

Village of Cottage Grove

Notice of Public Meeting

ORDINANCE REVIEW COMMITTEE

Wednesday, January 27, 2021

5:30 p.m.

Agenda

Due to the COVID-19 pandemic, this meeting will take place virtually via Zoom. Please join the meeting from your computer, tablet or smartphone by visiting <https://zoom.us/j/98316176206?pwd=SC93WjY5aTRPejRzQzItWVA0aDVSQT09> You can also participate via phone by dialing 1-312-636-6799 and use Meeting ID: 983 1617 6206#. When asked for your Participant ID, just press 221.

You may also choose to participate by providing public comment prior to the meeting via email to the Committee Chairperson, Heidi Murphy at hmurphy@village.cottage-grove.wi.us

1. Call To Order
2. Determination Of Quorum And That The Agenda Was Properly Posted
3. PUBLIC APPEARANCES-Public's Opportunity To Speak About Any Subject That Is Not A Specific Agenda Item
4. Discuss And Consider The Minutes From The December 16, 2020 Meeting.

Documents:

[12-16-20 ORDINANCE MINUTES.PDF](#)

5. Discuss Any Ordinance Edits And Changes Recommended For The Purpose Of Compiling A Prioritized List Of Recommended Ordinance Changes To Submit To The Village Board.
6. Discuss Any Ordinance Request Forms Received.
7. Discuss And Consider Recommendation For Update To Chapter 325-88(K): Fences

Documents:

[ITEM 7 CHAPTER 325-88\(K\).PDF](#)

8. Discuss And Consider Recommendation For Update To Chapter 239: Peddlers, Canvassers And Transient Merchants

Documents:

[ITEM 8 CHAPTER 239.PDF](#)

9. Discuss Chapter 173-1: Use Of Firearms And Weapons

Documents:

ITEM 9 CHAPTER 173-1.PDF

10. Update On Chapter 116-3: Keeping Of Animals – Specifically Regarding Chickens
11. Update On Chapter 130: Building Construction And Fire Prevention
12. Future Agenda Items.
13. Set Next Meeting Date.
14. Adjournment

Any item on the agenda is subject to final action. Notice: Persons needing special accommodations should call 608-839-4704 at least 24 hours prior to the meeting. It is possible that members of and possibly a quorum of members of other governmental bodies may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice.

ORDINANCE REVIEW COMMITTEE

Wednesday, December 16, 2020

5:30 p.m.

Draft Minutes

1. Call to Order.
 - a. Heidi called the meeting to order 5:33PM
2. Determination of quorum and that the agenda was properly posted.

Attendance: Alex Jushchyshyn, Heidi Murphy, Jess Robinson, Cara Musick
Absent: Paul Van der velde
3. Public Appearances – Public’s opportunity to speak about any subject that is not a specific agenda item.
 - a. None
4. Approve the minutes of the October 28, 2020 meeting
 - a. Motion to approve as presented Jess Robinson , 2nd Alex Jushchyshyn
Vote: 4 -0-0
5. Discuss any Ordinance edits and changes recommended for the purpose of compiling a prioritized list of recommended Ordinance changes to submit to the Village Board.
 - a. Jess reviewed conversation with Village Lawyer.
 - b. Reviewed process for submitting ordnance for review. The more work we do up front, the faster he could turn it around. this reduces costs to the village.
 - c. Possibly ready for review at next meeting for emergency repository ordinance edits.
6. Discuss any Ordinance Request Forms received.

Committee reviewed the notes and submitted documents. There was no determination there needs to be action on this ordnance, but would look for direction from the Board.

7. Discuss Ordinance Chapter 239 Peddlers, Canvassers And Transient Merchants
 - a. Jess recommends differentiating a food truck style vendor on the street, as opposed to a vendor invited to the property as a caterer. How is the caterer covered under the permit of

the property? Who owns liability of the caterer? Can we get help from legal, for language in resolving this? Does the permit application need updating with an ordinance update? Can we get a multi-language permit application?

