

**Frequently Asked Questions**  
*Kitsap County v. Kitsap Rifle & Revolver Club*  
Updated: August 16, 2016

**Question 1: What is the latest development in the KRRC cases?**

KRRC appealed portions of the Pierce County Superior Court's latest ruling which was entered in February of 2016. That Pierce County Superior Court ruling prohibits KRRC from engaging in activities that go beyond KRRC's historic use of its property (for a complete explanation of this case and the issues involved see Question 3). After filing its appeal, KRRC asked the Court of Appeals to stay (temporarily lift/reverse) the portions of the Pierce County Superior Court ruling that are part of the appeal. The Court of Appeals granted KRRC's request for a stay over Kitsap County's objection. The bottom line is that KRRC is **temporarily** permitted to engage in the following activities that were determined to be expanded uses and were prohibited by the Pierce County Superior Court ruling: practical shooting activities, commercial uses, and the use of handguns and shotguns greater than .30 caliber. These activities are only permitted while the appeal is pending.

The temporary stay does not affect the other issues that were previously decided by the Pierce County Superior Court and affirmed by the Court of Appeals. As a result, the ruling that KRRC constitutes a public safety and noise nuisance still stands. The public safety and noise nuisance injunction remains in place. The ruling that KRRC expanded beyond its nonconforming use status still stands. The ruling that KRRC's unpermitted site development violates the Kitsap County Code remains in place. Finally, the requirement for KRRC to apply for a Site Development Activity Permit by August 3, 2016 also remains in effect.

**Question 2: What is Kitsap County doing to enforce the Kitsap County Code?**

Kitsap County has filed two separate lawsuits against KRRC to address KRRC's many Kitsap County Code violations. The first lawsuit was filed in 2010 in Pierce County Superior Court and addresses KRRC's unpermitted site development activity, KRRC's zoning violations (expansions of KRRC's nonconforming use status), and other conduct of KRRC which constituted a public safety and noise nuisance. In this case, the Pierce County Superior Court issued final orders favorable to Kitsap County to address KRRC's numerous violations. Portions of this order are currently on appeal. The portions of the order that are not on appeal are being monitored by DCD to ensure compliance.

The second lawsuit was filed in 2015 in Kitsap County Superior Court to address KRRC's failure to apply for a shooting range operating permit as required by Kitsap County Code Chapter 10.25. The Kitsap County Superior Court issued a final order favorable to Kitsap County that requires KRRC to comply with KCC 10.25.

*Update:* While KRRC has appealed the final order to the Court of Appeals, KRRC has applied for an operating permit and its application is currently under review pursuant to Kitsap County's permit review procedure.

**Question 3: If KRRC was determined to be a public safety and noise nuisance, why is it allowed to be open?**

In 2012, Pierce County Superior Court ruled that KRRC was a public safety and noise nuisance based on the conditions of the range including KRRC's inadequate physical facilities to prevent bullets from leaving the Property. To remedy this, the Pierce County Superior Court imposed several limitations on KRRC's use of its property. The Pierce County Superior Court never ordered KRRC to shut down as a result of the public safety violations, finding based upon the evidence presented at trial, that the limitations were sufficient to remedy the nuisances.

In addition to ruling that KRRC was a public safety and noise nuisance, Pierce County Superior Court also ruled that KRRC had expanded beyond its legal nonconforming use status. After KRRC was first established, the Kitsap County Code was changed so that shooting ranges were no longer allowed to be operated in the zone where KRRC exists without a special use permit. KRRC was recognized as a "legal nonconforming use" by Kitsap County, meaning that it could continue to legally operate without a special use permit despite the fact that this is contrary to the zoning code. As a legal nonconforming use, KRRC was allowed under Washington law to intensify its use as a shooting range, but it could not expand its use.

Following trial in 2012, the Pierce County Superior Court ruled that KRRC had expanded its use over the years by allowing explosive devices, commercial and military uses, high caliber weaponry greater than .30 caliber, and practical shooting. The Pierce County Superior Court ordered KRRC to be shut down as a remedy for its expansion. The Court of Appeals agreed that KRRC had expanded beyond its legal nonconforming use but disagreed that it should be shut down as a result. As an alternative remedy the Pierce County Superior Court ruled that KRRC was prohibited from engaging in the expanded uses without a special use permit. Consequently, although there are restrictions in place that limit KRRC's use of its property, there is no court order which requires KRRC to shut down.

*Update:* KRRC appealed certain portions of the latest Pierce County Superior Court ruling and then asked the Court of Appeals to stay (temporarily lift or reverse) those portions of the ruling until the appeal is resolved. Over Kitsap County's objection, the Court of Appeals granted the stay. As a result, KRRC is permitted to **temporarily** engage in practical shooting activities, commercial uses, and allow the use of shotguns and handguns (but not rifles) greater than .30 caliber until the appeal is resolved even though the Pierce County Superior Court ruling prohibits these activities.

**Question 4: What are all the current limitations imposed on KRRC?**

KRRC is currently governed by two sets of limitations. As a result of ruling that KRRC constituted a public safety and noise nuisance, the Pierce County Superior Court prohibited the following:

- Use of fully automatic firearms, including but not limited to machine guns
- Use of rifles of greater than nominal .30 caliber
- Use of exploding targets and cannons
- Use of the property as an outdoor shooting range outside of the hours of 9 a.m. to 7 p.m.

