



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

**m e m o r a n d u m**

**TO:** Urbana Plan Commission

**FROM:** Robert Myers, AICP, Planning Manager

**DATE:** August 3, 2012

**SUBJECT:** Plan Case 2181-T-12: An amendment to Table V-1, Article II, Article V, and Article VII of the Urbana Zoning Ordinance to establish standards for “Firearm Sales” and “Private Firing Ranges”, Urbana Zoning Administrator, applicant

---

At their July 19, 2012 meeting, the Urbana Plan Commission reviewed a proposed Urbana Zoning Ordinance amendment to establish standards for Firearm Sales and Private Indoor Firing Ranges. Following a presentation by City staff, and questions for clarification, the Plan Commission opened a public hearing on the case and took public comments. Based on comments at that meeting, City staff is recommending a modified draft ordinance for Plan Commission review and recommendations. The following covers several major points of discussion.

**Firearms Store/Firearms Sales**

The draft ordinance is intended to address firearms stores as a land use category rather than firearms sales as an activity. For instance, the ordinance is not intended to address firearms sales in pawn shop or sporting goods stores when incidental to the primary use. As such, the proposed amendment to Table V-1, Table of Uses, would be revised from “Firearms Sales” to “Firearms Store”.

**Minimum Distance Requirements Generally**

The Plan Commission asked for more information on minimum distance requirements between gun stores and uses such as schools, places and worship, and residences: what is the rationale for having one generally, and why certain distances specifically? Enacting minimum distance requirements is a long-standing practice in land use standards, either to separate incompatible uses or to prevent proliferation. The following are several such standards currently imposed within Urbana:

*Specific Conditional Uses:* Table VII-1 of the Urbana Zoning Ordinance requires the following minimum distances for the following Conditional Uses:

- *Outdoor Commercial Recreational Enterprise:* Minimum 200 feet from any R District or

residential or institutional use.

- *Riding Stable*: Minimum 100 feet of any R District or residential or institutional use.
- *Kennel, Veterinary Hospital*: Minimum 100 feet from any R District or residential or institutional use.
- *Truck Terminal*: Minimum 200 feet from any R District or residential use.

Most of these standards are intended to address noise, lights, odors, and traffic impacts which can be incompatible with adjacent residential uses.

*Billboards*: Section IX-6 of the Urbana Zoning Ordinance requires that any new billboards be placed a minimum of 300 feet from any R-1, R-2, R-3, or CRE zoning district; a minimum 300 feet from any designated historic landmark or district; and a minimum 1,000 feet from any other billboard. Billboards do not require a Special Use Permit. These standards are intended primarily to address aesthetics and proliferation of outdoor advertising.

*Adult Entertainment Uses*. Section V-4 of the Urbana Zoning Ordinance requires that any new adult entertainment use be located a minimum 200 feet from any AG, CRE, R-1, R-2, R-3, R-4, R-5, R-6, R-6B, R-7, B-2, B-3U, CCD, or MOR Zoning District; a minimum 200 feet of any hospital; and a minimum 1,000 feet from other adult entertainment uses. Adult Entertainment Uses do not require a Special Use Permit. These standards are intended primarily to uphold public decency standards.

*Telecommunication Towers*. Section XIII-1 of the Urbana Zoning Ordinance requires that any new telecommunication tower in residential zoning districts be set back at least 200% of the height of the tower from any residential lot; or towers in industrial zoning districts be set back at least 100% of the tower's height from any residential zoning district or land use; or that towers in B-3, B-3U, or MIC zoning districts be a minimum 150% of its height from any residential zoning district or use. Telecommunication towers generally require a Special Use Permit. These standards are intended primarily to address aesthetics and safety.

*Wind Turbines*. Small wind turbines which are compatible with neighborhoods are allowed by right when meeting specific standards. Utility-scale, tower mounted wind turbines, however must meet a minimum 1,200 feet from any existing residence, residential zoning district, or area designated in the Comprehensive Plan as future residential. These standards are intended primarily to address aesthetics and safety.

*Retail Liquor Sales*. State liquor licenses must comply with Illinois' Liquor Control Act of 1934 which imposes a minimum 100 feet between any retail sales of liquor and any "church, school other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station, provided that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on . . ." Urbana City Codes generally require public hearings for issuance of new liquor licenses.

## **Minimum Distance Requirements for Firearm Sales**

Generally, the Illinois Legislature provides municipalities broad authority to regulate firearms and ammunition. Illinois' Firearms Owners Identification Card Act provides that "[t]he provisions of any ordinance enacted by any municipality which requires registration or imposes greater restrictions or limitations on the acquisition, possession and transfer of firearms than are imposed by this Act, are not invalidated or affected by this Act."

Courts have upheld municipal restrictions on the location of gun sales within a specified distance of schools, playgrounds, parks, and places of worship. Because shooting ranges may create excessive noise and pollution, courts have also prohibited ranges from operating in locations that are too close to residences. But the restrictions must be reasonable.