- b. Specific Notes for Legal Review: Define type of service for food truck vendors, create an exemption for a catered type of event (a specific contract or agreement between vendor/host, example permit required if invite food trucks in general to park near you or in your parking lot on weekends versus exempt if host has an agreement with a specific food truck vendor to sell to patrons at a specific event for their customers, host shall verify vendor has appropriate County permits and other recommended requirements to ensure safety of their patrons), cross-check limits on conditional use permits/zoning restrictions on host property, define grounds for denial of license consistent with revocation of license, match the permit/ordinance/application, translate the form.

Jess made a motion for Heidi to take notes to legal for review and creation of language to support the direction of the committee, Cara 2nd. Revisions to be retired to committee.

Vote: 4-0-0

8. Discuss Ordinance 116-3: Keeping Of Animals – Specifically Regarding Chickens

Dane county permit hits all the topics for the village use.

updates:

- change to 4 to from 8 total chicken kept
- remove permit
- remove fee
- remove other fowl, and only keep to chickens in documents
- add min height off the ground for coop to 24 inches.

Erin check on set back requirements and can the Dane County limits work for the Village.

Committee discussed the term for slaughtering and the intent that the fowl will not be processed for the meet on the property.

Jess made a motion for Heidi to take notes to legal for review and creation of language to support the direction of the committee, Cara 2nd. Revisions to be retired to committee.

Vote: 4-0-0

9. Future agenda items.

- a. Bow Hunting due to State Statute Changes
- b. emergency repository ordinance
- c. any updates on above topics

10. Set next meeting date.

- a. January 27, 2021 5:30 PM

11. Adjournment.

- a. Motion to adjourn by Alex Jushchyshyn, 2nd Heidi
Vote: 4 - 0 - 0



MEMO

MEMO DATE: January 21, 2021
TO: Ordinance Review Committee
FROM: Heidi Murphy
RE: Update on Ordinance 325-88(K) Fences

The following update to Ordinance 325-88(K) is recommended per the Ordinance Review Committee discussions and staff recommendations.

Current Ordinance: Fences not requiring permits. Garden fences two feet or less in height, snow fences, arbors, trellises and similar structures shall not require a permit.

Proposed Ordinance: Fences not requiring permits. Garden fences two feet or less in height, snow fences placed seasonally, arbors, trellises and similar structures shall not require a permit. The Building Inspector may order the removal of fences or structures subject to this section not kept in a neat, sightly, and safe manner.



MEMO

MEMO DATE: January 21, 2021
TO: Ordinance Review Committee
FROM: Heidi Murphy
RE: Update on Ordinance 239 - Peddlers, Canvassers, Transient Merchants

The following update to Ordinance Chapter 239 is recommended per the Ordinance Review Committee discussions and staff recommendations.

- Update the ordinance to allow for a Mobile Food Vendor Host Permit similar to the Noise Amplification Permit and create permit application form
 - o Hosts shall locate the food vendor on their property or closed off area if part of an approved and permitted block party
 - o Hosts shall verify the mobile food vendor is current with all county and state food safety and licensing requirements
 - o Hosts shall keep record of contact information all mobile vendors hosted
 - o Mobile Food Vendor Host Permits are approved by the Village Board

- Other Chapter 239 updates:
 - o Define grounds for denial of license to mirror those that for revoking a license
 - o Other ordinance updates to Chapter 239 as recommended by staff



MEMO

MEMO DATE: January 21, 2021
TO: Ordinance Review Committee
FROM: Heidi Murphy
RE: Update on Ordinance 173-1 Use of Firearms and Weapons

State Statutes have changed and required action on this ordinance. Larry Konopacki provided the following legal summary for the committee to consider. Per Larry, firearms restrictions and archery rules are connected and should generally be addressed together therefore information on both are included in this summary.

A municipality is generally prohibited from regulating hunting, fishing, or trapping within the municipality [Wis. Stat. s 29.038(2)]. Further, municipalities are generally prohibited from enacting or enforcing an ordinance or adopting a resolution that regulates the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration, or taxation of any knife or any firearm . . . unless the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute [Wis. Stat. s. 66.0409(2)]. There isn't a specific similar statute that addresses archery equipment, so municipalities are less restricted and have more flexibility with respect to restrictions on that equipment.

