

GENERAL INFORMATION

Applicant: City of Bloomington

Request: City Code amendment – creating definitions and standards for firearm and firing range facilities and establishing them as permitted, prohibited or conditional uses in various zoning districts

CHRONOLOGY

Planning Commission Study Action: 05/05/16 – Policy direction provided

City Council Study Action: 05/09/16 – Policy direction provided

Planning Commission: 10/27/16 – Public hearing scheduled

City Council: 11/21/16 – Tentative date for public hearing

STAFF CONTACT

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PROPOSAL

The proposed ordinance includes amendments to City Code Chapters 14, 19, and 21 intended to:

1. Adjust standards related to Target Ranges, Pawnbrokers, and Secondhand Goods Dealers to be consistent with the proposed zoning changes and with State law.
2. Amend and create definitions to delineate and differentiate various firearms-related uses;
3. Establish those uses as either permitted, prohibited, or conditional in various zoning districts;
4. Establish minimum separation requirements between some firearm sales facilities and firing ranges and residential districts, day cares, and schools;
5. Reference State of Minnesota statutes and administrative rules related to security and environmental health; and
6. Identify the City Council as the review authority for firing ranges and some firearms sales facilities.

BACKGROUND

As part of the 2016 Planning Commission Work Plan, the City Council tasked the Planning Commission and Division to review and discuss zoning standards for firearm-related uses. Resident concerns about existing firearm dealer standards surfaced when a firearms dealer applied for a conditional use permit to locate in Countryside Center, a shopping center surrounded by residential, park, institutional, and low-intensity commercial uses. The City received significant feedback from residents questioning the appropriateness of the proposed firearms dealer location given the surrounding businesses and land uses. Ultimately, the applicant withdrew the conditional use permit application.

Two initial maps were prepared to provide additional background for Planning Commission and City Council study meetings and have been included again in the packet. One map identifies the locations where firearms sales are conditionally permitted today. Firearm sales are limited to the B-2, C-2, and C-3 zoning districts. A second map identifies the locations of Federal Firearms License (FFL) holders. According to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), there are 15 active FFLs within the City of Bloomington.

Planning staff researched how peer cities in the metropolitan area regulate firearms sales. The regulatory framework varies widely among peer communities from no special standards to simply prohibiting firearms sales.

Local governments have the ability to regulate firearms sales by reasonable, nondiscriminatory, and nonarbitrary zoning ordinances where not preempted by State or Federal law. The following State statutes apply:

471.633 FIREARMS.

The legislature preempts all authority of a home rule charter or statutory city including a city of the first class, county, town, municipal corporation, or other governmental subdivision, or any of their instrumentalities, to regulate firearms, ammunition, or their respective components to the complete exclusion of any order, ordinance or regulation by them except that:

- (a) a governmental subdivision may regulate the discharge of firearms; and*
- (b) a governmental subdivision may adopt regulations identical to state law.*

Local regulation inconsistent with this section is void.

471.635 ZONING ORDINANCES.

Notwithstanding section [471.633](#), a governmental subdivision may regulate by reasonable, nondiscriminatory, and nonarbitrary zoning ordinances, the location of businesses where firearms are sold by a firearms dealer. For the purposes of this section,

a firearms dealer is a person who is federally licensed to sell firearms and a governmental subdivision is an entity described in sections [471.633](#) and [471.634](#).

Minnesota laws limit cities to regulating location. Further discussion of these State provisions and the case law associated with the use was provided and discussed at the August 27, 2015 Planning Commission meeting (minutes attached). Working within these limitations, staff focused proposed standards on location and separation from potentially sensitive uses such as residential zoning districts, day care facilities, and schools. A series of maps were prepared that depict:

1. Where firearm sales would be allowed based on zoning district with no separation requirements applied (Figure 1);
2. Where firearm sales would be allowed based on zoning district using the City of Minneapolis' buffering standards applied (Figure 2);
3. Where firearm sales would be allowed based on zoning district and using City of St. Paul's' buffering standards applied (Figure 3);
4. Where firearm sales would be allowed based on zoning district using the preferred approach to separation standards proposed by staff (Figure 4); and
5. Where firearm sales would be allowed based on zoning district using the preferred separation approach, except without a separation standard from residential zoning districts (Figure 5).

