City of Afton

CITY COUNCIL WORK SESSION AGENDA

AFTON CITY COUNCIL CHAMBERS
3033 St. Croix Trail South

Thursday, April 25, 2019
At 5:00 p.m.

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **APPROVAL OF AGENDA** – April 25, 2019 Council Work Session

4. **CITY COUNCIL BUSINESS**

   A. Ordinance Regarding the Discharge of Firearms
   B. Snow Plowing Contract
   C. River Road Sewer Line Replacement Planning
   D. Septic System Inspection Program
   E. Accounting Services
   F. Financial Review

5. **Adjourn**

A quorum of one or more City commissions or committees may be present to receive information at this meeting

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date April 25, 2019

Council Memo

To: Mayor Palmquist and Members of the City Council

From: Ron Moorse, City Administrator

Date: April 18, 2019

Re: Ordinance Regarding Discharge of Firearms on Small Lots

At its April 16 regular meeting, the Council agreed that it would review and discuss the revised draft Discharge of Firearms ordinance prepared by Richard Bend and Council member Wroblewski and the initial draft ordinance prepared by staff, as well as the comments received from the public at the Council meeting, as the basis for developing a proposed ordinance for public feedback at a public hearing at the May 21 Council meeting. The revised draft ordinance and the initial draft ordinance are attached.

An outline of the comments received from the public is as follows:

- The ordinance should not conflict with State Statutes
- The ordinance should not prohibit buckshot
- The ordinance should not prohibit shooting/hunting within 1,000 feet of a house, etc. That would prevent hunting on a 10-acre lot. The distance should be 500 feet, which is the same as State Statute.
- Require non-lead ammunition

Ordinance Review Process

From an overall perspective, the key element of the ordinance is the prohibition of discharge of a firearm on lots of less than 5 acres. This restriction addresses a number of concerns that are not addressed by the DNR's hunting regulations. The other element of the ordinance, that can become complex, is the regulation of shooting/target shooting.

Staff recommends the ordinance review process begin with a review of the revised draft ordinance developed by Richard Bend and Council member Wroblewski to decide which provisions to keep, which provisions to remove and which provisions to revise. Then the initial draft ordinance prepared by staff can be reviewed to determine if any provisions in that ordinance should be added to the revised draft ordinance.

Use/Discharge of Firearms

Sec 14-1

Nothing contained in this section shall control the use of firearms for self defense which shall be solely controlled by applicable Minnesota statutes.

Firearm – definition – A "firearm" is defined as any gun from which any projectile is discharged or propelled by means of an explosion, excluding devices used exclusively for the firing of stud cartridges, explosive rivets, or similar industrial apparatus, instruments, or equipment used by construction personnel, licensed physicians or veterinarians in the course or scope of their professions.

It is unlawful for any person to discharge any firearm in Afton in any place or manner so as to endanger any person or property.

It is unlawful for any person to discharge a firearm on any parcel of less than 5 acres in size, in any city park, on any school property, or in any property located in an area zoned commercial or industrial.

On lots of five acres or more, firearms may not be discharged:

1. Except by the landowner and his/her immediate family in residence on the property or in the presence of the landowner or lessee of the land, or with the written permission of the landowner or lessee of the land. The person authorized to hunt/shoot must have in their possession the written permission which must include the full name, address, phone number and signature of the landowner or lessee as well as the full name of the person given permission to hunt or shoot.
2. Within 1000 feet of any residence or accessory building on a parcel under separate ownership from the parcel on which the firearm is discharged.
3. Before 0900 am or after one-half hour before sunset, except when hunting game or non-game animals in compliance with MN statutes.

No firearm shall be discharged in a manner reasonably expected to cause a projectile to cross the boundary of a parcel not under common ownership with the parcel from which the projectile is fired.

No discharge of a firearm firing a single projectile shall take place except in locations having in place natural or manmade ground contours, berms, steel plate with sand trap, fiber containment profile or other device designed to reasonably ensure that any projectile fired from the firearm type used is contained within the property boundaries.

No shells containing buck shot may be discharged in Afton.

The number of rounds discharged from a firearm on a parcel, or on two or more parcels of land under common ownership, shall not exceed (20-50, a choice somewhere within this range seem reasonable) rounds per day. With the exception of hunting, firearms shall not be discharged on a parcel, or two or more parcels of land under common ownership, on more than one day per calendar week.

