

**ACTION**

**MEMORANDUM**

March 27, 2009

TO: County Council

FROM: Linda McMillan, Senior Legislative Analyst 

SUBJECT: **ACTION: Executive Regulation 34-08**, Discharge of Guns within  
Montgomery County, Department of Police

**Public Safety Committee Recommendation**

The Public Safety Committee held a worksession on the proposed executive regulation on February 19, 2009 as a part of their worksession on the county's deer management program. The proposed regulation provides the requirements for discharging a gun for the purposes of hunting within the Urban Boundary. The Committee requested the County Executive amend the regulation to require notice be posted on parcels less than 50 acres as well as those of 50 acres or greater in size.

**The Committee recommends approval of the amended regulation.** The approval resolution is attached at © 1. The amended regulation is attached at © 2-6.

**Background**

On December 4, 2007, the Council enacted Bill 43-05, Weapons – Restrictions – Deer Management. The bill became effective March 17, 2008. The bill made several changes to the rules about discharging a gun in the urban area of the county including: allowing hunting during hunting season when the parcel of land is at least 50 acres (this may consist of several contiguous parcels), requiring notice must be provided to the Chief of Police 15 days before any gun is discharged; requiring the notice identify the days, times, and persons who will be hunting; and requiring that the gun must be discharged from an elevated position. The law requires executive regulations be promulgated to require signs be posted at least 15 days before the hunting is to occur. The written permission of each property owner is required. A property owner whose property is less than 50 acres in size may apply for a deer damage control permit from the Department of Natural Resources. If issued by DNR, the hunting must be approved by the Chief of Police.

The bill reduced from 100 yards to 50 yards the distance a person must be from a public road to discharge a gun outside of the urban area and reduced the distance from a building or camp from 200 yards to 150 yards.

The bill removed the requirement that a person be more than 100 yards away from a public road when discharging a bow. This applies county-wide as there is no difference in the rules for bow hunting between the urban area and the rest of the county.

On October 7, 2008, the Council received Temporary Executive Regulation 34-08T which was promulgated to ensure that regulations were in place for the 2008-2009 hunting season.

On January 12, 2009, the Washington Post ran an article, "Once Scorned, Deer Hunters Find Welcome in Suburban Md." The article discussed the increase in bow hunting in the urban area of the county. It noted that increased hunting was allowed because, in the case of bow hunters, they were no longer required to be 100 yards from a public road when discharging a bow. Bow season is longer than the firearms hunting season. The 2008-09 season in the "Suburban Deer Archery Zone," which includes Anne Arundel, Baltimore, Montgomery and Prince George's counties, was September 15, 2008 through January 31, 2009.

Chapter 57 of the Montgomery County Code prohibits a person from discharging a bow in the county: (1) from, onto, or across a public road; (2) into or within 150 yards of a building or camp designed for human occupancy without the owner or occupant's written consent; or, (3) from, onto, or across public or private property without the owner or occupant's written consent. (These rules do not apply to target archery.) Therefore it is possible to see a bow hunter next to a public road as long as they are discharging their weapon away from the road and have the property owners permission. During the worksession on Bill 43-05, the Public Safety Committee and Council discussed what the distance from a public road should be for both hunters using guns and bow hunters. The Council approved a distance of 50 yards (from 100) for firearms and eliminated the requirement for bow hunting.

With regards to the new provisions for the discharge of a firearm, the Police Department received two notices from property owners who intended to allow hunting on their parcels during the 2008 hunting season. In both cases the parcels were larger than 50 acres. One parcel was on Batchellors Forest Road and the other was the Webb Tract. The owners of the Webb Tract decided not to allow hunting on the property.

Resolution No. \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

---

By: County Council

---

**SUBJECT:** Approval of Executive Regulation 34-08AM, Discharge of Guns Within  
Montgomery County, Department of Police

**Background**

1. On December 11, 2008, the County Council received Executive Regulation 34-08, Discharge of Guns Within Montgomery County, Department of Police.
2. The Council must review the regulation under method (2) of Section 2A-15 of the County Code.
3. Under method (2), if the Council does not approve or disapprove a regulation within 60 calendar days after the Council receives the regulation, the regulation automatically takes effect. On February 3, 2009, the Council extended consideration time to June 30, 2009.
4. The Public Safety Committee held a worksession on this regulation on February 19, 2009. The Committee requested the Executive amend the regulation to require posted notice when a weapon will be discharged for hunting within the Urban Boundary both on parcels of less than 50 acres and on parcels of 50 acres or more.
5. On March 18, 2009, the County Executive forwarded Executive Regulation 34-08AM, Discharge of Guns Within Montgomery County, Department of Police which includes the requested change.

