



DISCUSSION

ITEM NO. 25

DATE OF MEETING: July 27, 2015

REQUESTED BY: Kyle M. Breuer, Director, Planning and Community Development

SHORT TITLE: Discussion on Potential Revisions to the Pender County Code, Article V, Discharge of Firearms in Close Proximity to Places of Human Habitation

BACKGROUND: During the July 7, 2015 regular meeting of the Board of County Commissioners, the Board directed Staff to review the provision within the County Code (see attached Article) regarding the discharge of firearms in close proximity to places of human habitation. On July 13, 2015, Staff met with Mr. Neal Shulman to discuss the provision within the county code. Mr. Shulman requested that the Board consider discussing and amending the current ordinance to closely reflect the State of North Carolina's Outdoor Heritage Act, which recently allowed the provision to hunt on Sunday's.

Specifically, the provision to require a "distance of 500 yards of a place of worship or any accessory structure thereof, or within 500 yards of a residence not owned by the landowner, is prohibited" is being requested as well as to amend the current County Code to add to the definition of *Place of human habitation* to include posted or occupied property.

Staff is requesting the Board to discuss and provide direction as to the provisions of the County Code, Article V, Discharge of Firearms in Close Proximity to Places of Human Habitation, and potential future amendments.

In addition to any other remedies set forth herein, any violation of this article subjects the offender to civil penalty in the amount of fifty dollars (\$50.00) per day for each day's violation. The civil penalty shall be in the nature of a debt and may be recovered in a civil action if the defendant does not pay the penalty on a timely basis.

(Ord. of 11-4-94, § 1)

Secs. 9-88—9-100. Reserved.

ARTICLE V. DISCHARGE OF FIREARMS IN CLOSE PROXIMITY TO PLACES OF HUMAN HABITATION

Sec. 9-101. Title.

This article is entitled and shall be known as the "Pender County Firearm Ordinance."

(Ord. of 5-15-95(2), § 1)

Sec. 9-102. Purpose.

Pursuant to the authority set forth in G.S. 153A-129, and subject to the limitations contained in that statute, as amended, the purpose of this article is to protect the inhabitants of the county from threats to their health, safety, and welfare resulting from the discharge of firearms in close proximity to places of human habitation.

(Ord. of 5-15-95(2), § 1)

Sec. 9-103. Definitions.

For the purpose of this article, the following words and terms shall have the meanings respectively ascribed to them as follows:

Discharge shall mean the firing or expelling of a projectile from a firearm.

Firearm shall mean a weapon capable of expelling a projectile by means of an explosive charge. The term "firearm" shall not include any construction equipment which is not designed for use as a weapon.

Place of human habitation shall mean a residence, place of business, office, mobile home, trailer, or other structure routinely occupied by persons, or containing sleeping accommodations.

(Ord. of 5-15-95(2), § 1)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 9-104. Firearm discharge regulations.

It shall be unlawful for any person to discharge a firearm within two hundred (200) feet of any place of human habitation, church, or school within the county.

(Ord. of 5-15-95(2), § 1)

Sec. 9-105. Exceptions.

This article shall not apply:

- (1) To persons discharging a firearm within two hundred (200) feet of their own home, residence or place of human habitation which they occupy lawfully as owner, lessee, or invitee, so long as they have the permission of the owner, or lessee of such structure to discharge the firearm; or
 - (2) To persons discharging firearms used lawfully in defense of person or property in accordance with the laws of the state; or
 - (3) To authorized law enforcement officers discharging firearms in the course and scope of their law enforcement duties, or to persons discharging weapons under the lawful directions of a law enforcement officer acting within the course and scope of their official law enforcement duties; or
 - (4) To indoor firing ranges operating under a permit issued by the county; or
 - (5) To persons who have obtained the written permission of all owners, and lessees or other owners of possessory interests in places of human habitation within the area set forth in section 9-104; or
 - (6) To persons who utilize firearms discharging blank cartridges in the training of animals.
- (Ord. of 5-15-95(2), § 1)

Sec. 9-106. Penalties.

Violations of this article shall constitute a misdemeanor, and pursuant to G.S. 14-4 shall, upon conviction, be punishable by a fine of not more than one hundred dollars (\$100.00), imprisonment for not more than thirty (30) days, or both.

(Ord. of 5-15-95(2), § 1)

Sec. 9-107. Enforcement.

All sworn law enforcement officers are authorized to arrest persons charged with violations of this article, or to issue citations in lieu of arrest, in their discretion.

(Ord. of 5-15-95(2), § 1)

Sec. 9-108. Amendment.

This article shall not be amended following its adoption until a public hearing has been held to allow public comment on the proposed amendment.

(Ord. of 5-15-95(2), § 1)

Secs. 9-109—9-150. Reserved.