

## DURHAM COUNTY

### ARTICLE I. - IN GENERAL

Secs. 17-1—17-30. - Reserved.

### ARTICLE II. - OFFENSES INVOLVING FIREARMS AND OTHER WEAPONS<sup>[2]</sup>

Footnotes:

--- (2) ---

**State Law reference—** County authority to regulate firearms, G.S. 153A-129; authority to regulate pellet guns, G.S. 153A-130.

#### DIVISION 1. - GENERALLY

Secs. 17-31—17-50. - Reserved.

#### DIVISION 2. - USE OF FIREARMS AND AIRGUNS IN RESIDENTIAL AREAS<sup>[3]</sup>

Footnotes:

--- (3) ---

**Editor's note—** The areas wherein airguns are prohibited are not described herein but are on file and available for public inspection in the county offices.

Sec. 17-51. - Intent.

The board of commissioners has determined that the health and safety of those citizens of the county who live in predominantly residential areas of the county require that the discharge of firearms and airguns in or near those predominantly residential areas be prohibited, and that there be restrictions on the discharge of firearms in the remaining areas of the county. It is, therefore, the intent of the commissioners by this division to protect the health and safety of its citizens and their property, and to promote the quiet enjoyment of their property.

(Ord. of 9-13-93, § 1)

Sec. 17-52. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Airgun* means any weapon that discharges a projectile or cluster of shot by the use of mechanical spring, compressed air or compressed gas, and shall include BB and pellet rifles, pistols and revolvers.

*Firearm* means any weapon that discharges a projectile or cluster of shot by the use of exploding gunpowder and shall include rifles, shotguns, pistols and revolvers.

*Predominantly residential district* means a residential area of not less than five homes created and constructed in accordance with approval of the county commissioners pursuant to the subdivision ordinance of the county (appendix B of this Code), a plat of which appears of record in the office of the register of deeds of the county. It shall include the subdivisions named in the ordinance from which this division is derived, which is on file in the county offices.

(Ord. of 9-13-93, § 2)

**Cross reference**— Definitions generally, § 1-2.

Sec. 17-53. - Discharge of firearms within predominantly residential areas of the county prohibited; exceptions.

It shall be unlawful for any person to discharge a firearm within 600 feet of a residence located within a predominantly residential area of the county, except when the firearm is discharged:

- (1) In the lawful defense of person or property.
- (2) By, or at the lawful direction of, a law enforcement officer, or authorized military personnel.
- (3) Within a firing range for which a permit has been issued in accordance with section 17-53.1, below.

(Ord. of 9-13-93, § 3; Ord. of 6-27-94)

Sec. 17-53.1. - Permits for operation of firing ranges in effect prior to effective date of the ordinance.

The board of commissioners may permit the owner of a firing range within a subdivision, which was in existence prior to July 13, 1994, to discharge a firearm on such firing range subject to the following conditions:

- (1) The firing range must have been in existence and in use prior to October 21, 1993.
- (2) All owners of property within 600 feet of the firing range must be given notice of at least 14 days and an opportunity to be heard at a public meeting of the board on the application for the permit.
- (3) The permit is nontransferable and may be revoked if the conditions under which it is granted are violated.
- (4) There shall be no discharge of a firearm on a permitted range at any time on Saturdays, Sundays or legal holidays and on any other day, except within the hours from 8:00 a.m. to 6:00 p.m.
- (5) The applicant shall show evidence of and maintain sufficient liability insurance, either through a homeowner's policy or some other insurance, in sufficient amount to cover claims which may arise from the use of the firing range.
- (6) The authority granted under the permit shall be to the permit holder only and to members of his immediate household.

(Ord. of 6-27-94, § 3A)

**Editor's note**— An ordinance adopted 6-27-94 did not specifically amend the Code. Therefore, inclusion of § 3A as § 17-53.1 was at the discretion of the editor.

Sec. 17-53.2. - Application for permit to use firing range.

- (a) Applications may be in letter form, and must be filed in the office of the clerk to the board of county commissioners on or before September 1, 1994. There will be no applications accepted after that date.

- (b) Each application must set forth a general description of the firing range, must be verified on oath by the applicant and must be accompanied by at least two affidavits of other individuals attesting that the firing range was in use prior to October 21, 1993.
- (c) Each application must be accompanied by evidence of insurance as specified in subsection 17-53.1(5), above.
- (d) The board of commissioners will act on the application after giving all owners of property within 600 feet notice and opportunity for comment, and a certified copy of the minutes of such meeting reflecting the approval of the application by the board shall serve as the permit.