For example, in *Illinois Sporting Goods Association v. County of Cook* (1994), a sporting goods association and individual gun shop operators sought a preliminary injunction against a county ordinance prohibiting gun shops from operating within one-half mile of any school or public park. The County defended the ordinance by claiming these restrictions were necessary to limit access to firearms, to reduce the number of school-age children involved in firearm violence, and to counter the perception that firearms are an acceptable part of everyday life. However, the plaintiffs claimed that the ordinance exceeded the county's police power because its restrictions were not reasonably related to the County's goals of limiting school children's access to firearms and reducing gun violence. The plaintiffs also argued that the ordinance violated their equal protection rights because large chain-department stores were not included in the ordinance's definition of "gun shop" and could therefore continue to advertise and sell firearms and ammunition within one-half mile of schools and parks.

The United States District Court for the Northern District of Illinois found that enactment of the ordinance was a valid exercise of the county's police power because it was rationally related to the important governmental interest of reducing firearm violence among youth. Rejecting the plaintiffs' due process challenge, the court held that the County's belief that the ordinance will reduce violence among children was not irrational, even though there are differing opinions as to whether the ordinance will be effective. Nevertheless, the court granted the plaintiffs' request for a preliminary injunction on equal protection grounds, finding that the county had "arbitrarily and irrationally excluded certain businesses that sell guns within .5 miles of a school or public park."

Because the proposed Zoning Ordinance amendment addresses firearms stores specifically and not firearms sales generally, and in light of the U.S. District Court decision referenced above, City staff is recommending that the standard minimum distance requirement be removed from the proposed ordinance, but that distances to nearby schools, places of worship, and other potentially incompatible uses nearby be dealt with on a case-by-case basis through the proposed Special Use Permit process. If the Plan Commission wishes to establish minimum distance standards, City staff would need to further research this issue to determine whether such a standard should be enacted for any retail firearms sales, including for pawn stores and sporting goods stores.

**Site Security Plan**

To better understand the aspects of site security planning for home-based firearms dealers, City staff on August 3, 2012 met on site with the owners of D&R Firearms which operates under a City home occupation permit. Site security features of note include secure storage of firearms in construction-type storage boxes bolted to concrete floors; window bars; alarm activated by motion sensors, contacts, and push button; barred windows; barred and reinforced exterior doors; security signs; and preset procedures in case of emergency. Urbana Police and Fire and METCAD all have a copy of the security plan so that they can respond accordingly in case of emergency.

**Proposed Text Amendment**

Based on the comments provide at the July 19 Plan Commission hearing, and further research discussed in this memorandum, the following revised Zoning Ordinance text amendment is proposed. Underlined words indicate proposed text to be added to the Zoning Ordinance.

**Section II-3. Definitions**

Firearm: Any device from which a projectile is discharged by gunpowder through a barrel.

Firearm Store: A retail store that derives its principal income from buying and selling firearms, with or without sale of ammunition and/or firearms accessories.

Firing Range, Private Indoor: A building inside of which club members, or the public at large, discharge firearms for target practice.

**Section V-13.**

H: The sale of firearms as a home occupation shall require approval of a site security plan by the Urbana Police Department.

**Table V-1. Table of Uses**

Principal Uses	R-1	R-2	R-3	R-4	R-5	R-6	R-6B	R-7	AG	B-1	B-2	B-3	B-3U	B-4	B-4E	CCD	CRE	MOR	IN-1	IN-2
<u>Firearm Store</u> †												S							S	
<u>Private Indoor Firing Range</u> ††									C								C		S	

† See Section VII-5.D for Standards for Firearm Stores

†† See Section VII-5.E and Table VII-1 for Standards for Private Indoor Firing Ranges

**Section VII-5. Special Use Terms and Conditions**

D. The following conditions shall apply to “Firearm Store”:

1. Urbana Police Department approval of a site security plan shall be a condition for approval of a Special Use Permit.
2. Firearms and ammunition shall not be displayed in windows.

E. The following condition shall apply to Firing Ranges:

1. Private Indoor Firing Ranges shall conform to U.S. Department of Energy's Range Design Criteria.

**Table VII-1. Standards for Specific Conditional Uses**

Use	Required Fencing	Setbacks (in feet)			Minimum Lot Size (acres)	Other Provisions
		Front	Side	Rear		
Private Indoor Firing Range	-	-	-	-	-	<u>Ranges shall conform to U.S. Department of Energy's Range Design Criteria.</u>

## Options

Regarding Plan Case 2181-T-12, the Urbana Plan Commission may:

- a. Recommend City Council approval as presented herein;
- b. Recommend City Council approval as modified by specific suggested changes; or
- c. Recommend City Council denial of the proposed amendment.

## City Staff Recommendation

Based on the evidence presented with the July 13 and August 3, 2012 memorandums to the Plan Commission, as well as comments provided at the July 13, 2012 Plan Commission meeting, staff recommends that the Plan Commission recommend **APPROVAL** the proposed text amendment as presented herein.

cc: Patrick Connolly, Urbana Police Chief  
 Curt Borman, City Attorney  
 Dean Hazen  
 Roger Tillman  
 Marcus Harris