It is unlawful to discharge a firearm while under the influence of alcohol or a controlled substance.

Individuals discharging firearms must be adults or under the direct supervision of a responsible adult.

It is unlawful to discharge a firearm across or within the right of way of any public roadway or highway.

Ron,

Our former Mayor, Richard Bend, was gracious enough to spend three hours with me parsing through the material you compiled. These are the items we thought would be the best ideas for the CC and Mayor to take under consideration. We both agreed that public input is important even though we anticipate that there will be strong and divergent views expressed. In terms of figuring out what would be appropriate for our city, in terms of brokering reasonable compromises where they can be achieved, and in terms of hearing from folks with expertise, experience or concerns regarding this issue, the public input would in our opinion help the CC and Mayor work out - in transparency - the best ordinance and help us all figure out what are the most important and overriding considerations and hopefully draft a good ordinance that reflects those considerations.

In our ordinances under 12-134 GUN RANGE is a use NOT ALLOWED ANYWHERE in our city. It is undefined in our definition section. Wikipedia defines a shooting, firing, gun range as a specialized facility designed for firearms qualification, training, and practice. Leaving it undefined is fine by us right now. Then we don't have to deal with private vs commercial and what exactly we would define as target shooting or a target range which is not something we have to get into and could cause more problems.

Richard and I specifically did not use the terms target shooting or target range in our ordinance language. We stuck with language that only spoke to the discharge of firearms and stayed away from "target shooting" language.

We both also agree that our noise ordinance is problematic and needs to be revamped. It is really unenforceable in our view but on this firearms ordinance issue we are only dealing with this firearms noise situation and we felt that limiting the number of rounds and/or duration and/or number of days a week were the best ways to limit people and prevent them from running their own private ranges and creating disturbances, noise problems and becoming a nuisance to their neighbors and other residents. We decided that 20-50 rounds (to be determined by the CC and Mayor) and one day per calendar week (Sun – Sat) might be a decent compromise. It is also clearly measurable and enforceable in terms of folks being able to record such things easily. This would allow people to sight in their firearms, to clean and check their operation, and do some minimal target shooting. If people feel the need to target shoot there are private indoor and outdoor target ranges in existence and available for exactly that purpose.

This prohibition on use of buckshot allows for bird shot but nothing larger.

The 1000-foot setback from any residence or accessory building on a lot separate from the one shooting from - as well as the provision that states the firearm projectile should not reasonably be expected to cross the boundary line - create some measure of safety and places responsibility on the person to check the downrange buildings and parcel boundaries. It would provide clarity and a measurable way for people to determine whether their parcel is one in which a firearm can be legally and safely discharged.

If the setbacks, boundary lines, and safe backstops are not present on the parcel it is one in which the discharge of firearms is not allowed. This may eliminate a number of 5-acre rural residential lots from the group of such parcels where discharge of firearms would be allowed but again this would be a safety issue and for good reason.

Obviously we would want Fritz to review this and let us know if this is all legit and enforceable for the most part – and if the language is right.

Lucia

Sec. 14-1 Use, Discharge of Firearms

- It is unlawful for any person to discharge any firearm* or controlled weapon** in any place or manner so as to endanger any person or property even if no injury or damage results.
- It is unlawful for any person to discharge any controlled weapon** in any residentially zoned area with lots less than 5-acres in size, or in any city park, on any school property, or in any developed business, commercial or industrial area.
- No firearm shall be discharged in the City of Afton on any lot that is smaller than five acres.
- On lots of five acres or more, firearms may not be discharged:
  1. Except by the landowner and his immediate family in residence on the property or another person with the landowner's written permission on his/her person,
  2. Within 1000 feet of a building occupied by humans or livestock on a parcel or parcels under separate ownership from the parcel on which the firearm is discharged.
  3. Before 9:00 am and after one-half hour before sunset, except when hunting game or non-game animals in compliance with Minnesota statutes.
- Discharge of firearms shall also be subject to the following restrictions:

  1. No firearm firing a single projectile shall be discharged in a manner reasonably expected to cause a projectile to cross the boundary of a parcel not under common ownership with the parcel from which the projectile is fired.
  2. No target practice with a firearm firing a single projectile shall take place except in locations having in place natural or manmade ground contours, berms, steel plate with sand trap, fiber containment profile or device designed to reasonably ensure that any projectile fired from the firearm type used is contained within the property boundaries.
  3. Target practice with a forearm is not allowed if it creates noise that is distinctly and loudly audible so as to disturb the peace, quiet, and comfort of any person nearby and/or that interferes unreasonably with the enjoyment of life or property.
  4. Individuals discharging firearms must be adults or under the direct supervision of a responsible adult.
- It is unlawful in areas where the discharge of firearms is not allowed for any person on property not their own to possess, carry, or have under their control any firearm* except:

