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IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR KITSAP COUNTY

KITSAP COUNTY, a political subdivision of the  
State of Washington,

Plaintiff,

NO. 15-2-00626-8

v.

KITSAP RIFLE AND REVOLVER CLUB, a not-  
for-profit corporation registered in the State of  
Washington,

Defendant,

and

ORDER GRANTING  
PRELIMINARY INJUNCTION  
WITH FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

IN THE MATTER OF THE UNPERMITTED  
SHOOTING FACILITY located at the 72-acre parcel  
at 4900 Seabeck Highway NW, Bremerton,  
Washington, viz Kitsap County Tax Parcel ID No.  
362501-4-002-1006.

This matter having come on regularly for hearing on the 14th day of April, 2015, on  
Plaintiff Kitsap County's Motion for Preliminary Injunction; Plaintiff having appeared through  
its counsel; Defendant having appeared through its counsel; and the Court having heard oral  
argument and having considered the following:

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Kitsap County Superior Court  
614 Division Street, MS-24  
Port Orchard, WA 98366  
(360)-337-7140

1. Plaintiff Kitsap County's Motion for Preliminary Injunction, the Declaration of Christine M. Palmer, with exhibits; and the Declaration of Larry Keeton, with exhibits, filed in support thereof;
2. Defendant KRRC's Response in Opposition to Motion for Preliminary Injunction and the Declaration of Marcus Carter In Opposition to Motion for Preliminary Injunction filed in support thereof; and
3. Plaintiff Kitsap County's Reply In Support of Motion for Preliminary Injunction; the Declaration of James Thralls; and the Second Declaration of Christine M. Palmer, with exhibits, filed in support thereof.

The Court hereby makes the following findings of fact, conclusions of law and orders, which shall remain in effect until further order of this Court:

#### **I. FINDINGS OF FACT**

1. In 2011, the Kitsap County Board of County Commissioners ("the Board") initiated a process to evaluate whether stricter local regulations were warranted to respond to citizen concerns regarding the safety and compatibility issues of shooting ranges.

2. As the result of a formal review process involving public hearings and the taking of written testimony, the Board adopted Ordinance 515-2014 ("KCC 10.25" or "the Ordinance") on September 22, 2014.

3. KCC 10.25 sets forth the procedures for the development and operation of shooting ranges. Specifically, KCC 10.25.090(1)-(2) provides as follows:

(1) Shooting facilities shall be authorized and operated in accordance with an operating permit issued by the department. The operating permit shall govern the facilities and scope of operations of each shooting facility, and shall be issued, denied or conditioned based upon the standards set forth in this article. No proposed or existing shooting facility may operate without an operating permit issued pursuant to this chapter, except as provided in subsection (2) of this section. This operating permit is not intended to alter the legal nonconforming use status and rights of existing ranges, which are governed by Title 17 and the common law, nor shall this operating permit authorize expansion of range uses which otherwise require approval pursuant to a conditional use permit or other land use permits per Title 17. Failure to obtain a range operational permit will result in closure of the range until such time a permit is obtained. Ranges that operate without a permit are

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1 subject to code compliance enforcement, including but not limited to injunctive  
2 relief.

3 (2) Each owner or operator of a shooting facility shall apply for and obtain an  
4 operating permit. The owner or operator of a proposed new shooting facility shall  
5 apply for the facility operating permit at the time of application for any necessary  
6 building or land use permits. The owner or operator of an established shooting  
7 facility in active use on the effective date of the ordinance codified in this article  
8 shall apply for the initial facility operating permit not later than ninety days after  
9 the effective date of the ordinance codified in this article. A shooting facility  
10 operating permit is valid for five years from the date of issuance or renewal. The  
11 owner or operator of each facility shall apply for a permit renewal at least thirty  
12 days prior to the date of current permit expiration.

13 4. As set forth above, KCC 10.25 requires that all new and existing shooting ranges  
14 apply for an operating permit within 90 days of the Ordinance's effective date. KCC  
15 10.25.090(2).

16 5. The Ordinance became effective on December 22, 2014. Accordingly, pursuant to  
17 the Ordinance, existing shooting ranges had until March 23, 2015 to submit an application for an  
18 initial facility operating permit.

19 6. Kitsap Rifle and Revolver Club ("KRRC") owns and operates a shooting facility  
20 located at the 72-acre parcel of real property at 4900 Seabeck Highway NW, Bremerton,  
21 Washington, in unincorporated Kitsap County, as identified in the caption to this action (the  
22 "Property"), which is subject to regulation under the Ordinance.

23 7. On December 19, 2014, the Director of Kitsap County's Department of  
24 Community Development, Larry Keeton, sent a letter to Defendant KRRC notifying it of the  
25 Ordinance's requirement to submit an application within 90 days of December 2014. By March  
26 23, 2015, Kitsap County had not received an application from KRRC for an operating permit  
27 under KCC 10.25.  
28

1           8.     On March 26, 2015, Larry Keeton sent another letter notifying KRRC of its  
2 noncompliance with the Ordinance and requesting that an application be sent by March 30, 2015.  
3 KRRC still did not submit an application.

4           9.     KRRC continues to operate a shooting facility without having obtained an initial  
5 facility operating permit under Chapter 10.25 KCC and without having submitted an application  
6 for such a permit.