**Action**

*The County Council for Montgomery County, Maryland approves the following resolution:*

Executive Regulation 34-08AM, Discharge of Weapons Within Montgomery County, Department of Police, is approved.

*This is a correct copy of Council action.*

---

Linda M. Lauer, Clerk of the Court

①

EXEC REG



CC  
SBF  
has - hL

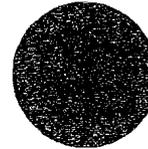
041156

OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

March 18, 2009



TO: Phil Andrews, President  
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Executive Regulation 34-08AM  
*Discharge of Guns Within Montgomery County*

Method 2

The purpose of this memorandum is to transmit for the County Council's approval Executive Regulation 34-08AM, Discharge of Guns Within Montgomery County.

On February 19, 2009, the Public Safety Committee met and approved the above-referenced proposed regulation, which amends the Code of Montgomery County Regulations, Chapter 57, Weapons, Section 57-4, with amendments recommended by the Maryland-National Capital Park and Planning Commission and the Maryland Department of Natural Resources. The Committee also recommended an amendment that would require notification and signage when hunting is done pursuant to a deer damage control permit. Those requested changes are now reflected in the proposed regulation.

I look forward to working with the Council on this important matter. If there are any questions, please contact Captain Michael Wahl at 240-773-5928.

Attachments

2009 MAR 18 11:21

2



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> WEAPONS	<b>Number</b> 34-08AM
<b>Originating Department</b> MONTGOMERY COUNTY DEPARTMENT OF POLICE	<b>Effective Date</b>

Montgomery County Regulation on  
DISCHARGE OF GUNS WITHIN MONTGOMERY COUNTY  
DEPARTMENT OF POLICE

Issued by: County Executive  
Regulation No.  
COMCOR

Authority: Montgomery County Code, 1965, as amended  
Section 2-22, Section 57-4(e) and 2A-15

Supersedes: 16-93

Council Review: Method 2, under Code Section 2A-15  
Register Vol. 25 No. 10

Comment Deadline: November 30, 2008

Effective Date:

Sunset Date: None

**SUMMARY:** The purpose of this regulation is to establish procedures and criteria that the Chief of Police must use to determine whether it is safe to discharge a gun under a deer management [damage control] permit issued by the Department of Natural Resources and to establish rules for deer hunting on land at least 50 acres in size within the Urban Area.

**ADDRESS:** Montgomery County Department of Police  
2350 Research Boulevard  
Rockville, Maryland 20850

**STAFF CONTACT:** Captain Michael Wahl, Director  
Animal Services Division  
Telephone (240) 773-5928

**BACKGROUND:** The current overpopulation of deer in the County has been causing substantial economic harm to the County's farmers and other agriculturalists. According to a 2004 landowner survey, the deer have destroyed the forest habitat in the County and account for more than \$1 million in crop losses to Montgomery County farmers. Recent amendments to Montgomery County Code, Chapter 57, Weapons, make it easier for residents to protect their property from deer impacts by permitting the discharge of firearms on private land during hunting season without police approval or a site inspection so long as certain requirements are met. This regulation is intended to ensure the public's safety during hunts on these parcels.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> <b>WEAPONS</b>	<b>Number</b> <b>34-08AM</b>
<b>Originating Department</b> <b>MONTGOMERY COUNTY DEPARTMENT OF POLICE</b>	<b>Effective Date</b>

Sec. 1. Purpose. Procedure to allow the discharge of a firearm within the urban area under a deer management [damage control] permit issued by the Maryland Department of Natural Resources and approved by the Chief of Police and to establish rules for deer hunting on private property at least 50 acres in size.

Sec. 2. Procedures. (a) An applicant for a deer management permit inside the urban area must contact the Montgomery County Police Department's (MCPD) police district serving the area in which the requestor's site is located within 24 hours of submitting the application to the Department of Natural Resources (DNR). An MCPD executive officer (lieutenant or above) will contact DNR as soon as practical but no more than 24 hours after receiving such notification to arrange to meet at the location where the permit has been requested. [When the Department of Natural Resources (DNR) receives a request for a deer damage control permit at a location that is less than 50 acres within the urban area, DNR will contact the Montgomery County Police Department's (MCPD) police district serving the area in which the requestor's site is located. The DNR agent and an executive officer (lieutenant or above) from the police district will thereafter meet at the location where the permit has been requested within three (3) calendar days of the formal request.]

