



**MAYOR AND COUNCIL COMMUNICATION**

DATE: 12/15/2015  
**REGULAR**  
ITEM #: 9  
**MOTION**

**AGENDA ITEM:** Oakdale Gun Club Conditional Use Permit Amendment  
**SUBMITTED BY:** Stephen Wensman  
**THROUGH:** Clark Schroeder  
**REVIEWED BY:** Joan Ziertman

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**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item.....Staff
- Report/Presentation .....Staff
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion ..... Mayor Facilitates

**SUMMARY AND ACTION REQUESTED:**

The Oakdale Gun Club is requesting a Conditional Use Permit Amendment to allow two trap shooting shelters for use on the site. Staff and the Planning Commission are recommending the City Council approve the request with no conditions with the following motion:

*“Move to recommend approval of the CUP Amendment to allow the use of two additional trap shooting ranges on the Oakdale Gun Club site.”*

**BACKGROUND AND STAFF REPORT:**

The Oakdale Gun Club has an existing conditional use permit for the gun club operations, defined as *restricted recreation* by city ordinance which is a conditional use in the Agriculture Zoning District. The Oakdale Gun Club has been operating under conditional use permit approved in 1988 by resolution (Resolution No. 88-5) which has served as the basis for compliance. The Conditional Use Permit has been amended several times in the past. This amendment is to allow an additional two trap shooting shelters for use on the site.

Trap shooting has become a popular high school sport. The Minnesota Department of Natural Resources (MnDNR) has encouraged gun clubs to facilitate this growing sport. Presently the Tartan High School team uses the Oakdale Gun Club’s existing trap range, but other school teams such as Stillwater, North St. Paul and Oakdale are also interested. This expansion is proposed to accommodate the growing sport of trap shooting for high school teams.

When reviewing the proposal, Staff suggested conditions limiting the use of the additional trap ranges to the time periods and dates the gun club suggested were in demand and for high school use only to minimize potential noise. The Planning Commission discussed traffic and noise. The Commission was sympathetic to noise and traffic concerns, but did not feel the use changes would significantly increase noise or traffic, and felt the conditions suggested by Staff would be difficult to enforce. At the public hearing, the Planning Commission discussed restricting gun club weekend hours for all operations to 10 AM to ½ hour before sunset, however a subsequent motion did not move forward. The Planning Commission determined that they did not want to restrict the club operations such that they would have to come back for another Conditional Use Permit Amendment if the demand for the trap shooting ranges grew beyond the high school use. Therefore, the Planning Commission recommended approval of the Conditional Use Permit Amendment without condition.

**LOCAL CONTROL LIMITATIONS:**

On May 28, 2005, the MN State Legislature passed the Shooting Range Protection Act which effectively puts limits on local control over shooting ranges. Staff has attached MN State Statute Chapter 87A for reference.

**RECOMMENDATION:**

Staff and the Planning Commission are recommending the City Council approve the request with no conditions with the following motion:

***“Move to recommend approval of the CUP Amendment to allow the use of two additional trap shooting ranges on the Oakdale Gun Club site.”***

**ATTACHMENT(S):**

- Resolution 2015-~~87~~<sup>87</sup> to approve the Oakdale Gun Club Conditional Use Permit Amendment
- Planning Commission packet of 11/23/15
- ~~Planning Commission minutes of 11/23/15-~~
- Gun Club Site Plan
- MN State Statute Chapter 87A

**STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF LAKE ELMO**

**Resolution No. 2015-87**

**A RESOLUTION APPROVING THE CONDITIONAL USE PERMIT AMENDMENT  
TO ALLOW TWO ADDITIONAL TRAP SHOOTING RANGES ON THE OAKDALE  
GUN CLUB SITE.**

**WHEREAS**, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

**WHEREAS**, The Oakdale Gun Club has submitted an application to the City of Lake Elmo (the "City") for an amendment to the existing Conditional Use Permit to add 2 trap shooting ranges to their existing 40 acre site.

**WHEREAS**, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.017; and

**WHEREAS**, the Lake Elmo Planning Commission held a public hearing on said matter on November 23, 2015; and

**WHEREAS**, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated December 15, 2015; and

**WHEREAS**, the City Council considered said matter at its December 15, 2015, meeting.

**NOW, THEREFORE**, based on the testimony elicited and information received, the City Council makes the following findings:

**FINDINGS**

- 1) That the procedures for obtaining said Conditional Use Permit Amendment and are found in the Lake Elmo Zoning Ordinance, Section 154.106.
- 2) That all the submission requirements of said Section 154.101 have been met by the Applicant.
- 3) That the Conditional Use Permit Amendment meets the review criteria for Conditional Use Permits (Section 154.106).

**CONCLUSIONS AND DECISION**

Based on the foregoing, the Applicants' application for a Conditional Use Permit amendment is granted.

Passed and duly adopted this 15th day of December 2015 by the City Council of the City of Lake Elmo, Minnesota.