  1. To carry it between a residence or place of business and a vehicle for transportation in accordance with state law; or
  2. To carry it between a vehicle and a gun dealer or gunsmith shop

- In areas where the discharge of a firearm is allowed, it is unlawful to discharge any firearm* other than a shotgun. The maximum size shot that may be used in such designated areas is a No. 2 steel shot or smaller, or a No. 4 lead/Bismuch/tungsten/Hevi-Shot or smaller (smaller shot sizes smaller actually go up in numbers, i.e., shot 5, 6, 7, 8). The use of appropriate shot is also dictated by Minnesota Department of Natural Resources regulations. The use of shotgun slugs is prohibited. The City, through the Washington County Sheriff's Department, may grant a limited permit to allow the discharge of a firearm* other than a shotgun or a shotgun with slugs for target shooting, or for a reasonable need. (See "Permits" below)

- It is unlawful for any person to possess, carry, or have under their control any firearm* upon the land of another without written permission, or be in the presence of, the landowner or lessee of the land. The person authorized to hunt/shoot must have in their possession the written permission. Written permission must be dated and include the following: the full name, address, date of birth, phone number, and signature of the person authorized to hunt or shoot on identified land; and the full name, address, phone number and signature of the landowner or lessee.
- It is unlawful for any person to possess, carry, or have under their control any controlled weapon** upon the land of another without the written permission, be in the presence of, or have the oral permission of the landowner or the lessee of the land. If the permission is oral, the person must be able to provide immediately the name, address and phone number of the owner or the lessee from which the permission was obtained. If requested, written verification of the oral permission must be produced within 72 hours.
- It is unlawful to hunt under the influence of alcohol or a controlled substance.
- It is unlawful to discharge a firearm* or controlled weapon** across or within the right of way of any public roadway or highway.
- A limited permit is not valid unless it is signed and dated by a Washington County Sheriff's Department representative and in the possession of the authorized person(s) while in the field and at the time of contact.
- It is unlawful to use a controlled weapon**, or discharge a firearm* or controlled weapon**, in any area where the discharge of a firearm is prohibited, without a permit therefore issued by the Washington County Sheriff's Department upon showing of reasonable need.
- Permits

1. **Occasional up to 15 days.**

Occasional permits valid for a period of 15 days or less may be granted to persons for target shooting.

2. **Occasional up to 120 days.**

A. For control of pests in commercial or agricultural situations, permits may be granted up to a maximum of 120 days as established by the city administrator to persons meeting all the following criteria:
B. For control of pests, vermin, rodents or other animal nuisances, such as deer hunting by bow and arrow during appropriate season, or other animals that are a demonstrated nuisance.
C. Where there are no other appropriate methods available.
D. Demonstrated need for a longer duration of time, such as length of game season or protection of crops during the growing season.

E. The use of bow and arrow under this section will be allowed on an occasional basis to remove problematic animals, including game animals, subject to the following circumstances:

1). There is a demonstrated nuisance of that animal to the property owner.

2). The property owner has specifically given written permission to a hunter, and that hunter has the appropriate state hunting permit.

3). That no discharging is to be done within 100 feet of any property line, within 100 feet of any buildings and within 200 feet of any livestock.

4). Discharge for purposes of this section shall only be done from an elevated stand that is a minimum of four feet off the ground.

5). Can only be done during the appropriate season.

6). The hunter receives no compensation for the removal service apart from the retention of animals killed.

* A "firearm" is defined as any gun from which any projectile is discharged or propelled by means of an explosion, excluding devices used exclusively for the firing of stud cartridges, explosive rivets, or similar industrial apparatus, instruments, or equipment used by construction personnel, licensed physicians or veterinarians in the course or scope of their professions.

** "Controlled weapon" is defined as a gun, or any mechanical device from which a shot or projectile is discharged by means of gas, compressed air, or any other mechanical means capable of launching said projectile or arrow and includes, but is not limited to, pellet and BB guns, archery bows, crossbows, wrist rockets, slingshots and paint ball guns.

