

ISRA Analysis of PC16-16 proposed zoning

Before you read the attached proposed text amendment to West Chicago's zoning, understand that this is not just some innocuous zoning language. ISRA has analyzed the zoning proposal and determined it is designed to ensure that there is virtually no place in West Chicago where a gun shop or range could be located and comply under this proposed zoning.

PC 16-16
Report to the Plan Commission/Zoning Board of Appeals
Text Amendment to the Zoning Code Regarding Gun Shops
October 4, 2016

Proposal

The City of West Chicago is proposing a text amendment to the Zoning Code to identify gun shops and shooting ranges as special uses in the City's B-2 and B-3 zoning districts as well as creating certain definitions and use restrictions for gun shops and shooting ranges.

Analysis

The City's elected officials recently directed staff to prepare an amendment to the City Code (of which the Zoning Code is a part of) to create specific regulations for gun shops. City staff determined that, with respect to the Zoning Code, a three tier approach was necessary: 1) create appropriate definitions; 2) create appropriate use restrictions; and 3) propose the uses in the most appropriate zoning districts.

The following bold faced text is proposed to be added to the existing Zoning Code regulations, as outlined below.

Article IV. Construction of terms.

***Firearm:* Any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas, excluding, however:**

- (1) Any pneumatic gun, spring gun, paint ball or B-B gun which either expels a single globular projectile not exceeding eighteen one-hundredths inch in diameter and which has a maximum muzzle velocity of less than 700 feet per second or breakable paint balls containing washable marking colors;**
- (2) Any device used exclusively for signaling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission;**
- (3) Any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition; and**
- (4) An antique firearm (other than an assault weapon) which although designed as a weapon, the Department of State Police finds by reasons of the date of its manufacture, value, design, or other characteristic is primarily a collectors' item and is not likely to be used as a weapon.**

Firearm ammunition: Any self-contained cartridge or shotgun shell, by whatever name known, which is designed to be used or adaptable to use in a firearm; excluding, however:

- (1) Any ammunition exclusively designed for use with a device used exclusively for signaling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission; or
- (2) Any ammunition designed exclusively for use with a stud or rivet driver or other similar industrial ammunition.

Firearms dealer: Any federally licensed firearms dealer, excluding any person licensed solely as a "collector" pursuant to Section 923(b) of Title 18 of the United States Code and possessing only a Type 03 federal license.

Gun shop: The premises of any federally licensed firearms dealer where the business or commercial enterprise conducted on the premises is the purchase or sale of firearms or firearm ammunition.

Shooting range: An enclosed structure specifically designed for the safe discharge of a firearm for the purposes of sport shooting or military/law enforcement training.

Article X. Business.

10.3. B-2 General business district.

10.3-1 Use restrictions.

(G) Gun Shop.

- (1) Restrictions on the location of a gun shop. No gun shop shall be maintained:
 - (a) Within one thousand (1,000) feet of the property line of another gun shop;
 - (b) Within one thousand (1,000) feet of a residential zoning district as provided for under this ordinance;
 - (c) Within one thousand (1,000) feet of a residential zoned district lying within another municipality or within unincorporated portions of any county;
 - (d) Within one thousand (1,000) feet of any educational institution that serves minors; daycare center; cemetery, public park; forest preserve; historic district; public library; dwelling used for residential purposes; or place of religious worship.
 - (e) Within the same building or structure, or on the same lot, as another gun shop.
- (2) The separation buffer distances provided for in this subsection shall be measured by following a straight line, without regard to intervening structures, from the property line or zoning lot boundary of the incompatible use identified in this subsection.

10.3-4 Special uses.

(T) Gun shop.

(U) Shooting range (indoor only and only as an ancillary use to a gun shop).

10.4. B-3 Regional shopping district.

10.4-1 Use restrictions.

(D) Gun Shop.

(1) Restrictions on the location of a gun shop. No gun shop shall be maintained:

(a) Within one thousand (1,000) feet of the property line of another gun shop;

(b) Within one thousand (1,000) feet of a residential zoning district as provided for under this ordinance;

(c) Within one thousand (1,000) feet of a residential zoned district lying within another municipality or within unincorporated portions of any county;

(d) Within one thousand (1,000) feet of any educational institution that serves minors; daycare center; cemetery, public park; forest preserve; historic district; public library; dwelling used for residential purposes; or place of religious worship.

(e) Within the same building or structure, or on the same lot, as another gun shop.

(2) The separation buffer distances provided for in this subsection shall be measured by following a straight line, without regard to intervening structures, from the property line or zoning lot boundary of the incompatible use identified in this subsection.

10.4-5 Special uses.

(T) Gun shop.

(U) Shooting range (indoor only and only as an ancillary use to a gun shop).

The City's Zoning Code does not currently define or regulate gun shops or shooting ranges in any fashion. The Zoning Code also does not specifically identify gun shops or shooting ranges as allowable uses in any zoning district. However, current practice by City staff is to classify a gun shop as a general retail use, which is currently permitted in the B-1, B-2, B-3, ORI (as an accessory use), and M (by special use as an accessory use) districts. Current practice by City staff is to classify a shooting range as a prohibited use because Section 6.7 of the Zoning Code states that any use that is not specifically listed as a permitted or special use in a zoning district shall be deemed prohibited in that district, unless the Zoning Administrator determines that such a use is similar to and compatible with the uses listed within a district.

City staff researched several other Chicagoland communities' (Countryside, Lisle, North Aurora, and Schaumburg) existing gun shop regulations as part of the preparation of this proposed text amendment. The use restriction portion of this proposed amendment is modeled off of those communities' regulations in conjunction with incorporating the same incompatible use separation principals used in the City's current regulations for potentially incompatible uses (i.e. adult uses, crematoriums, medical marijuana facilities, salvage and recycling facilities, etc.) that were deemed to need a higher level of oversight.

The proposed definitions are identical to those also being proposed as part of the business licensing requirements (regulated in Chapter 9 of the City Code) for gun shops. Gun shops are being proposed as special use only in the B-2 and B-3 zoning districts. The proposed special use designation (versus a permitted use designation) for gun shops was chosen based on direction by the Development Committee to aid in providing another layer of oversight for this potentially incompatible use.

While the elected officials did not specifically direct City staff to include shooting ranges as part of this text amendment request, staff feels it is appropriate to include as both of these uses are associated with the firearms. Given the association of the two uses, staff is recommending that shooting ranges only be allowed as an ancillary use to a gun shop, shooting ranges only be allowed indoors, and shooting ranges only be allowed by special use in the B-2 and B-3 zoning districts. Outdoor shooting ranges would still be prohibited.

Standards

The only standard set forth in the zoning regulations that is related to a Zoning Code text amendment is its impact on the health, safety and welfare of the community. It is City staff's opinion that identifying gun shops and shooting ranges as special uses in the City's B-2 and B-3 zoning districts as well as creating certain definitions and use restrictions for gun shops and shooting ranges will aid the City in properly regulating these uses with the City's best interests in mind with respect to the safety and welfare of the community.

Recommendation

City staff recommends approval of the proposed text amendment to the Zoning Code to identify gun shops and shooting ranges as special uses in the City's B-2 and B-3 zoning districts as well as creating certain definitions and use restrictions for gun shops and shooting ranges.

Please contact City Planner, Jeff Harris at 293-2200 ext. 158 or jharris@westchicago.org with any questions or concerns prior to the PC/ZBA meeting.