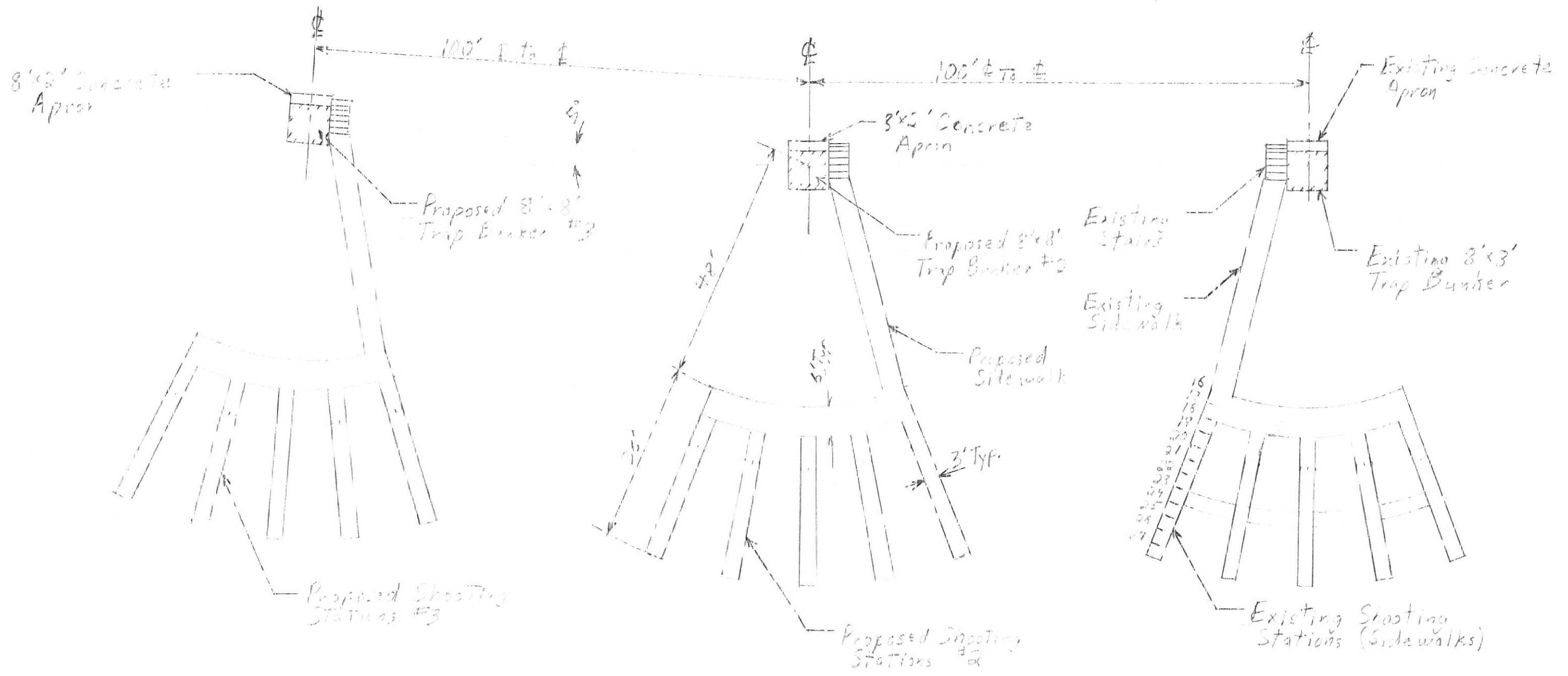
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Mike Pearson, Mayor

ATTEST:

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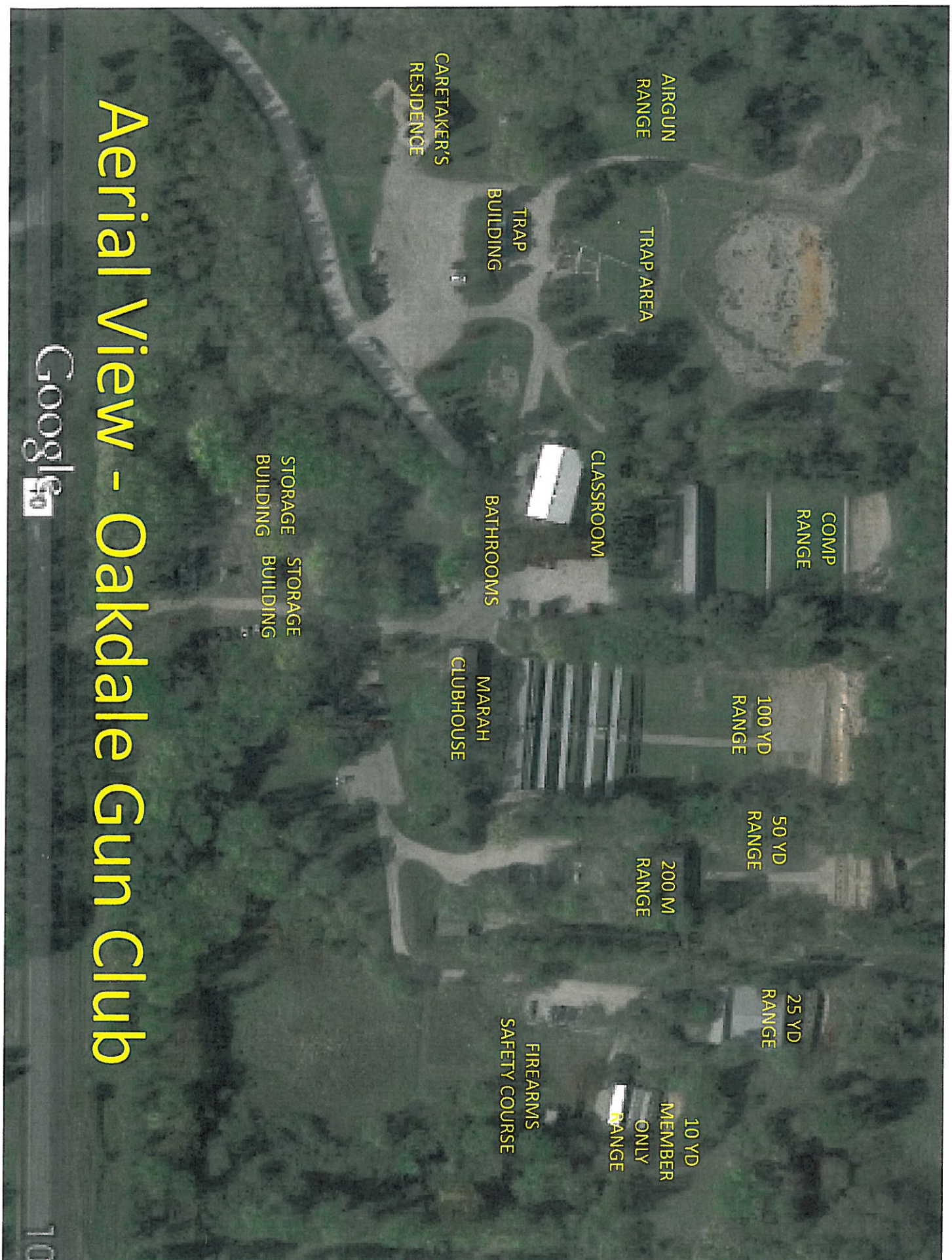
Julie Johnson, City Clerk



RECEIVED  
OCT 23 2015  
CITY OF LAKE ELMO

Proposed Trap Field Modification  
Oakdale Golf Club  
2015  
Area 500 x 100'





AIRGUN RANGE

TRAP AREA

TRAP BUILDING

CARETAKER'S RESIDENCE

COMP RANGE

CLASSROOM

BATHROOMS

STORAGE BUILDING

STORAGE BUILDING

100 YD RANGE

MARAH CLUBHOUSE

50 YD RANGE

200 M RANGE

25 YD RANGE

10 YD MEMBER ONLY RANGE

FIREARMS SAFETY COURSE

# Aerial View - Oakdale Gun Club

Google Earth



Proposed location of the 2 additional trap areas adjacent to the existing trap area.



Existing

Google

+joseph

Oakdale Gun Club



## Statement for Amendment to Existing Conditional Use Permit



### Written statements

2(a) Oakdale Gun Club is a not for profit corporation located at 10386 10<sup>th</sup> Street, North, Lake Elmo, MN 55042. Club officers are elected on an annual basis. Our current president is Jerome Marah. His contact information is [president@oakdalegunclub.org](mailto:president@oakdalegunclub.org). Our current General Manager is Teresa Reiter. Her contact information is [gm@oakdalegunclub.org](mailto:gm@oakdalegunclub.org).

2(b) The Southeast Quarter of the Southwest Quarter (SE ¼ of SW ¼) of Section Twenty-six (26) in the Township Twenty-nine (29) North of Range Twenty-one (21) West, SUBJECT to easements in favor of American Telephone and Telegraph Company of Minnesota, recorded in Block 118 of Deeds, page 554, and 135 of Deeds, page 374, in the office of the Register of Deeds in and for said County and State. More commonly known as 10386 10<sup>th</sup> Street North; PID Number: 26-029-21-34-0001

2(c) Oakdale Gun Club has existed as a gun club/outdoor shooting range in its current location for approximately 50 years.

2(d) Oakdale Gun Club (OGC) is requesting an amendment to its existing Lake Elmo Conditional Use Permit (88-5) under which the club has operated. OGC requests permission to construct two small (approximately 8 ft. x 8 ft.) trap machine shelters and associated concrete shooters stations (sidewalks) on a section of the club's existing range facility.