(Ord. of 6-27-94, § 3B)

**Editor's note**— An ordinance adopted 6-27-94 did not specifically amend the Code. Therefore, inclusion of § 3B as § 17.53.2 was at the discretion of the editor.

Sec. 17-54. - Discharge of airguns within predominantly residential areas of the county by minors restricted.

It shall be unlawful for any person under the age of 16 years to discharge an airgun within 600 feet of a residence located within a predominantly residential area of the county, unless at the time of such discharge the minor is accompanied by a parent, guardian or other adult who acknowledges responsibility for the supervision of the minor in the act of shooting.

(Ord. of 9-13-93, § 4)

Sec. 17-55. - Negligent discharge of firearms in the county outside of predominantly residential areas prohibited.

It shall be unlawful for any person to discharge a firearm or airgun outside of a predominantly residential area of the county:

- (1) Negligently, carelessly, or heedlessly in wanton disregard for the safety or others;
- (2) Without due caution or circumspection and in a manner so as to endanger any person or property, and resulting in property damage or bodily injury; or
- (3) When the individual who discharges the firearm or airgun is under the influence of an impairing substance or does so after consuming sufficient alcohol that he has, at any relevant time after the discharge of the firearm or airgun, an alcohol concentration of 0.08 or more.

In any case where a violation of this section also constitutes a violation under G.S. 113-290 et seq., then the provisions of that article are intended to apply to the violation.

(Ord. of 9-13-93, § 5)

Sec. 17-56. - Penalty for violation.

Violation of this division shall be a misdemeanor, punishable upon conviction as provided in section 1-6.

(Ord. of 9-13-93, § 6)

Secs. 17-57—17-70. - Reserved.

### DIVISION 3. - WEAPONS AND INSTRUMENTALITIES OF MASS DEATH AND DESTRUCTION<sup>[4]</sup>

Footnotes:

--- (4) ---

**State Law reference**— Authority to regulate, restrict or prohibit the sale, possession, use, etc., of any explosive or any weapon of mass death and destruction, G.S. 153A-128.

Sec. 17-71. - Prohibited; definition.

Except as otherwise provided in this division, it is unlawful for any person to manufacture, assemble, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver or give to another, or acquire any weapon of mass death and destruction. For purposes of this division, the term "weapon of mass death and destruction" means a semiautomatic firearm which is designed or specially adapted to fire a cartridge and automatically chamber a succeeding cartridge, ready to fire, with a single function of the trigger and:

- (1) Is a semiautomatic action centerfire rifle or carbine which was originally designed and intended to be sold with a detachable magazine with a capacity of more than 21 rounds;
- (2) Is a semiautomatic shotgun with a magazine capacity of more than six rounds;
- (3) Is a semiautomatic handgun that is:
  - a. A modification of a firearm described in this section;
  - b. Part or combination of parts either designed or intended for use in converting any device into any weapon described above and from which such a weapon may readily be assembled if in the possession or control of the same individual;
  - c. Originally designed to accept a detachable magazine with a capacity of more than 21 rounds;
  - d. Possessed while a detachable magazine with a capacity of more than 21 rounds, usable with such handgun, is attached or directly accessible; or
- (4) A firearm described elsewhere in this division which has temporarily been made to function in a non-semiautomatic fashion but which can be restored to function as an operable semiautomatic firearm.

(Ord. of 1-10-94(1), § a)

Sec. 17-72. - Certain weapons excepted.

For purposes of this division, the term "weapon of mass death and destruction" shall not include:

- (1) Any firearm defined as a "weapon of mass death and destruction" in G.S. 14-288.8.
- (2) Any firearm designed for .22 caliber rimfire ammunition with a detachable magazine with a capacity of 30 rounds or less.
- (3) Any semiautomatic firearm which has been modified to make it permanently inoperable or to make it a device which no longer is defined as a weapon of mass death and destruction.

(Ord. of 1-10-94(1), § b)

Sec. 17-73. - Certain persons excepted.

This division shall not apply to persons authorized by state or federal law to carry firearms in the performance of their duties or persons exempted by G.S. 14-288.8 from the provisions of that statute.

(Ord. of 1-10-94(1), § c)

Sec. 17-74. - Penalty.

A violation of this division shall constitute a misdemeanor and shall be punishable, upon conviction, as prescribed in section 1-6.

(Ord. of 1-10-94(1), § e)

Secs. 17-75—17-90. - Reserved.

