



MAYOR AND COUNCIL COMMUNICATION

DATE: 7/19/2016

CONSENT

ITEM #: 20

AGENDA ITEM: Hunting Ordinance
SUBMITTED BY: Stephen Wensman, Planning Director
THROUGH: Kristina Handt, City Administrator
REVIEWED BY: Sarah Sonsalla, City Attorney
Washington County Sheriff's Department

BACKGROUND:

In fall of 2015, City staff received numerous complaint calls about illegal or perceived illegal hunting. In response, Planning Staff drafted an amendment to the Weapons Ordinance, Section 130.15 and held a public hearing at the January 11, 2016 Planning Commission meeting. No member of the public spoke at that public hearing, but the Planning Commission raised a number of issues including wanting to know how the changes related to the MN conceal and carry legislation. Because of the complexities of this Statute, Planning Staff had the City Attorney draft the Ordinance Amendment attached to this report.

The City Attorney has informed Planning Staff that the public hearing was not necessary because the Ordinance is not part of the City's zoning code.

ISSUE BEFORE COUNCIL:

The Council should consider approval of the new hunting ordinance and map.

PROPOSAL DETAILS/ANALYSIS:

Ordinance

Hunting is presently addressed by the Weapons Ordinance, Section 130.15. Section 130.15 prohibits hunting as follows:

(B) *Unlawful acts.* Except as otherwise provided in this section, it shall be unlawful for any person:

(1) To fire, discharge, release, throw, or in any other manner propel a weapon within 500 feet of a residence, whether or not inhabited, or any other structure or building or within 500 feet of any platted area in the city and , except on an approved target range;

The average resident is not likely to know the differences between platted and unplatted property, making self-enforcement difficult.

The new Hunting Ordinance is an amendment of the Weapons Ordinance, Section 130.15. The ordinance allows hunting in areas designated on a hunting map established by Council Resolution each year. This allows the City to adjust allowed hunting areas as the City grows and develops. The ordinance references a hunting map which will be updated by City staff from time to time as needed. The hunting map will be posted on the City's website and at City Hall and will enable residents a greater ability to determine where hunting is allowed and prohibited.

In addition to hunting, the amendment also amends Section 130.15B to align with conceal and carry law, MN Statute 624.714. Since the enactment of this statute, the City Attorney believes it is unlawful for the City of Lake Elmo to require a person carrying a loaded weapon to obtain written permission from a property owner in order to carry the weapon on the property. The Statute does allow the city to require written permission from a property owner for another to hunting on the property.

Approved Hunting Areas Map

The proposed ordinance was modeled after Minnetrista's Hunting Ordinance, which designates both areas in which hunting with a bow and arrow or handgun is allowed and areas in which hunting with a bow and arrow only are allowed. The proposed hunting ordinance for Lake Elmo states that a map will be provided to designate these two areas as well. Currently, the proposed Approved Hunting Areas Map shows areas that have been found to be at least 500 feet away from a structure (as viewed from the Washington County Property Viewer website aerial view) and not located in a Public Facilities zoning district. This reflects the specific language in the ordinance that prohibits the discharge of any weapon within 500 feet of a platted area or structure. The map does not designate areas in which hunting with a bow and arrow only are allowed. If the Council wishes to establish areas in which hunting with a bow and arrow only are allowed, it needs to determine what criteria needs to be met in order to allow this so that the map can be properly amended to reflect this criteria.

As previously mentioned, the proposed Approved Hunting Areas Map shows areas that were found to be appropriately zoned and not shown to be located within at least 500 feet of a structure. Minnetrista's Hunting Zones Map, attached, does not designate specific areas that are at least 500 feet away from structures, but instead restricts hunting in more dense areas (Residential, R-1, R-2, etc.), allows hunting with a bow and arrow in areas with bigger lots and more open space, and allows hunting with a shotgun or bow and arrow in areas that are agriculturally zoned with parcels upwards of 40 acres in area. The Council should decide if it chooses to adopt a map that specifically shows areas that are appropriately zoned and not within 500 feet of a structure or a map that simply designates areas in which hunting would be appropriate with the stipulation that hunting with a shotgun within 500 feet of a structure inhabited by a human or livestock is prohibited unless authorized by written permission of the property owner as state statute dictates.

If the Council feels that the proposed Approved Hunting Areas Map is appropriate, it should adopt it by resolution by approving the attached Resolution 2016-142. If this is so determined, the Council should also consider adopting the attached Alternative Ordinance 08-142 (the redlined version of the ordinance) so that the ordinance does not lead one to believe that there are areas in the city in which one cannot hunt with a shotgun but can hunt with a bow and arrow only.

FISCAL IMPACT:

The proposed hunting ordinance will likely lessen the number of complaints taken by City Staff pertaining to illegal hunting and may eliminate costs associated to enforcement.

OPTIONS:

The City Council may approve or deny approval to the hunting ordinance.

RECOMMENDATION:

Staff respectfully requests, as part of tonight's consent agenda, that the Council approve Ordinance 08-142 as it pertains to hunting in the City of Lake Elmo, Section 300.15; Resolution 2016-55, approving summary publishing of the ordinance; and Resolution 2016-___, adopting the Approved Hunting Areas Map. If removed from the Consent Agenda, the recommended action can be completed through the following motions:

1. *“Move to approve Ordinance 08-142 as it pertains to hunting in the City of Lake Elmo, Section 300.15.”*
2. *“Move to approve Resolution 2016-55 approving the summary publishing of Ordinance 08-142.”*
3. *“Move to approve Resolution 2016-__ adopting the Approved Hunting Areas Map.”*

ATTACHMENTS:

- 1) Ordinance 08-142.
- 2) Alternative Ordinance 08-142 (redlined version).
- 3) Draft Approved Hunting Areas Map.
- 4) Resolution 2016-55 approving the summary publishing of ordinance 08-142.
- 5) Resolution 2016-___ adopting the Approved Hunting Areas Map.
- 6) Minnetrista Hunting Ordinance and Map