7           10.    On April 17, 2015, this Court issued a Memorandum Opinion and Order on  
8 Plaintiff's Motion for Preliminary Injunction. The Court's Memorandum Opinion and Order on  
9 Plaintiff's Motion for Preliminary Injunction is incorporated as if fully stated herein.  
10

## 11                               **II.     CONCLUSIONS OF LAW**

12           1.     The Court has subject matter jurisdiction over the subject of this action;

13           2.     KRRC failed to obtain or submit an application for an initial facility operating  
14 permit by March 23, 2015 in violation of KCC §10.25.090.  
15

16           3.     KRRC continues to operate as a shooting facility and to allow the discharge of  
17 firearms on its property without having obtained or submitted an application for an operating  
18 permit in violation of KCC §10.25.090.  
19

20           4.     This Court has authority to grant an injunction under KCC 10.25.090(1) which  
21 expressly provides for injunctive relief as a method of code enforcement.  
22

23           5.     KRRC's violations of KCC Chapter 10.25 support the conclusion that Kitsap  
24 County is likely to prevail on the merits of its Complaint for Declaratory Judgment and  
25 Injunctive Relief. Kitsap County has a clear legal right to enforce the code provisions of KCC  
26 10.25.090.  
27

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1           6.     Kitsap County has a well grounded fear of immediate invasion of its right under  
2     KCC 10.25.090(1) because KRRC has refused to obtain an operating permit and continues to do  
3     so despite notice and requests to do otherwise.

4           7.     KRRC's violations of KCC Chapter 10.25 constitute an actual and substantial  
5     injury to the community pursuant to Washington case law holding that when an ordinance  
6     provides for injunctive relief against violations, this indicates a decision by the legislative body  
7     that the regulated behavior warrants enjoining and thus the violation itself is an injury to the  
8     community.  
9

10           8.     The case of Kitsap County v. Kitsap Rifle and Revolver Club, 184 Wn. App. 252,  
11     337 P.3d 328 (2014) does not preclude Kitsap County from pursuing the present lawsuit (Kitsap  
12     County Superior Court Cause No. 15-2-00626-8). This present lawsuit is not barred under the  
13     doctrine of res judicata, or claim preclusion, because the subject matter and cause of action  
14     giving rise to the claims of these two lawsuits are distinguishable.  
15

16           9.     Defendant's alleged status as a nonconforming use under KCC 17.460.020 does  
17     not exempt it from complying with KCC 10.25. KCC 10.25 is a reasonable police power  
18     regulation imposed for public health and safety.  
19

20           Based upon the foregoing findings of fact and conclusions of law, effective immediately,  
21     the Court hereby orders as follows:  
22

### 23                           **III.    ORDER**

- 24           1.     Plaintiff Kitsap County's Motion for Preliminary Injunction is GRANTED;  
25           2.     Defendant KRRC is enjoined from operating a shooting facility until such time  
26     that Defendant submits a complete application to Kitsap County for an Operating Permit in  
27     compliance with KCC Chapter 10.25;  
28

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- 1           3. Pending trial, Plaintiff is authorized to enforce the cessation of shooting  
2 operations at Defendant's shooting facility;
- 3           4. Pending trial, KRRC shall prevent any and all persons and entities from  
4 discharging a firearm upon the Property or at the shooting facility thereupon;
- 5           5. An application for an operating permit submitted by KRRC will be deemed  
6 complete if it includes all the documents identified in KCC 10.25.090(5);
- 7           6. The injunction will not be lifted until this Court so orders. When Defendant  
8 believes it has submitted a complete application in good faith pursuant to KCC 10.25.090(5),  
9 Defendant shall move for an order lifting the injunction. Defendant bears the burden of  
10 establishing that it has, in good faith, submitted a complete application pursuant to KCC  
11 10.25.090(5).  
12
- 13           7. After Defendant files a motion to lift the injunction, Kitsap County shall then  
14 have an opportunity to respond to Defendant's motion to present evidence and argument before  
15 the Court as to whether the injunction should be lifted, shall continue, or shall be modified based  
16 upon the extent of Defendant's good faith efforts to comply with KCC 10.25.  
17
- 18           8. To enforce compliance with this Order and based upon any reported violations of  
19 the same, the Department of Community Development ("DCD") may contact KRRC to request  
20 access to the Property in order to inspect condition or activities reported to be in violation of this  
21 Order and of KCC Chapter 10.25. Upon such request, KRRC shall allow DCD to have  
22 reasonable and timely access to the Property for purposes of such inspections.  
23
- 24           9. Defendant shall provide Kitsap County and the Court the names and 24-hour  
25 contact information for two KRRC officers who shall be points of contact for any request to  
26 access the Property to verify compliance with this Order and with KCC 10.25.  
27  
28

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1           10. If Defendant fails to comply with these orders, Plaintiff may obtain further relief  
2 upon further motion to this Court, including but not limited to contempt sanctions and fines  
3 against Defendant, its officers or members, or any person or entity using the facility for  
4 discharging a firearm;  
5

6           11. This Court retains jurisdiction to enforce this order by all lawful means including  
7 imposition of contempt sanctions and fines.

8 Done in Open Court 21 day of April, 2015.  
9

10  
11   
12 JUDGE JAY ROOF

13 Approved for entry by:

14 TINA ROBINSON  
15 Kitsap County Prosecuting Attorney  
16

17 CHRISTINE M. PALMER, WSBA No. 42560  
18 LAURA F. ZIPPEL, WSBA No. 47978  
19 SHELLEY KNEIP, WSBA No. 22711  
Deputy Prosecuting Attorneys  
Attorneys for Kitsap County

20 Approved for entry/Presentation waived by:  
21

22  
23 Bruce Danielson, WSBA No. 14018  
24 Danielson Law Office, P.S.  
Attorney for Defendant KRRC  
25  
26  
27  
28

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