#### DIVISION 4. - POSSESSION OR DISPLAY OF WEAPONS

Sec. 17-91. - Statement of intent.

The possession or display of any weapon, the concealment of which is prohibited by G.S. 14-269, on county property, or by individuals under the influence of intoxicating drink or illegal drugs, and the display of such weapons in certain other places or areas defined in this division as "public" are hereby declared to be acts detrimental to the health, safety, and welfare of its citizens and the peace and dignity of the county, and are hereby prohibited. It is not the intent of this division to restrict or limit the legitimate use of weapons in sport shooting, hunting, collecting or self-defense, as long as those activities are carried out in a lawful manner.

(Ord. of 1-10-94(2), § 1)

Sec. 17-92. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*County property* means any property owned by the county or that portion of privately owned property leased by or under the legal possession and control of the county for the transaction of the activities of the county. This specifically includes any polling place occupied by and being used for the conduct of an election by the board of elections.

*Individual under the influence of intoxicating drink or illegal drug* means an individual who at the time of the alleged violation or any relevant time thereafter has an alcohol concentration of 0.08 or more, or who is sufficiently impaired that he would be guilty of impaired driving if operating a motor vehicle.

*Public property* means any road, sidewalk or alley which is either under the road maintenance system of the state or which has been dedicated for public use by the owner or developer, or is a public vehicular area as defined in G.S. 20-4.01(32). This includes any area within the state that is generally open to and used by the public for vehicular traffic, including by way of illustration and not limitation any drive, driveway, road, roadway, street, alley or parking lot upon the grounds and premises of:

- (1) Any public or private hospital, college, university, school, orphanage, church or any of the institutions, parks or other facilities maintained and supported by the state or any of its subdivisions;

- (2) Any service station, drive-in theater, supermarket, store, restaurant or office building, or any other business, residential or municipal establishment providing parking space for customers, patrons or the public; or
- (3) Any property owned by the United States and subject to the jurisdiction of the state. (The inclusion of property owned by the United States in this definition shall not limit assimilation of state law when applicable under the provisions of USC title 18, section 13.)

The terms "public property" and "public vehicular area" shall not be construed to mean any private property not generally open to and used by the public. They specifically does not include an area specially intended for lawful sport shooting, where the general expectation is for individuals present to be carrying, in possession of and discharging firearms.

*Weapon* means any Bowie knife, dirk, dagger, slingshot, loaded cane, metallic knuckles, razor, shurikin, stun gun, pistol, revolver, rifle or shotgun, including assault weapons and firearms. It shall not mean an ordinary pocket knife designed for carrying in pocket or purse, which has its cutting edge and point entirely enclosed by its handle and which can not be opened by a throwing, explosive or spring action, unless such knife is used in a threatening manner or in a way as to constitute an assault.

(Ord. of 1-10-94(2), § 2)

**Cross reference**— Definitions generally, § 1-2.

Sec. 17-93. - Possession or display of weapons prohibited on county property; exceptions.

It shall be unlawful for any person to possess or display a weapon at any time on county property, except:

- (1) When the possession or display is by personnel of the armed forces of the United States when in the discharge of their official duties and under orders requiring them to carry arms and weapons.
- (2) When the possession or display is by civil officers of the United States while in the discharge of their official duties.
- (3) When the possession or display is by personnel of a militia or national guard when called into actual service.
- (4) When the possession or display is by an officer of the state or a county, city or town who is charged with the execution of the laws of the state and acting in the discharge of his official duties.
- (5) When the possession or display is by full-time law enforcement personnel while off duty if:
  - a. Written regulations authorizing the carrying of weapons have been filed with the clerk of superior court in the county by the officer in charge of the law enforcement personnel;
  - b. Such regulations prohibit the possession of the weapon while under the influence of alcohol or other impairing substance.
- (6) When the possession or display is the result of a ceremony such as a military funeral, or theatrical performance.
- (7) When the display is the result of a lawful activity such as teaching of hunter safety courses or general gun use and safety under the supervision of certified instructors, or is a necessary incidence of going to, or returning from such lawful activity, and the possession or display does not otherwise violate any law or ordinance in effect.

(Ord. of 1-10-94(2), § 3)

Sec. 17-94. - Possession or display of firearm by individual under the influence of intoxicating drink or illegal drug prohibited.

It shall be unlawful for any individual to possess or display a loaded firearm or to possess or display an unloaded firearm if ammunition is readily accessible for loading the firearm, anywhere within the county outside the environs of his private residence, while under the influence of intoxicating drink or illegal drugs.