The MCPD executive officer will meet [T]the DNR agent [and MCPD executive officer will] at the location where the permit has been requested to jointly [together] inspect the location to resolve any issues or questions. If the MCPD executive officer and DNR agent cannot meet at a mutually convenient time, the MCPD executive officer must contact the applicant to arrange to inspect the location within three (3) calendar days of the issuance of the permit. The DNR agent will have the sole responsibility for determining the need for the issuance of the deer management [damage control] permit. The MCPD executive officer will inspect the site from the standpoint of safety issues, including, but not limited to, the location's proximity to occupied buildings and/or roadways, whether the location provides for downward trajectory, and any other considerations that may necessitate restricting the use of a firearm to carry out the stated purpose of the deer management [damage control] permit.

If the DNR agent determines that a deer management [damage control] permit is to be issued, the MCPD executive officer will request a copy of the completed permit from the DNR agent or the applicant [he will complete the permit listing the permit's tag numbers to be used and give the completed permit to the MCPD executive officer]. The MCPD executive officer will then complete an MCP Form # 590, Addendum to DNR Deer Damage Control Permit, listing all [deer tag numbers and] restrictions with which the permit holder must comply. The MCPD executive officer will forward the deer management [damage control] permit and addendum along with a memorandum outlining the reasons for any restrictions to the Chief of Police for review and signature within three (3) calendar days.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> <b>WEAPONS</b>	<b>Number</b> <b>34-08AM</b>
<b>Originating Department</b> <b>MONTGOMERY COUNTY DEPARTMENT OF POLICE</b>	<b>Effective Date</b>

After reviewing the documentation submitted for the deer management [damage control] permit from both the DNR and MCPD executive officer, the Chief of Police will either approve or disapprove the request, sign and date the MCP Form # 590. After signing, the originals of the MCP Form # 590 and the deer management permit [Deer Damage Control Permit] will be returned to the person requesting the permit by U.S. mail within four calendar days. The remaining two copies of the forms will be forwarded to the Department of Natural Resources for their records. The Department of Police will maintain its [their our] files.

(b) Whenever deer hunting is to occur on private property of at least 50 acres in size during hunting season, the property owner(s) must, at least 15 days before any weapon is discharged, post the perimeter of the property and, where applicable, at each road entrance to the property, with signs that:

- (1) are placed where the signs may reasonably be seen by passersby or from any adjacent roadway or public waterway
- (2) are posted at least every 100 yards along the perimeter of the property;
- (3) are at least 12 inches wide by 17 inches high
- (4) have black lettering on a yellow background;
- (5) that include the following warning: "CAUTION: Firearms in use for deer hunting on this property from (date) to (date). No Trespassing."

(c) Whenever deer hunting is to occur on private property within the urban area pursuant to a deer management permit, the property owner must follow the requirements in subsection (b) except that the owner must post the required warning signs at least two days before any weapon is discharged.

Sec. 3. Applicability. Any person within an urban area whose livelihood is threatened by property damage caused by deer may apply for a deer management [damage control] permit, except that no permit is necessary on land at least 50 acres in size during hunting season.

Sec. 4. Severability. If a court holds that part of this regulation is invalid, the invalidity does not affect other parts.



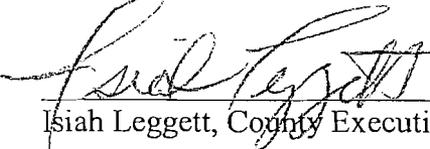
# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

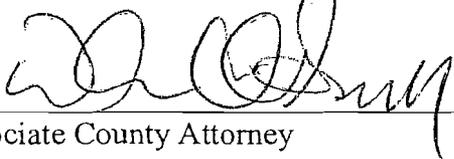
<b>Subject</b> WEAPONS	<b>Number</b> 34-08AM
<b>Originating Department</b> MONTGOMERY COUNTY DEPARTMENT OF POLICE	<b>Effective Date</b>

Approved:

Date: 3/19/09

  
Isiah Leggett, County Executive

APPROVED AS TO FORM AND LEGALITY  
OFFICE OF THE COUNTY ATTORNEY

By:   
Associate County Attorney

Date: 3/13/09