### Background:

The last 8 years have seen an unprecedented upsurge in the sport of youth clay target (trap) shooting in Minnesota. High school student participation in Minnesota is currently unparalleled anywhere else in the US. This relatively new high school sport is recognized by the general Minnesota State High School League with rules and regulations established by the Minnesota State High School Clay Target League. Current interest has reached a point where schools are unable to find sufficient facilities at which their students can participate. Facing this limitation on development of a youth sport in which all students can compete regardless of gender, the Minnesota Department of Natural Resources has requested outdoor shooting ranges throughout Minnesota to assess whether their facilities can accommodate high school trap teams. The DNR has established a fund of improvement grants to selected organizations willing to develop or accelerate high school student programs.

For the last 5 years, OGC has partnered with students from one nearby high school utilizing our existing trap range. To date, it has been possible to undertake this endeavor on a limited basis while remaining in full compliance with OGC's existing Conditional Use Permit. After recently being contacted by several other nearby high schools and with a desire to maximize the club's service to youth in the area, OGC has reevaluated trap shooting capability at its facility. It has been concluded that by



rearranging an existing section of the range, it would be possible to install two additional clay target throwing machines and the corresponding shooter's stations within the existing boundaries of the club property.

Installation of these trap machines along with the associated protective shelters and sidewalk type shooting stations would allow OGC to comply with DNR requests and provide several nearby high schools with a facility on which they could organize student participation in the sport of trap shooting. It is the construction of the two 8 ft. X 8 ft. concrete trap machine protective shelters and the adjacent concrete shooter's stations for which OGC is requesting an amendment to their Conditional Use Permit from Lake Elmo (See attached photos of the existing trap protective shelter, shooter's stations, and participating students). Points of note are:

- Clay target (trap) shooting activities have historically been available at OGC to both members and the general public. They have been conducted in the same location for approximately 40 years
- All range modifications would take place within OGC's existing property boundaries. (See two attached aerial photos)
- None of the proposed modifications can be seen from outside the facility
- The plan for the proposed machine protective shelters and shooter stations have been reviewed by the Valley Branch Watershed District and has been determined that the plan does not impact the watershed area. (See attached plan and Valley Branch Watershed District letter of exemption)
- The area for the two new trap machines and shooter's stations would be an area currently used for air gun competition. (See attached aerial photo)
- The clay target fall area would be directly adjacent to the fall area historically used for such target fall (See attached aerial photo)
- All students participating in the high school trap league at OGC are required to possess evidence of having successfully completed a DNR Youth Firearm Safety course.
- All high school league trap shooting activities will be supervised by adult members of OGC

Members of the Oakdale Gun Club can be made available to provide further clarifications should any be requested. A short tour of the existing trap shooting area and proposed adjacent modifications can be arranged for any interested individuals.

2(d)(ii) Oakdale Gun Club is a not for profit outdoor recreational shooting range. There is currently 1 employee. Our hours of operation are 8am to ½ hour before sunset, 7 days a week as defined in our existing CUP.



Planning Commission  
Date: 11/23/2015  
Item: 4a

ITEM: PUBLIC HEARING: Conditional Use Permit Amendment to add two trap shooting shelters to the overall site.

REQUESTED BY: Planning Department

SUBMITTED BY: Stephen Wensman, City Planner

REVIEWED BY: Ben Gozola, Consulting Planner

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#### **SUMMARY AND ACTION REQUESTED:**

The Oakdale Gun Club is requesting an amendment to its Conditional Use Permit to add two trap shooting shelters to the overall site plan. Staff is recommending approval of the request subject to the conditions listed in this report.

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#### **GENERAL INFORMATION**

*Applicant and Property Owner:* Oakdale Gun Club  
10386 10th Street North, Lake Emo

*Location:* The SE ¼ of SW1/4 of Section 26, Township 29 north of range 21 west.

*Property Identification Number (PID):* 26-029-21-34-0001

*Lot Size:* 40 acres (active gun range property)

*Request:* Application for a Conditional Use Permit Amendment to add two trap shooting shelters to the overall site.

*Existing Land Use and Zoning:* Restricted Recreation - Agriculture

*Surrounding Land Use and Zoning:* The Lake Elmo Regional Park is located to the north and Rural Residential to the west, east and south.

*Comprehensive Plan:* Public/Park

*History:* The Oakdale Gun Club has been in operation continuously on its present site since 1964. The Gun Club is presently operating under an existing Condition Use Permit (88-5). The land use is considered restricted recreation by definition which is a conditional use in the Agriculture Zoning District. The Gun Club has amended its permit from time to time and would like to amend its permit to add two trap shooting shelters to their site.

*Deadline for Action:* Application Complete – October 23, 2015  
60 Day Deadline – December 14, 2015  
Extension Letter Mailed – No  
120 Day Deadline – N/A

*Applicable Regulations:*       Section 154.106 Conditional Use Permits.  
  Section 154.401 Permitted and Conditional Uses.  
  Section 154.306 Standards for Outdoor Recreation.