There are exceptions to these restrictions on local authority. Wis. Stat. s. 29.038(3)(a) provides that municipality "may enact an ordinance or adopt a regulation, resolution or other restriction that has an incidental effect on hunting, fishing or trapping, but only if the primary purpose is to further public health or safety." This means that if a municipality adopts a restriction that has an impact on hunting, etc., but does not directly regulate that activity, it is permissible if it was adopted to protect public health or safety.

The most common way that municipalities exercise this limited authority is by prohibiting the discharge of a firearm (and other types of "shooting" devices such as pellet guns, air guns, etc). Some also prohibit shooting archery equipment in the municipality. With respect to firearms, municipalities are specifically authorized to prohibit their firing. [Wis. Stat. s. 66.0409(3)(b)1.]. Many municipalities impose these types of restrictions.

The bow hunting provision that the Committee asked about creates an exception to this exception. It says that a municipality may not prohibit a person from hunting with a bow and arrow or crossbow but that the municipality can prohibit hunting within a specified distance, not to exceed 100 yards, from a building located on another person's land if the hunter does not have that landowner's permission. The municipality can also require the hunter to discharge the bow or crossbow toward the ground [Wis. Stat.



s. 29.038(3)(b)]. *This generally means that the hunter would have to hunt from an elevated position, such as a tree stand.*

Therefore, the question of whether this bow hunting provision is relevant depends on what the Village ordinances allow. Section 173-1 of the Village Code provides as follows:

Use of firearms and weapons.

[Amended 5-2-2005 by Ord. No. 06-2005]

Except upon permit granted by the Village Board, no person, except a sheriff, constable, police officer or their deputies, shall fire or discharge any firearm, rifle, spring or air gun, sling shot, or other dangerous weapon as defined by the Wisconsin Statutes within the Village or have any firearm, rifle, spring or air gun in his or her possession or under his or her control unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container.

This ordinance does not specifically prohibit the discharge of archery equipment, but it does prohibit the discharge of any “other dangerous weapon” as defined in Wisconsin Statutes. “Dangerous weapon” is defined as “any firearm, whether loaded or unloaded; any device designed as a weapon and capable of producing death or great bodily harm; any ligature or other instrumentality used on the throat, neck, nose, or mouth of another person to impede, partially or completely, breathing or circulation of blood; any electric weapon, as defined in s. 941.295 (1c) (a); or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.” As you can see, this is a fairly broad definition! I think that a bow or crossbow definitely falls into the category of “any device designed as a weapon and capable of producing death or great bodily harm” and therefore the discharge of a bow or crossbow in the Village is currently prohibited.

Therefore, to comply with state law, the ordinance should be modified to provide that the discharge of a bow or crossbow for hunting purposes is permissible in the Village. The Committee and the Village Board could consider whether to also include the two permissible restrictions on this activity described above when crafting the revisions to this ordinance (hunting near another person’s buildings and discharge toward the ground).

While you are modifying this ordinance to meet state requirements related to bow hunting, it is also recommended that this ordinance be reviewed with respect to its firearms restrictions. In my opinion, this ordinance impermissibly restricts the possession or control of firearms and other weapons. Under Wisconsin law, a person may have in their possession a firearm that is openly carried or concealed (with a permit) and loaded in various circumstances, especially on their own property or in their vehicle. State statutes have also been revised recently to clarify this limitation. For instance, Wis. Stats. S. 66.0409(6) provides that “unless other facts and circumstances that indicate a criminal or malicious intent on the part of the person apply, no person may be in violation of, or be charged with a violation of, an ordinance of a political subdivision relating to disorderly conduct or other inappropriate behavior for loading a firearm, or for carrying or going armed with a firearm or a knife, without regard to whether the firearm is loaded or the firearm or the knife is concealed or openly carried. Any ordinance in violation of this subsection does not apply and may not be enforced.” As you can see, the ordinance quoted above is clearly outside of the boundaries of this restriction and Wis. Stat. s. 66.0409(2) as quoted at the top of this summary.