Against Public Health,
Safety and Welfare
Part 3 Disorderly Conduct
and Riots
Tenn. Code Ann. § 39-17-
314 (2016)

39-17-314. Civil disorder.

(a) As used in this section, unless the context otherwise requires:

(1) "Civil disorder" means any public disturbance involving acts of violence by an assemblage of two (2) or more persons which acts cause an immediate danger of or result in damage or injury to the property or person of any other individual;

(2) "Governmental military force" means the:

(A) National guard as defined in 10 U.S.C. § 101(9);

(B) Organized militia of any state or territory of the United States, the commonwealth of Puerto Rico, or the District of Columbia, not included within the definition of "national guard"; and

(C) Armed forces of the United States; and

(3) "Law enforcement agency" means a governmental unit of one (1) or more persons employed full time or part time by the state or federal government, or political subdivision of the state or federal government, for the purpose of preventing and detecting crime and enforcing laws or local ordinances and the employees of which are authorized to make arrests for crimes while acting within the scope of their authority.

(b) A person commits an offense who assembles with one (1) or more persons for the purpose of training or instructing in the use of, or practicing with, any technique or means capable of causing property damage, bodily injury or death with the intent to employ such training, instruction or practice in the commission of a civil disorder.

(c) A violation of this section is a Class D felony.

(d) (1) Nothing contained in this section makes unlawful any act protected by the constitution of Tennessee, or any act of a law enforcement officer that is performed in the lawful performance of the officer's official duties.

(2) Nothing contained in this section makes unlawful:

(A) Any activity of a governmental military force, the Tennessee wildlife resources agency, the department of correction or any law enforcement agency;

(B) Any activity intended to teach or practice self-defense or self-defense techniques, such as karate clubs or self-defense clinics, and similar lawful activity;

(C) Any facility, program or lawful activity related to firearms instruction and training intended to teach the safe handling and use of firearms; or

(D) Any other lawful sports or activities related to the individual recreational use or possession of firearms, including, but not limited to, hunting activities, target shooting, self-defense, firearms collection or any organized activity, including, but not limited to, any hunting club, rifle club, rifle range or **shooting range** that does not include a conspiracy as defined under the laws of this state, or the knowledge of or the intent to cause or further a civil disorder.

(e) Nothing contained in this section makes unlawful any practice or drill of an organization whose purpose is the reenactment of battles for historic purposes or of ceremonial organizations of a military nature.

HISTORY: Acts 1990, ch. 971, § 1.

Title 39 Criminal Offenses
Chapter 17 Offenses
Against Public Health,
Safety and Welfare
Part 3 Disorderly Conduct
and Riots
Tenn. Code Ann. § 39-17-
316 (2016)

39-17-316. Noise control at sport shooting ranges.

(a) As used in this section, unless the context otherwise requires:

(1) "Local unit of government" means a county, municipality, metropolitan government, or other entity of local government;

(2) "Person" means an individual, proprietorship, partnership, corporation, club, or other legal entity; and

(3) "Sport **shooting range**" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, archery, or any other shooting activity.

(b) (1) A person who operates or uses a sport **shooting range** is not subject to civil or criminal liability for noise or noise pollution, nuisance or any other claim not involving physical injury to another human, resulting from the operation or use of the sport **shooting range** as a sport **shooting range** if the sport **shooting range** is in compliance with any applicable noise control laws, resolutions, ordinances or regulations issued by a unit of local government, that applied to the range at the time that the range began operation.

(2) A person or entity that operates or uses a sport **shooting range** is not subject to an action for nuisance,

abatement, or any other type of action or proceeding which would have the effect of limiting, reducing, eliminating or enjoining the use or operation of the sport **shooting range** as a sport **shooting range** if the sport **shooting range** is in compliance with any applicable noise control laws, resolutions, ordinances or regulations issued by a unit of local government, that applied to the range and its operation at the time that the range began operation.

(3) A person who subsequently acquires title to or who owns real property adversely affected by the use of property with a sport **shooting range** shall not maintain any action against the owner of the range to restrain, enjoin, or impede the use of the range except to the extent allowed by this section.

(4) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level that may occur in the outdoor atmosphere shall not apply to a sport **shooting range** exempted from liability under this section.

(5) Notwithstanding any other law to the contrary, nothing in this section shall be construed to limit civil liability for compensatory damage arising from physical injury to another human, physical injury to tangible personal property, or physical injury to fixtures or structures placed on real property.