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**PROPERTY INFORMATION:**

The Oakdale Gun Club has been in operation continuously on its present site since 1964, which predates the City's current Zoning Ordinance. The City's file on this property goes back to at least 1965; however, for the purposes of the present review, Staff will be focusing on actions taken by the City since 1982. It was at this point in time that the City of Lake Elmo conducted a more thorough review of the Gun Club operations, and it appears that this is when the current conditions of operation were adopted by the City.

Between 1983 and 1997 the City reviewed the Gun Club operation as part of an annual review of conditional use permits that was presented to the City Council each year. Since 1997, it does not appear that the Council was presented information concerning existing Conditional Use Permits. Staff's assumption is that any reviews were conducted on an administrative basis.

Starting in the mid 1980's, the City Council adopted a resolution that specified the conditions of approval for the Gun Club. After 1988, subsequent reviews and amendments to the C.U.P. have used the resolution adopted in this year (Resolution No. 88-5) as the basis for compliance. All amendments since then have technically amended this resolution as it relates to the continued operation of the Gun Club. A summary of the more recent C.U.P. amendments for the Gun Club is as follows:

- 1998 (Resolution 95-58) New caretaker residence, accessory garage, and accessory storage structure.
- 2002 (Resolution not in file) Noise abatement cover for 25 ft. range.
- 2005 (Resolution No. 2005-111) Storage structure addition.
- 2006 (Resolution No. 2006-145) New storage building.
- 2008 (Withdrawn by Applicant) Construction of a building shell over an existing range/expansion of operations building.
- 20012 (Resolution 2012-21) Construction of sidewalls and overhead baffling.

The current use of the site includes a range operations building, several outdoor ranges of varying length, the caretaker's home, storage buildings, a covered shooting range (25 yards), an archery practice area, and other miscellaneous buildings. The actual use of the facility beyond target practice includes training and other educational programs.

The property owned by the club is divided into two larger tracts. The 22-acre eastern portion is not used for any formal range facilities while the 40-acre western parcel houses all of the formal range operations.

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**REVIEW:**

The club has been in operation long before the City adopted a Zoning Ordinance to regulate such uses. A Conditional Use Permit was first established for the use in 1988. Since that time, this Conditional Use Permit has been the basis for all amendments that have come after.

In accordance with the City Zoning Ordinance, an amended conditional use may be administered in a manner similar to that required for a new permit.



The Oakdale Gun Club is a not-for-profit outdoor recreational shooting range. The club presently has one employee. The hours of operation are 8 AM to ½ hour before sunset, 7 days of the week as defined in the existing Conditional Use Permit.

The purpose of the Gun Club's request is to amend the Conditional Use Permit to allow the construction of two 8 ft. x 8 ft. trap machine shelters and associated concrete shooter's stations (sidewalks) on a section of the club's existing range facility.

There has been an unprecedented demand for clay target (trap) shooting from Minnesota high school students. Trap shooting is a new sport that has been recognized by the Minnesota State High School League with rules and regulations established by the Minnesota State High School Clay Target League. Because of the demand, the Minnesota Department of Natural Resources (MnDNR) has requested outdoor shooting ranges in MN to assess whether their facilities can accommodate high school trap teams. The MnDNR has established a grant program to assist with such improvements.

For the past five years, the Gun Club has partnered with students from one high school to utilize the existing trap facility. The Gun Club has been able to do this while remaining in compliance with its Conditional Use Permit. Interest has grown and additional schools would like to participate in the use of the facilities. Based on analysis of the facilities, the Gun Club has determined that it is possible to expand their trap shooting facilities to accommodate the demand.

#### Proposal Details:

- The proposal is to install two trap machines, the associated protective shelters and sidewalk type shooting stations would allow the Gun Club to comply with the MnDNR's request.
- Clay target trap shooting activities have historically been available at the Gun Club to members and the general public. Proposed use of the new trap machines would be as follows:
  - Use by school teams for approximately ten weeks in the spring from the end of March to early June.
  - Potentially use in the fall for approximately six weeks; and
  - Available for high school matches on weekends.
- The trap ranges would shut down ½ hour before sunset on days when in use.
- All modification would take place on the Gun Club's property and would not be visible from off of the property.
- The Valley Branch Watershed District has reviewed the proposal and has determined there is no impact to the watershed.
- The new trap machines would be located in an area currently used for air gun competition (see aerial photo), which was used once per month.
- Clay targets fall area would be directly adjacent to the fall areas historically used for such target fall (see aerial photo).
- Students participating in the trap league at the Gun Club are required to possess evidence of having successfully completed a MnDNR Youth Firearm Safety course.
- All high school league trap shooting activities will be supervised by adult Gun Club members.

