



REPORT TO CITY PLAN COMMISSION

Plan Commission Meeting Date: February 24, 2014

Common Council Meeting Date: March 19, 2014

Item: Zoning Ordinance Text Amendment –Section 23-101(b) NC Nature Conservancy District - Delete Bow Hunting for Deer as a Principal Permitted Use in the NC Nature Conservancy District.

Case Manager: Don Harp

STAFF ANALYSIS

Background: On December 12, 2013, Assembly Bill 8 was enacted. The Assembly Bill amended Wis. State Statute 29.038(3)(b). The amended statute now states that a local government unit may not enact or adopt a restriction that prohibits a person from hunting with a bow and arrow or crossbow within the jurisdiction of that local governmental unit. However, the local governmental unit may prohibit a person from hunting within 100 yards of a permanent structure used for human occupancy on another person's land unless the person has permission from the person who owns the land on which the building is located and the governmental unit may also require the hunter to discharge the arrow or bold from the weapon towards the ground.

As a result of this amendment, the City's Zoning Ordinance must be amended to comply with the new state statute. The current Zoning Ordinance expressly lists "Bow hunting for deer" in the NC Conservancy District as a principal permitted use and prohibits "Bow hunting for deer" in all other zoning districts. Deleting "Bow hunting for deer" as a principal permitted use in Section 23-101(b) NC Conservancy District, will allow City Zoning Ordinance to be consistent the Wisconsin State Statutes and other City Ordinances such as the proposed amendments to Section 10-2 of the Municipal Code relating to hunting with a bow and arrow or crossbow. (See attached) Hunting with a bow and arrow or crossbow will be regulated pursuant to Section 10-2 of the Municipal Code.

PROPOSED ZONING TEXT AMENDMENTS

- The text recommended to be deleted is ~~strikethrough~~.

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Sec. 23-101. NC nature conservancy district.

(b) *Principal permitted uses.* The following uses are permitted within the NC nature conservancy district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None. 	<ul style="list-style-type: none"> • Bicycle or hiking trails. • Dams, power stations, transmission lines. • Fishing. • Harvesting of wild crops such as marsh hay, mushrooms, moss, berries, fruit trees and tree seeds. • Management of forestry and fish. • Public or private parks which provide passive recreation pursuits. • Water pumping and storage facilities. • Bow hunting for deer. 	<ul style="list-style-type: none"> • None.

Technical Review Group Report (TRG): This item was reviewed at the February 11, 2014, Technical Review Group meeting. No negative comments were received from participating departments.

RECOMMENDATION PENDING PUBLIC HEARING TESTIMONY:

The proposed text amendment to Section 23-101(b) NC Nature Conservancy District, Principal Permitted Uses as identified in this memorandum, **BE APPROVED.**



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0582/1
RNK:wlj:rs

2013 ASSEMBLY BILL 8

February 1, 2013 - Introduced by Representatives KLEEFISCH and T. LARSON, cosponsored by Senators KEDZIE and S. FITZGERALD. Referred to Committee on Natural Resources and Sporting Heritage.

1 **AN ACT to renumber and amend** 29.038 (3); **to amend** 29.301 (1) (b) and 29.301
2 (1) (c); and **to create** 29.038 (3) (b) of the statutes; **relating to:** restrictions on
3 hunting within a specified distance of hospitals, sanatoriums, or school grounds
4 and restrictions imposed by local governmental units on hunting with a bow
5 and arrow or crossbow.