(Ord. of 1-10-94(2), § 4)

Sec. 17-95. - Display of weapons on public property prohibited; exceptions.

It shall be unlawful for any person to display at any time a weapon on public property, as defined in this division, except:

- (1) When the display is by personnel of the armed forces of the United States when in the discharge of their official duties and under orders requiring them to carry arms and weapons.
- (2) When the display is by civil officers of the United States while in the discharge of their official duties.
- (3) When the display is by personnel of a militia or national guard when called into actual service.
- (4) When the display is by an officer of the state or a county, city or town who is charged with the execution of the laws of the state and acting in the discharge of his official duties.
- (5) When the display is by full-time law enforcement personnel while off duty if:
  - a. Written regulations authorizing the carrying of weapons have been filed with the clerk of superior court in the county by the officer in charge of the law enforcement personnel; and
  - b. Such regulations prohibit the possession of the weapon while under the influence of alcohol or other impairing substance.
- (6) When the display is the result of a lawful activity such as purchasing, collecting, gunsmithing, target shooting, teaching of hunter safety courses or general gun use and safety, or hunting being carried out in accordance with the statutes, rules and regulations of the state wildlife resources commission, or is a necessary incidence of going to or returning from such lawful activity, and the possession or display does not otherwise violate any law or ordinance in effect.
- (7) When the display is the result of a ceremony such as a military funeral, or theatrical performance.
- (8) When the display is by a merchant, business owner or operator or employee of a legitimate business within the immediate vicinity of the business establishment and results directly from the operation of the business, and is necessary to defend the business premises, maintain order within the premises, or is for the protection of the owner, operator or employee when opening or closing the business or when conducting business-related bank deposits or cash withdrawals and going directly to and from such business premises or bank and their home or automobile, and the display or use otherwise complies with the laws of the state.
- (9) When the display is by an individual who is operating or is a passenger within a vehicle and is displayed or used for self-defense in a manner which otherwise complies with the laws of the state.

(Ord. of 1-10-94(2), § 5)

Sec. 17-96. - Penalties.

A violation of the provisions of this division shall constitute a misdemeanor, punishable upon conviction as provided in section 1-6.

(Ord. of 1-10-94(2), § 6)

Sec. 17-97. - Confiscation and disposition of weapons.

Any weapon used in the violation of the provisions of this division shall, upon the arrest of the individual for the violation, be confiscated, and upon the conviction of the individual of the violation, be disposed of within the discretion of the court as provided for in G.S. 14-269.1.

(Ord. of 1-10-94(2), § 7)

Secs. 17-98—17-105. - Reserved.

#### DIVISION 5. - SIGNS TO PROHIBIT CARRYING CONCEALED HANDGUNS ON PROPERTY

Sec. 17-106. - Posting of signs required.

The county manager is hereby ordered to post appropriate signage on each park, building or portion of a building now or hereafter owned, leased as lessee, operated, occupied, managed or controlled by the county, as well as the appurtenant premises to such buildings, indicating that concealed handguns are prohibited therein.

(Ord. of 12-11-95, § 1)

Sec. 17-107. - Location of signs.

Such signs shall be visibly posted on the exterior of each entrance by which the general public can access the building, appurtenant premise, or park. The county manager shall exercise discretion in determining the necessity and appropriate location for other signs posted on the interior of the building, appurtenant premise or park.

(Ord. of 12-11-95, § 2)

Sec. 17-108. - Exemptions.

This division and the ordinance to regulate the possession or display of weapons in the county shall not apply to:

- (1) Those persons who are excepted from the ordinance to regulate the possession or display of weapons in the county;
- (2) Those persons exempted by G.S. 14-269(b);
- (3) Those persons who may otherwise lawfully possess and/or display a firearm, including the possession of a concealed handgun while in any county owned, leased or operated parking facility, provided:
  - a. The firearm is contained in a locked case or nonpassenger area of a locked or attended vehicle; or
  - b. The firearm is a handgun in the possession of a person to whom a valid permit to carry a handgun has been issued and the handgun remains either in the vehicle in the possession



of such person, or in a locked enclosure, or in the immediate proximity of the vehicle for the purpose of placing the handgun in a locked enclosure.

- (4) It shall not be a violation of this division for a person otherwise lawfully permitted to possess a firearm to possess and use a firearm under the direction of the sheriff or his designee, or to participate in authorized competitions on the county sheriff's firing range.

(Ord. of 12-11-95, § 3)

Secs. 17-109—17-120. - Reserved.