#### NOISE:

The additional two trap shooting ranges will increase noise some when in use. As requested, the use will be active primarily in the after school hours by high school teams in the spring, possibly in the fall, some weekends for high school matches. The ranges are displacing the air gun competition area. There is no immediate plans to replace the air gun competition area. When in use, there will only be one gun being shot at any one time. Noise could be mitigated by conditions to ensure use of the additional ranges be limited to the proposed afterschool hours, and during the spring and fall seasons and weekends as noted

## **TRAFFIC:**

The Gun Club has adequate parking area to accommodate the proposed use. 10<sup>th</sup> Street is a collector road. The increased traffic will be negligible.

## **CONDITIONAL USE PERMIT REVIEW CRITERIA:**

Reviewing this request requires that all general CUP criteria be examined. For these types of applications, the burden is on the City to show why the use should not be permitted due to impacts that cannot be controlled by reasonable conditions.

### *1. Effects on the health, safety, morals, convenience, or general welfare of surrounding lands.*

In the early 1980's, the City of Lake Elmo conducted an extensive review of the Oakdale Gun Club and developed a list of conditions that have been applied to this day to the present day. As part of the 2008 permit request Staff visited the site and found that the club was operating in accordance with the City's requirements at that time. One of the key factors that Staff recommends that the Planning Commission consider as part of its review is whether or not the proposed changes will create any external impacts beyond what presently occurs on the site. In this case, the addition of the two trap shooting ranges are in an area that was used by air gun competition and is adjacent the existing trap range. The new trap ranges will be used for high school teams for ten weeks, after school, between the end of March through early June, and possibly in the fall for six weeks and occasional weekends for matches. The new trap ranges will displace the air gun completion area. When in use, there will be only a single shot-gun fired at any one time. Staff finds that there will be no significant increase in noise or any other effect and that this criterion is satisfied.

### *2. Traffic & Parking conditions.*

Because the proposed improvements will mostly be used in the after school hours, the amount of traffic and parking associated with the proposed use will not significantly affect traffic and parking and adequate parking exists on site. The use will continue to be consistent with the existing operation. Staff finds that this criterion is met.

### *3. Effects on utility and school capacities.*

There will be no changes to the utilities already established for the site. Staff finds this criterion is met.

### *4. Effect on property values of surrounding lands.*

The Club has been in operation since before the City regulated such uses through zoning, and likewise, the club has been located on this site since before many of the surrounding land uses were established. Furthermore, since the request is for an amendment to a C.U.P. and not a new use, the Planning Commission should consider the potential impacts associated with this change and not the overall impacts of the site. If there are any violations of the previous conditions of approval for the site, the City may take action in accordance with the process specified in Resolution No. 88-5 or through enforcement of the City's Target Range ordinance.

The proposed changes will not significantly increase noise or traffic, therefore, staff finds that this criterion is satisfied as well.

### *5. Effect of the proposed use on the Comprehensive Plan.*

The property at 10386 North 10<sup>th</sup> Street is currently utilized for a target range facility. The Comprehensive Plan guides the property for public facility use in the future, but also provides for the continuation of existing uses until such time as the parcel is redeveloped. The City Code allows for such a use to be conditionally permitted on this site. Staff finds this criterion is met.

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**RECOMMENDATION:**

Staff recommends that the Planning Commission recommend approval of the Conditional Use Permit Amendment with the following conditions:

1. The applicant shall submit an accurate updated site plan that accurately (to scale) identifies all buildings, ranges, fences, driveways and other site improvements for city review.
2. The 2<sup>nd</sup> and 3<sup>rd</sup> trap range use shall be limited as follows in any given calendar year:
  - a. January 1<sup>st</sup> through March 14<sup>th</sup> – no use authorized.
  - b. March 15<sup>th</sup> through June 15<sup>th</sup> – Both ranges may be used, but hours of operation shall be limited to 3PM to 1/2 hour before sunset;
  - c. June 16<sup>th</sup> through August 31<sup>st</sup> – no use authorized.
  - d. September 1<sup>st</sup> through November 30<sup>th</sup> – Use shall be limited to high school teams and high school competitions. The Gun Club may designate a six week period during this timeframe when both trap ranges will be available for practice and competitions. Additionally, both ranges can be used on weekends for matches during business hours
  - e. December 1<sup>st</sup> through December 31<sup>st</sup> – no use authorized.

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**ORDER OF BUSINESS:**

- Introduction ..... Stephen Wensman, City Planner
- Report by staff..... Stephen Wensman, City Planner
- Questions from the Commission.....Chair & Commission Members
- Open the Public Hearing ..... Chair
- Close the Public Hearing ..... Chair
- Call for a motion .....Chair Facilitates
- Discussion of Commission on the motion .....Chair Facilitates
- Action by the Planning Commission .....Chair & Commission Members

**ATTACHMENTS:**

1. Proposed Trap Field Modification Drawing.
2. Statement for Amendment to Existing Conditional Use Permit.



## CHAPTER 87A

### SHOOTING RANGES

87A.01	DEFINITIONS.	87A.06	NUISANCE ACTIONS; COMPLIANCE WITH SHOOTING RANGE PERFORMANCE STANDARDS.
87A.02	SHOOTING RANGE PERFORMANCE STANDARDS; BEST PRACTICES.	87A.07	CLOSURE OF SHOOTING RANGES.
87A.03	COMPLIANT RANGES; AUTHORIZED ACTIVITIES.	87A.08	APPLICABILITY OF OTHER LAWS.
87A.04	MITIGATION AREA.	87A.09	PUBLIC SHOOTING RANGES; ACCESSIBILITY.
87A.05	NOISE STANDARDS.	87A.10	SHOOTING SPORTS FACILITY GRANTS.