(c) To the extent that any sport **shooting range** has been issued permission, whether by special exception, variance, or otherwise, by any entity having zoning or zoning appeal authority to operate as a range, the right to operate as a range shall not be amended, restricted, or terminated due to a change of circumstances regarding the use of adjacent or surrounding properties. Further, with respect to any sport **shooting range** that is open to the public and was in continuous operation for at least thirty (30) years immediately preceding December 16, 2008, the right to operate as a **shooting range** shall not be amended, restricted or terminated due to any land use planning or zoning applicable to the **shooting range's** location if:

(1) The shooting positions operate no closer than:

(A) One hundred fifty feet (150') from any adjoining boundary line or county road that extends from the southeast corner to the southwest corner;

(B) One hundred eighty feet (180') from any adjoining boundary line that extends from the southwest corner to the northwest corner;

(C) One hundred eighty feet (180') from any adjoining boundary line that extends from the northwest corner to the northeast corner;

(D) One hundred eighty feet (180') from any adjoining boundary line or county road that extends from the northeast corner to the southeast corner; and

(E) One hundred eighty feet (180') from any adjoining residential property boundary line, notwithstanding subdivisions (c)(1)(A)-(D); and

(2) Any vegetation between the appropriate distance requirement described in subdivision (c)(1) and the adjoining boundary line or county road remains undisturbed.

(d) With respect to any range that is open to the public and that begins operation after July 1, 2004, and for which there are no local zoning resolutions, ordinances or regulations affecting its establishment as a sport **shooting range** as of the date it began operation, the range shall not be protected by the exemptions from nuisance actions contained herein until one (1) year after the date the sport **shooting range** begins operation.

HISTORY: Acts 1995, ch. 308, §§ 1, 2; 2004, ch. 694, § 1; 2009, ch. 227, § 1.

**Title 39 Criminal Offenses
Chapter 17 Offenses
Against Public Health,
Safety and Welfare
Part 13 Weapons
Tenn. Code Ann. § 39-17-
1314 (2016)**

39-17-1314. Local regulation of firearms and ammunition and knives preempted by state regulation -- Actions against firearms or ammunition manufacturers, trade associations or dealers.

(a) Except as otherwise provided by state law or as specifically provided in subsection (b), the general assembly preempts the whole field of the regulation of firearms, ammunition, or components of firearms or ammunition, or combinations thereof including, but not limited to, the use, purchase, transfer, taxation, manufacture, ownership, possession, carrying, sale, acquisition, gift, devise, licensing, registration, storage, and transportation thereof, to the exclusion of all county, city, town, municipality, or metropolitan government law, ordinances, resolutions, enactments or regulation. No county, city, town, municipality, or metropolitan government nor any local agency, department, or official shall occupy any part of the field regulation of firearms, ammunition or components of firearms or ammunition, or combinations thereof.

(b) A city, county, town, municipality or metropolitan government is expressly authorized to regulate by ordinance, resolution, policy, rule or other enactment the following:

(1) The carrying of firearms by employees or independent contractors of the city, county, town municipality or metropolitan government when acting in the course and scope of their employment or contract, except as otherwise provided in § 39-17-1313;

(2) The discharge of firearms within the boundaries of the applicable city, county, town, municipality or metropolitan government, except when and where the discharge of a firearm is expressly authorized or permitted by state law;

(3) The location of a sport **shooting range**, except as otherwise provided in §§ 39-17-316 and 13-3-412; and

(4) The enforcement of any state or federal law pertaining to firearms, ammunition, or components of firearms or ammunition, or combinations thereof.

(c) The general assembly declares that the lawful design, marketing, manufacture and sale of firearms and ammunition to the public are not unreasonably dangerous activities and do not constitute a nuisance per se.

(d) (1) The authority to bring suit and right to recover against any firearms or ammunition manufacturer, trade association or dealer by or on behalf of any state entity, county, municipality or metropolitan government for damages, abatement or injunctive relief resulting from or relating to the lawful design, manufacture, marketing or sale of firearms or ammunition to the public shall be reserved exclusively to the state.

(2) Nothing in this subsection (d) shall be construed to prohibit a county, municipality, or metropolitan government

from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by such county, municipality, or metropolitan government.

(3) Nothing in this subsection (d) shall preclude an individual from bringing a cause of action for breach of a written contract, breach of an express warranty, or for injuries resulting from defects in the materials or workmanship in the manufacture of the firearm.

(e) Subsections (c) and (d) shall not apply in any litigation brought by an individual against a firearms or ammunition manufacturer, trade association or dealer.