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Meeting Date April 25, 2019

Council Memo

To: Mayor Palmquist and Members of the City Council

From: Ron Moorse, City Administrator

Date: April 18, 2019

Re: Snow Plowing Contract

The City has contracted with Tri County for snow plowing services for thirteen years. After the initial 3-year contract, the contracts have had a five-year term. The five year term enables the hourly rate to be locked in for five years, and enables the contractor to plan for capital equipment purchases necessary to provide the service. The most recent 5- year contract recently expired. The City now has the option of entering into a new 5-year contract with Tri County or requesting proposals from other providers.

Cost Comparison

Tri County's current hourly rate for snowplowing is $85 per hour. This rate was set at the beginning of the most recent 5-year contract. They have proposed an hourly rate of $95 per hour for a new 5-year contract. In surveying contracted hourly rates for other small cities, the $95 per hour rate is at or below rates being paid by other cities. Tri County currently charges $95 per hour for the Cities of Lake St. Croix Beach and Lakeland, and will increase the rate to $105 per hour when their contracts are extended in 2019 and 2020 respectively. Tri County currently charges $100 per hour to the City of St. Mary's Point, and will increase their rate to $105 per hour when the contract is extended. Tri County also charges $100 per hour to Denmark Township. Another snow plowing contractor provides snowplowing services to West Lakeland Township, May Township, Stillwater Township and Oak Park Heights. They are currently charging an hourly rate of $100 for a pick-up and plow and $108 for a full-sized truck and plow.

Service Quality

Tri County provides quality service and is dependable, responsive and flexible. They have been cooperative in investigating new ice control options that could significantly reduce the cost of salt/sand.

Contract Update

Other than a new hourly rate, the only element in the contract recommended for revision is the language regarding damage to mailboxes. The contract currently provides that if a plow hits and damages a mailbox, the contractor will replace the mailbox or pay $40 to the property owner to purchase and install a new mailbox. This amount is not sufficient to cover the actual costs. Staff is recommending increasing that amount and/or revising the language to require property owners whose mail box is damaged to install a swing-away mailbox that would be provided at a discounted cost. This would avoid damage in the future. If the property owner does not install a swing-away mailbox, any future damage would not be remedied by the contractor or the City. This is similar to the Washington County policy. Washington County buys swing-away mailboxes and sells them at a discount to property owners.

Public Works Committee Recommendation

The Public Works Committee is recommending the City enter into an additional 5-year contract with Tri County with the $95 hourly rate.

Contract Extension

If the Council is in agreement regarding the extension of the contract with Tri County, staff will prepare an updated contract for the Council's consideration.

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Council Memo

To: Mayor Palmquist and Members of the City Council

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Re: River Road Sewer Line Replacement Planning

The City Engineer is in the process of preparing a design and bid package for the River Road Sewer Replacement project. The City Engineer will attend the work session to present information regarding the design and the bid package.

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To: Mayor Palmquist and Members of the City Council

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Date: April 18, 2019

Re: Septic Inspection Program

The protection of groundwater is important for numerous reasons, one of which is that it is essential to Afton's rural philosophy that involves development with private wells for all lots. Afton's rural philosophy also involves private septic systems for each lot. An important element of groundwater protection is the proper functioning of private septic systems. Neither the County nor the City has a program of locating and inspecting septic systems to ensure they are compliant with current regulations and are functioning properly, with the exception of a point of sale inspection or at the time of a substantial addition to a house. A significant percentage of septic systems in the County have not been located or identified to enable a determination to be made regarding their compliance and functioning. Staff is recommending the Council begin to consider and explore the benefits of, and options for, a septic inspection program, including discussions with Washington County.

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To: Mayor Palmquist and Members of the City Council

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Date: April 18, 2019

Re: Accounting Services

Staff is waiting to receive a proposal from the second additional accounting firm that was identified by Tom Niedzwiecki. If the proposal is received prior to the work session, it will be provided to the Council for review at the work session. The timing of interviews can then also be discussed.

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To: Mayor Palmquist and Members of the City Council

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Date: April 18, 2019

Re: Financial Review

Staff is in the process of working with the City Accountant and City Engineer to prepare information for a review of several finance items, including an explanation of the planned funding for the Downtown Village Improvement Project funding gap and the payoff of the temporary bonds in April of 2020, as well as funding for the River Road Sewer Line Replacement Project. This information will be provided by Monday, April 22.