As a result of ruling that KRRC had expanded beyond its legal nonconforming use, the Pierce County Superior Court prohibited the following:

- Military uses
- Commercial uses (*temporarily allowed pending appeal*)
- Use of explosive devices including exploding targets
- Use of high caliber weaponry greater than .30 caliber (*temporarily allowed pending appeal, however, the use of rifles greater than .30 caliber is still prohibited under the safety and nuisance injunction. Accordingly, only handguns and shotguns greater than .30 caliber are allowed*)
- Practical shooting uses, including organized competitions and practice sessions (*temporarily allowed pending appeal*)

**Question 5: Can KRRC host classes and events if they are prohibited from engaging in commercial uses?**

According to the Pierce County Superior Court ruling, KRRC is prohibited from engaging in commercial uses. However, it is a nonprofit organization and thus is permitted to host classes and non-practical shooting events that are incidental to its role as a nonprofit entity. Just like any other non-profit, KRRC can charge fees for their classes and events to cover their costs.

*Update:* As a result of the stay, KRRC is temporarily permitted to engage in commercial uses while the appeal is pending.

**Question 6: What types of firearms are allowed to be discharged on KRRC property?**

As a result of the public safety and noise nuisance, the Court prohibited the use of rifles of greater than “nominal .30 caliber.” As a result of KRRC expanded uses, the Court prohibited the use of high caliber weaponry (pistols *and* rifles) “greater than .30 caliber.” The terms “.30 caliber” and “nominal .30 caliber” are synonymous and both refer to a type of bullet that is .30mm or slightly larger, such as the .30-30, the .308, and the .30-06. Essentially, the Court’s orders allow the discharge of any bullet that is less than .31. This meaning is clear from the trial court record and the testimony of expert witnesses. Specifically, KRRC’s expert Mr. Noedel was the only witness during the trial that used the phrases “nominal .30.” and “.30 caliber.” His testimony clarifies that both of these terms refer to any bullet of the .30 caliber type. The Court’s use of these terms is clear based upon this testimony.

*Update:* As a result of the stay, KRRC is temporarily permitted to allow the use handguns and shotguns greater than .30 caliber but is prohibited from allowing the use of rifles greater than .30 caliber.

**Question 7: Are residents that live near KRRC required to “police” KRRC activity?**

No. Residents living near KRRC are not required to “police” KRRC activity. However, just like any case in litigation, Kitsap County must rely on evidence, including witness testimony, to support any allegations that KRRC is not following the court order. Due to the proximity of the residential homes, the residents are the individuals with the most personal knowledge regarding KRRC activity besides KRRC members. If a violation occurs, the residents are those most likely to observe and report such violations. While video footage was used in the past to attempt to monitor KRRC activity, at this point in time, it has not been determined that

video footage would be particularly useful given the nature of the restrictions imposed by the Court and the limitations of video recording devices.

Accordingly, anyone who suspects a violation should call 911 so that the report can be documented by DCD, who will respond as necessary and as appropriate to the specific complaint. Reports of violations that do not follow this procedure most likely will not be received in time to do the necessary follow-up investigation and verification needed to bring the issue before the Court.

**Question 8: Why was KRRC shut down in 2015 and why were they allowed to re-open in 2016?**

Due to continuing concerns for public safety, Kitsap County passed a new ordinance in 2014 (Chapter 10.25 Kitsap County Code). This ordinance requires shooting facilities within the jurisdiction of Kitsap County (excluding trap and skeet ranges) to obtain an operating permit. The ordinance provides that if a shooting facility does not apply for and obtain an operating permit, Kitsap County can seek a court order to shut them down. KRRC initially failed to apply for the operating permit as required. Because of this, Kitsap County Superior Court ordered that KRRC was prohibited from operating a shooting facility on its property.

In March 2016, KRRC submitted an application for an operating permit. The Kitsap County Superior Court found that KRRC's application met the requirements of the Kitsap County Superior Court's initial order and allowed KRRC to resume operating a shooting facility. KRRC's permit application is currently being processed by the Kitsap County Department of Community Development.

**Question 9: How long will it take DCD to finish processing KRRC's operating permit application?**

The procedure for processing KRRC's operating permit is governed by Title 21 Kitsap County Code, available online here: <http://www.codepublishing.com/WA/KitsapCounty/>. Once KRRC's application was considered complete, DCD began a substantive review of the application. DCD determined that additional information was required to process the application and has asked KRRC to provide that additional information. KRRC's permit is being processed the same as any permit would be processed. The length of time it takes to process a permit is unique to each permit. The very nature of the permitting process requires a lot of information sharing between the applicant and the reviewing agency (DCD). The length of the review process will necessarily depend upon the nature and amount of additional information requested by DCD, how long it takes KRRC to provide and DCD to review that information, as well as any specific code requirements that may be triggered by the application. For this reason, DCD cannot estimate how long it may take to process KRRC's application. However, DCD will process KRRC's application as it would process any other application and will comply with all applicable code provisions in doing so.

**Question 10: The Kitsap County Superior Court declared that KRRC's operation of a shooting facility without an operating permit violates KCC 10.25. What does this mean and so why is KRRC still open?**

On May 31, 2016, the Kitsap County Superior Court granted Kitsap County's motion for a declaratory judgment (a determination of a party's rights under the law). The Court ruled that KCC 10.25 applies to KRRC and that KRRC's operation of a shooting facility without an operating permit violates KCC 10.25. The Court rejected KRRC's argument that KCC 10.25 violates KRRC's second amendment rights and is contrary to state regulation, among other things.

While the Court's order settles the issue of whether KRRC is required to comply with KCC 10.25, it does not order that KRRC be shut down. According to KCC 10.25, if a shooting facility does not apply for and obtain an operating permit, Kitsap County can seek a court order to shut them down. KRRC has submitted an application for an operating permit. KRRC's operating permit is currently under review by DCD.

*Update:* KRRC has appealed the Superior Court's ruling that KRRC must comply with KCC 10.25 to the Court of Appeals, however, DCD will continue to review and process KRRC's their operating permit application.