(f) It is the intent of the general assembly that this part is preemptive with respect to the transfer, ownership, possession or transportation of knives and no city, county, or metropolitan government shall occupy any part of the field of regulation of the transfer, ownership, possession or transportation of knives.

HISTORY: Acts 1989, ch. 591, § 1; 1999, ch. 293, §§ 1, 2; 2009, ch. 428, § 3; 2013, ch. 418, § 1; 2014, ch. 822, § 1.

**Title 70 Wildlife
Resources
Chapter 5 Wildlife
Preserves and Restoration
Projects
Tenn. Code Ann. § 70-5-
101 (2016)**

70-5-101. Establishment of hunting areas, refuges, and wildlife management areas – Prohibited acts.

(a) The wildlife resources agency has the power and authority to establish, with the consent of the property owner, public hunting areas, refuges, or wildlife management areas, wherever it deems necessary or feasible for the protection, propagation and management of wildlife, or any of these.

(b) (1) It is unlawful to hunt, kill, destroy, trap, ensnare, or molest in any manner any wildlife within such areas or to trespass on such areas, except as provided by proclamation or rule or regulation. Such areas shall be posted in conspicuous places. The executive director is authorized to issue permits for the destruction of predatory wildlife within such areas.

(2) A violation of subdivision (b)(1) is a Class C misdemeanor.

(c) Notwithstanding subsection (b), a person with a handgun carry permit pursuant to § 39-17-1351 may possess a handgun the entire year while on the premises of any refuge, public hunting area or wildlife management area or, to the extent permitted by federal law, national forest land maintained by the state.

Nothing in this subsection (c) shall authorize a person to use any handgun to hunt unless the person is in full compliance with all wildlife laws, rules and regulations.

(d) Nothing in this section shall authorize a person with a hand gun carry permit to possess such weapon in the portion of any refuge, public hunting area or wildlife management area that is within the boundaries of a state park or state natural area unless otherwise authorized in accordance with state law.

(e) Nothing in this section shall authorize a person to access any area unless the person is in full compliance with all current wildlife laws, rules, proclamations and regulations.

(f) (1) Subject to existing rights, lands managed by the wildlife resources agency shall be open to access and use for recreational hunting and fishing, except as limited by the agency for reasons of public safety, homeland security, or as otherwise limited by law.

(2) For the purposes of this subsection (f), lands managed by the agency include lands owned by the agency, as well as lands owned by other public entities for which the agency regulates hunting and fishing.

(3) The agency shall exercise its authority to manage lands in a manner to support, promote and enhance recreational hunting and fishing opportunities to the extent authorized by law.

(4) The agency is not required to give preference to hunting and fishing over other uses or priorities established by state law.

(5) Agency decisions and actions shall not result in any net loss of any acreage available for hunting and fishing opportunities.

(6) Prior to January 1, 2008, and each January 1 thereafter, the agency shall submit to the chair of the agriculture and natural resources committee of the house of representatives and the chair of the energy, agriculture and natural resources committee of the senate a written report containing:

(A) The estimated acreage managed by the agency that has been closed to recreational hunting and fishing during the previous fiscal year and the reasons for the closures;

(B) The estimated acreage managed by the agency that was opened to recreational hunting and fishing to compensate for the estimated acreage that was closed during the previous fiscal year; and

(C) The estimated acreage of new public hunting and fishing lands added to the existing hunting and fishing lands base since the previous report.

(7) When lands owned by the agency are closed to hunting or fishing, the agency shall mitigate the closure by opening new lands to be used for the same purpose, within twelve (12) months of closure. The managed lands to be opened shall be at least equal to the acreage of lands closed by the agency and shall be located in the same grand division of the state in which the closed lands are located. The agency shall not be responsible for mitigation of land closures when lands not owned by the agency are removed from the agency's control or closed to hunting and fishing by the owning entity.

(8) The agency is exempt from this subsection (c) when closing or utilizing acreages of public hunting and fishing lands for the following purposes:

(A) Firearm and archery **shooting ranges**;

(B) Road development and maintenance;

(C) Service buildings;

(D) Administrative buildings;

(E) Creation of agency lakes;

(F) Agency project-related parking;

(G) Establishment of wildlife refuges; and

(H) Development and maintenance of a proposed or existing greenway connecting Davidson, Wilson and Rutherford counties on land that is owned by the Nashville district of the United States army corps of engineers.

(9) This subsection (f) shall have no effect on the agency's authority or ability to regulate hunting and fishing, including its ability to set season times and lengths, and bag limits.