**87A.001** MS 2006 [Renumbered 15.001]

#### **87A.01 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to sections 87A.01 to 87A.08.

Subd. 2. **Person.** "Person" means an individual, association, proprietorship, partnership, corporation, club, political subdivision, or other legal entity.

Subd. 3. **Shooting range or range.** "Shooting range" or "range" means an area or facility designated or operated primarily for the use of firearms, as defined in section 97A.015, subdivision 19, or archery, and includes shooting preserves as described in section 97A.115 or any other Minnesota law.

Subd. 4. **Shooting range performance standards.** "Shooting range performance standards" means the best practices for shooting range performance standards identified in section 87A.02.

Subd. 5. **Local unit of government.** "Local unit of government" means a home rule charter or statutory city, county, town, or other political subdivision.

**History:** 2005 c 105 s 1; 2012 c 277 art 1 s 16

#### **87A.02 SHOOTING RANGE PERFORMANCE STANDARDS; BEST PRACTICES.**

Subdivision 1. [Repealed, 2012 c 277 art 1 s 91]

Subd. 2. **Best practices.** For purposes of this chapter, the November 1999 revised edition of the National Rifle Association's Range Source Book: A Guide to Planning and Construction shall serve as best practices for shooting range performance standards.

**History:** 2005 c 105 s 2; 2012 c 277 art 1 s 17

#### **87A.03 COMPLIANT RANGES; AUTHORIZED ACTIVITIES.**

Subdivision 1. **Authorized activities.** A shooting range that operates in compliance with the shooting range performance standards must be permitted to do all of the following within its geographic boundaries, under the same or different ownership or occupancy, if done in accordance with shooting range performance standards:

- (1) operate the range and conduct activities involving the discharge of firearms;

(2) expand or increase its membership or opportunities for public participation related to the primary activity as a shooting range;

(3) make those repairs or improvements desirable to meet or exceed requirements of shooting range performance standards;

(4) increase events and activities related to the primary activity as a shooting range;

(5) conduct shooting activities and discharge firearms daily between 7:00 a.m. and 10:00 p.m. A local unit of government with zoning jurisdiction over a shooting range may extend the hours of operation by the issuance of a special or conditional use permit; and

(6) acquire additional lands to be used for buffer zones or noise mitigation efforts or to otherwise comply with this chapter.

Subd. 2. **Nonconforming use.** A shooting range that is a nonconforming use shall be allowed to conduct additional shooting activities within the range's lawful property boundaries as of the date the range became a nonconforming use, provided the shooting range remains in compliance with noise and shooting range performance standards under this chapter.

Subd. 3. **Compliance with other law.** Nothing in this section exempts any newly constructed or remodeled building on a shooting range from compliance with fire safety, disability accessibility, elevator safety, bleacher safety, or other provisions of the State Building Code that have mandatory statewide application.

**History:** 2005 c 56 s 1; 2005 c 105 s 3

#### **87A.04 MITIGATION AREA.**

(a) Except for those uses, developments, and structures in existence or for which approval has been granted by October 1, 2005, or as provided in paragraph (b), no change in use, new development, or construction of a structure shall be approved for any portion of property within 750 feet of the perimeter property line of an outdoor shooting range if the change in use, development, or construction would cause an outdoor shooting range in compliance with this chapter to become out of compliance.

(b) A change in use, new development, or construction of a structure subject to this section may be approved if the person seeking the approval or, at the discretion of the governing body, the approving authority agrees to provide any mitigation required to keep the range in compliance with this chapter. The person requesting an approval subject to this section is responsible for providing documentation if no mitigation is required under this section. Failure to provide the documentation or any mitigation required under this section exempts the range from being found out of compliance with the shooting range performance and noise standards of this chapter with regard to the property responsible for the mitigation if the failure to provide the documentation or required mitigation is the sole basis for the range being out of compliance with the shooting range performance standards. Any action brought by the owner of the property against the range is subject to section 87A.06. With the permission of the range operator, any mitigation required under this section may be provided on the range property.