Analysis by the Legislative Reference Bureau

Current law generally prohibits a local governmental unit from enacting or adopting any ordinance or restriction (restriction) that regulates hunting, fishing, trapping, or management of wild animals except on land the local governmental unit owns or leases or unless state law specifically authorizes the local governmental unit to enact or adopt such restriction. Current statutes also specify that a local governmental unit may enact or adopt a 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 bill provides, with an exception, that a local governmental unit may not enact or adopt a restriction that prohibits hunting with a bow and arrow or crossbow within the jurisdiction of that local governmental unit. Under the exception provided in the bill, a local governmental unit may prohibit a person from hunting with a bow and arrow or crossbow within a specified distance, not to exceed 100 yards, of a building used for human occupancy that is located on another person's land. The bill specifies that the enacted or adopted restriction must provide that it does not apply

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if the person who owns the land on which the building is located allows the hunter to hunt with a bow and arrow or crossbow within the specified distance of the building.

Under current law, no person may hunt within 1,700 feet of a hospital, sanatorium, or the grounds of a school. This bill specifies that this prohibition applies only to a person who is hunting with a firearm.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 29.038 (3) of the statutes is renumbered 29.038 (3) (a) and amended
2 to read:

3 29.038 (3) (a) ~~A~~ Except as provided in par. (b), a local governmental unit may
4 enact an ordinance or adopt a regulation, resolution or other restriction that has an
5 incidental effect on hunting, fishing or trapping, but only if the primary purpose is
6 to further public health or safety.

7 **SECTION 2.** 29.038 (3) (b) of the statutes is created to read:

8 29.038 (3) (b) 1. In this paragraph:

9 a. "Building" means a permanent structure used for human occupancy and
10 includes a manufactured home, as defined in s. 101.91 (2).

11 b. "Restriction" means an ordinance, regulation, resolution, or other restriction
12 enacted or adopted by a local governmental unit.

13 2. Except as provided in subd. 3., a local governmental unit may not enact or
14 adopt a restriction that prohibits a person from hunting with a bow and arrow or
15 crossbow within the jurisdiction of that local governmental unit.

16 3. A local governmental unit may enact or adopt a restriction prohibiting a
17 person from hunting with a bow and arrow or crossbow within a specified distance,
18 not to exceed 100 yards, from a building located on another person's land. A
19 restriction enacted or adopted under this subdivision shall provide that the

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1 restriction does not apply if the person who owns the land on which the building is
2 located allows the hunter to hunt within the specified distance of the building.

3 **SECTION 3.** 29.301 (1) (b) of the statutes is amended to read:

4 29.301 (1) (b) No person may hunt with a firearm within 1,700 feet of any
5 hospital, sanatorium or the grounds of any school. The department may designate
6 the form for or furnish signs designating the restricted area. No person may be
7 convicted of a violation of this paragraph unless the restricted area is designated by
8 the signs.

9 **SECTION 4.** 29.301 (1) (c) of the statutes is amended to read:

10 29.301 (1) (c) Notwithstanding par. (b), this subsection does not prohibit
11 hunting with a firearm in a school forest if the school board allows hunting with a
12 firearm under s. 120.13 (38).

13

(END)



LEGAL SERVICES DEPARTMENT

Office of the City Attorney

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TO: Members of the Safety and Licensing Committee

FROM: Stacy Doucette, Assistant City Attorney

DATE: January 23, 2014

RE: Bow Hunting within the City Limits

On December 12, 2013, Assembly Bill 8 was enacted. The Assembly Bill amended Wis. State Statute § 29.038(3)(b). The amended statute now states that a local governmental unit may not enact or adopt a restriction that prohibits a person from hunting with a bow and arrow or crossbow within the jurisdiction of that local governmental unit. However, the local governmental unit may prohibit a person from hunting within 100 yards of a permanent structure used for human occupancy on another person's land unless the person has permission from the person who owns the land on which the building is located and the governmental unit may also require the hunter to discharge the arrow or bolt from the weapon towards the ground.

As a result of this amendment, the City's ordinance must be amended to comply with the amended state statute. Attached is a draft of the recommended language. The previous permitting process must be eliminated. In addition, the recommended ordinance does contain both prohibitions that are allowed by the amended state statute; however, these prohibitions can be eliminated or the distance from the buildings can be modified. However, the distance can't exceed 100 yards.