HISTORY: Acts 1951, ch. 115, § 56; 1953, ch. 255, § 4 (Williams, § 5178.85); impl. am. Acts 1974, ch. 481, §§ 6, 7; Acts 1974, ch. 481, § 21; 1982, ch. 738, § 32; T.C.A. (orig. ed.), § 51-601; Acts 1989, ch. 591, § 113; 1990, ch. 891, § 21; 2007, ch. 87, §§ 1, 2; 2009, ch. 606, § 2; 2012, ch. 604, § 23; 2013, ch. 236, § 11.

Title 70 Wildlife
Resources
Chapter 7 Liability for
Activities
Part 1 Liability of
Landowner to Persons
Using Land
Tenn. Code Ann. § 70-7-
102 (2016)

70-7-102. Landowner's duty of care.

(a) The landowner, lessee, occupant, or any person in control of land or premises owes no duty of care to keep such land or premises safe for entry or use by others for such recreational activities as hunting, fishing, trapping, camping, water sports, white water rafting, canoeing, hiking, sightseeing, animal riding, bird watching, dog training, boating, caving, fruit and vegetable picking for the participant's own use, nature and historical studies and research, rock climbing, skeet and trap shooting, sporting clays, shooting sports, and target shooting, including archery and **shooting range** activities, skiing, off-road vehicle riding, and cutting or removing wood for the participant's own use, nor shall such landowner be required to give any warning of hazardous conditions, uses of, structures, or activities on such land or premises to any person entering on such land or premises for such purposes, except as provided in § 70-7-104.

(b) The landowner, lessee, occupant, or any person in control of land or premises owes no duty of care to keep such land or premises safe for entry or use by others for recreational noncommercial aircraft operations or recreational noncommercial ultra light vehicle operations on private airstrips except as to known hazards or defects and except as provided in § 70-7-104.

HISTORY: Acts 1963, ch. 177, § 3; T.C.A., § 51-803; Acts 1987, ch. 448, § 2; 2004, ch. 952, § 2; 2010, ch. 968, § 1; 2015, ch. 53, § 1.

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Tenn. Code Ann. § 70-7-
103 (2016)

70-7-103. Effect of landowner's permission.

Any landowner, lessee, occupant, or any person in control of the land or premises or such person's agent who gives permission to another person to hunt, fish, trap, camp, engage in water sports, participate in white water rafting or canoeing, hike, sightsee, ride animals, bird watch, train dogs, boat, cave, pick fruit and vegetables for the participant's own benefit, engage in nature and historical studies and research, climb rocks, shoot skeet and trap, engage in sporting clays, shooting sports, and target shooting, including archery and **shooting range** activities, ski, ride off-road vehicles, recreational noncommercial aircraft operations or recreational noncommercial ultra light vehicle operations on private airstrips, and cut and remove wood for the participant's own use upon such land or premises does not by giving such permission:

(1) Extend any assurance that the premises are safe for such purpose;

(2) Constitute the person to whom permission has been granted to legal status of an invitee to whom a duty of care is owed; or

(3) Assume responsibility for or incur liability for any injury to such person or purposely caused by any act of such person to whom permission has been granted except as provided in § 70-7-104.

HISTORY: Acts 1963, ch. 177, § 4; T.C.A., § 51-804; Acts 1987, ch. 448, § 3; 2010, ch. 968, § 2; 2015, ch. 53, § 2.

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Tenn. Code Ann. § 70-7-
105 (2016)

70-7-105. Waiver of landowner's duty of care.

Any person eighteen (18) years of age or older entering the land of another for the purpose of camping, fishing, hunting, sporting clays, shooting sports, and target shooting, including archery and **shooting range** activities, hiking, dog training, cutting or removing firewood, recreational noncommercial aircraft operations or recreational noncommercial ultra light vehicle operations on private airstrips, for such person's use for a consideration may waive, in writing, the landowner's duty of care to such person for injuries that arise from camping, fishing, hunting, sporting clays, shooting sports, and target shooting, including archery and **shooting range** activities, hiking, dog training, cutting or removing firewood, recreational noncommercial aircraft operations or recreational noncommercial ultra light vehicle operations on private airstrips for such person's use, if such waiver does not limit liability for gross negligence, or willful or wanton conduct, or for a failure to guard or warn against a dangerous condition, use, structure or activity.

HISTORY: Acts 1989, ch. 149, § 1; 2010, ch. 968, § 4; 2015, ch. 53, § 3.