**History:** 2005 c 105 s 4

**87A.05 NOISE STANDARDS.**

Allowable noise levels for the operation of a shooting range are the levels determined by replacing the steady state noise L10 and L50 state standards for each period of time within each noise area's classification with a single Leq(h) standard for impulsive noise that is two dBA lower than that of the L10 level for steady state noise. The noise level shall be measured outside of the range property at the location of the receiver's activity according to Minnesota Rules, parts 7030.0010 to 7030.0080, as in effect on May 28, 2005. For purposes of this section, "Leq(h)" means the energy level that is equivalent to a steady state level that contains the same amount of sound energy as the time varying sound level for a 60-minute time period.

**History:** 2005 c 105 s 5

**87A.06 NUISANCE ACTIONS; COMPLIANCE WITH SHOOTING RANGE PERFORMANCE STANDARDS.**

A person who owns, operates, or uses a shooting range in this state that is in compliance with shooting range performance standards is not subject to any nuisance action for damages or equitable relief based on noise or other matters regulated by the shooting range performance standards. This section does not prohibit other actions.

**History:** 2005 c 105 s 6

**87A.07 CLOSURE OF SHOOTING RANGES.**

Subdivision 1. **Closure.** Except as otherwise provided in sections 87A.01 to 87A.08, a shooting range that is in compliance with shooting range performance standards and the requirements of sections 87A.01 to 87A.08 shall not be forced to permanently close or permanently cease any activity related to the primary use of the shooting range unless the range or activity is found to be a clear and immediate safety hazard by a court of competent jurisdiction. In any action brought to compel the permanent closure of any range in compliance with shooting range performance standards and this chapter, or to permanently cease any activity related to the primary use of the shooting range, there is a rebuttable presumption that the range or activity is not a clear and immediate safety hazard. If the shooting range provides evidence that the cause of a proven safety hazard can be mitigated so as to eliminate the safety hazard, the court shall not order the permanent closure of the range, or permanent ceasing of the activity found to be a clear and immediate safety hazard, unless the range operator fails to implement the necessary mitigation to remove the safety hazard by the date that is determined reasonable by the court.

Subd. 2. **Preliminary injunctions.** Nothing in this section prohibits a court from granting a preliminary injunction against any activity determined to be a probable clear and immediate safety hazard, or against any individual determined to be the probable cause of an alleged clear and immediate safety hazard, pending the final determination of the existence of the safety hazard.

Subd. 3. **Permanent injunctions.** A court may grant a permanent injunction only against a particular activity or person instead of permanently closing the range unless the court finds that the remaining operations also pose a safety hazard under this section.

**History:** 2005 c 105 s 7

**87A.08 APPLICABILITY OF OTHER LAWS.**

Subdivision 1. **Public safety laws; zoning.** (a) Nothing in this chapter prohibits enforcement of any federal law. To the extent consistent with this chapter, other state laws regarding the health, safety, and



welfare of the public may be enforced. To the extent consistent with this chapter, a local unit of government with zoning authority jurisdiction over a shooting range may enforce its applicable ordinances and permits. Nothing in this chapter shall supersede more restrictive regulation of days and hours of operation imposed by the terms and conditions of ordinances and permits that are in effect on May 28, 2005.

(b) If the operator of the shooting range shows evidence that the range can be brought into compliance with the applicable state law, local ordinance, or permit, the range may not be permanently closed unless the range operator fails to bring the range into compliance with the applicable law, ordinance, or permit under this section by the date that the court determines reasonable. Nothing in this section prohibits a court from granting a preliminary injunction against any activity determined to be a violation of a law, ordinance, or permit under this section or against any individual determined to be causing an alleged violation, pending the final determination of the existence of the violation.

Subd. 2. **Permanent injunctions.** A court may grant a permanent injunction only against a particular activity or person instead of permanently closing the range unless the court finds that the remaining operations also create a violation under this section.

**History:** 2005 c 105 s 8

#### **87A.09 PUBLIC SHOOTING RANGES; ACCESSIBILITY.**

(a) A publicly owned or managed shooting range located in the seven-county metropolitan area that is funded in whole or part with public funds must be available at least twice during the spring and twice during the summer for use by participants in a Minnesota Department of Natural Resources firearms safety instruction course under section 97B.015. The shooting range must be available during hours reasonable for youth participants. The range operator may charge a fee to cover any costs directly incurred from use required under this section, but may not charge a fee to offset costs for general maintenance and operation of the facility.

(b) This section does not apply to cities of the first class or a shooting range located on the same premises as a correctional or detention facility that holds or incarcerates offenders.

**History:** 2012 c 277 art 1 s 18

#### **87A.10 SHOOTING SPORTS FACILITY GRANTS.**

The commissioner of natural resources shall administer a program to provide cost-share grants to local recreational shooting clubs or local units of government for up to 50 percent of the costs of developing or rehabilitating shooting sports facilities for public use. A facility rehabilitated or developed with a grant under this section must be open to the general public at reasonable times and for a reasonable fee on a walk-in basis. The commissioner shall give preference to projects that will provide the most opportunities for youth.

**History:** 2014 c 290 s 13; 2014 c 312 art 13 s 18; 1Sp2015 c 4 art 4 s 40