Please feel free to contact me at 832-1580 if you have any questions or comments prior to the next Safety and Licensing meeting.

James P. Walsh
City Attorney

Ellen Totzke
Deputy City Attorney

Christopher R. Behrens
Assistant City Attorney

Stacy Doucette
Assistant City Attorney

Sec. 10-2. Discharge of dangerous weapons.

A. It is unlawful for any person, except a sheriff, constable, police officer or their deputies, to fire or discharge any firearm, rifle, spring or air gun of any description or tipped arrow within the City, ~~or to have any firearm, rifle, spring or air gun in his possession or under his control unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container.~~

B. Exceptions. Subsection A shall not apply to any of the following:

1. The maintenance and use of duly supervised rifle or pistol ranges or shooting galleries or archery ranges approved by the Chief of Police.
 2. ~~Any person who receives a permit from the Chief of Police allowing or permitting the person to hunt deer in a NC Nature Conservancy District.~~
2. Hunting with a Bow and Arrow or Crossbow.
 - (a) Hunting is not permitted within the City of Appleton except with a bow and arrow or crossbow. Hunting does not include target practice.
 - (b) It shall be unlawful for a person to hunt with a bow and arrow or crossbow within a distance of one hundred (100) yards from any permanent structure used for human occupancy on another person's land. This restriction shall not apply if the person who owns the land on which the building is located allows the hunter to hunt with a bow and arrow or crossbow within the specified distance of the building.
 - (c) When hunting with a bow and arrow or crossbow, a person shall shoot or discharge the arrow or bolt from the respective weapon toward the ground.
 - (d) When hunting with a bow and arrow or crossbow, no person shall shoot or discharge the arrow or bolt from the respective weapon in a manner that may endanger the life, limb or property of another or will traverse any part of any street, alley, trail, public grounds or parks.
 - (e) It shall be unlawful for a person to hunt on any portion of land owned or leased by the City of Appleton.
 - (f) When hunting with a bow and arrow or crossbow, a person shall follow all Wisconsin state statute and DNR regulations pertaining to bow hunting.

~~B. Hunting within the City Limits.~~

~~1. Permits.~~

- ~~i. The Chief of Police or designee is authorized to issue hunting permits.~~
- ~~ii. Only the owner of the designated property or persons with the owner's written permission shall be eligible to receive a permit to hunt.~~
- ~~iii. Permits under this subsection shall only apply to the hunting of deer.~~
- ~~iv. Permits shall only be issued for hunting with a bow and arrow. Crossbows are allowed according to Wis. State Statute 29.171.~~
- ~~v. A copy of a state archery license, valid deer tag, a certificate of archery proficiency and a \$30.00 application fee shall accompany the application for a permit.~~

~~vi. Hunting shall only be by the person listed on the permit.~~

~~vii. Permits are not transferable.~~

~~viii. No permits shall be issued to any person under the age of eighteen (18).~~

~~ix. Permits shall be issued for the same time period established by the Department of Natural Resources (DNR) for the bow-hunting deer season.~~

~~x. The police department may immediately revoke a permit if a hunter violates any part of this ordinance. Upon revocation of the permit, the permittee may appeal the decision to the Safety and Licensing Committee.~~

2. Requirements.

~~a. When hunting, persons shall at all times carry valid photo identification, a copy of the City permit and the state archery license.~~

~~b. No arrow or other object used to hunt deer pursuant to the City permit may be discharged or projected at such an angle or distance as to land on public or private property not described in the permit.~~

~~c. No arrow or other object may be discharged from or projected onto or over any park, bicycle trail or hiking trail within a NC Nature Conservancy District.~~

~~d. The person shall follow all state statute and DNR regulations pertaining to bow hunting.~~

C. Penalties.

Any person that violates any of the provisions of this section may be subject to a forfeiture of no more than five hundred dollars for the first offense and no more than one thousand dollars for the second and subsequent offenses. Each day that a violation occurs shall be considered a separate offense.