Ultimately, the Planning Commission and City Council directed staff to prepare the draft ordinance based on the preferred approach to separation standards identified in Figure 4.

ORDINANCE OVERVIEW

The staff report is intended to be read in conjunction with the attached ordinance as it provides commentary on the proposed amendments specific to individual sections of the City Code.

Amendments to Chapter 14

ARTICLE II. PUBLIC ENTERTAINMENT LICENCES AND REGULATIONS

- Division G. Target Ranges – Amendments to this section references the Firearm Facilities Code section and alters text to be consistent with proposed amendments to Chapters 19 and 21.

ARTICLE III. BUSINESS LICENSES AND REGULATIONS

- Division M. Pawnbrokers: Sec. 14.295.01 License Restrictions – Amendments remove the firearm display prohibition and references federal, state, and local standards pertaining to firearm facilities.

- Division Z. Secondhand Goods Dealers: Sec. 14.442.44 Operating Restrictions – Amendments remove the firearm display prohibition and references federal, state, and local standards pertaining to firearm facilities.

Amendments to Chapter 19

ARTICLE I. GENERAL DEFINITIONS

- Sec. 19.03 Definitions – Amendments to this section include the removal of the existing Firearms dealer definition and addition of six definitions including firearms and definitions for types of firearm facilities.

ARTICLE III. ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES

- Sec. 19.31.01 Regional Commercial (CR-1) District – Amendment adds Incidental Firearm Sales as a permitted principle use.
- Sec. 19.33 Industrial (I-1, I-2, and I-3) Districts – Amendment adds Firearm Manufacturing, Warehousing, and Distribution as a permitted principal use and Firing Range as a conditional use.
- Sec. 19.33.01 Industrial Park (IP) District – Amendment adds Firearm Manufacturing, Warehousing, and Distribution as a permitted principal use and Firing Range as a conditional use.
- Sec. 19.34 Freeway Development (FD-1 and FD-2) Districts - Amendment adds Firearm Manufacturing, Warehousing, and Distribution as a permitted principal use.
- Sec. 19.40.08.01 Commercial Office/Mixed Use District CO-2 – Amendment adds Incidental Firearm Sales as a permitted principal use.

Amendments to Chapter 21

ARTICLE III. DISTRICTS AND USES

- Sec. 21.209 Use Tables – Amendments remove Firearms Dealer from use tables, identifies Incidental Firearm Sales as a permitted principal use in the B-2, B-4, C-2, C-3, C-5, CX-2, and LX districts.
- Sec. 21.302.11 Firearm Facilities – Amendments establish the purpose for firearm sales facility performance standards, references to applicable federal and state firearm regulations, separation requirements from residential districts, day care facilities, and schools, special application submittal requirements, and separation measurement methodology.

- Sec. 21.302.13 Home Businesses – Amendments add Firearm Office as a permitted home business where no firearms or ammunition are stored or inventoried on the premises and prohibits home businesses where firearms and ammunition are stored or inventoried on the premises.

ARTICLE V. ADMINISTRATION AND NONCONFORMITY

- Sec. 21.501.04 Review and Approval – Amendments require City Council review of conditional use permit applications for Primary Firearm Sales and Firing Ranges.

PUBLIC OUTREACH

Notice of the public hearing on the proposed amendments to the City Code was published in the official newspaper (Sun Current). Details on the ordinance update were published on the City website's Zoning Ordinance Update Project page. The draft ordinance was emailed to individuals who expressed an interest in the Code amendments. A contact with the local ATF Field Office reviewed the draft ordinance and confirmed it meets applicable federal firearms standards. Notice of the ordinance and links to more information was sent via E-Subscribe to 958 members signed up on the City's Zoning Ordinance Updates list and 1,335 members signed up on the City's Planning Commission list. Finally, the staff report, draft ordinance, and supporting information are posted on the City website's agenda management system page.

RECOMMENDATION

Staff recommends the following motion:

In Case PL2016-162, I move to recommend the City Council adopt an ordinance amending the City Code to create definitions and standards for firearm and firing range facilities and establishing them as permitted, prohibited, or conditional uses in various zoning districts.