CITY OF PRESCOTT

MEETING NOTICE
ORDINANCE COMMITTEE
MONDAY, JULY 11, 2016
5:30 P.M.
PRESCOTT MUNICIPAL BUILDING
800 BORNER ST.
PRESCOTT, WI 54021
Website: prescottwi.org

1. Call to Order
2. Roll Call
3. Approve minutes for May 9, 2016
4. Ordinance 453-3 Firearms; hunting; archery; explosive; projectiles
5. Chronic Nuisance Ordinance
6. Other Business
7. Adjourn

NOTICE
ACCESS TO THE MUNICIPAL BUILDING FOR THE DISABLED IS AVAILABLE THROUGH THE MUNICIPAL BUILDING PARKING LOT ENTRANCE. ALL THOSE WITH SPECIAL NEEDS SHOULD CALL CITY HALL OFFICES (715-262-5544) IF ASSISTANCE IS REQUIRED.

CITY OF PRESCOTT, WISCONSIN
MAY 9, 2016 ORDINANCE COMMITTEE MEETING MINUTES

Pursuant to due call and notice thereof, a meeting of the Ordinance Committee was held Monday, May 9, 2016 at the Municipal Building, 800 Borner St. Prescott, WI 54021

Meeting called to order at 5:30 p.m. Members present were Jack Hoschette, Maureen Otwell and Galen Seipel. Public Works Director/Zoning Administrator Hank Zwart and City Administrator Jayne Brand represented staff.

Otwell/Hoschette motion to approve the minutes for March 7, 2016 passed without a negative voice vote.

The committee discussed ordinances regarding traffic visibility triangles. Ordinance 635-54 regarding traffic visibility triangle describes the boundaries from the intersection of the paved street boundaries at the corner. Chapter 510 describes the intersection of right-of-way lines. City staff is looking for direction which ordinance to use. Kate and Dan Arnal of 404 Orange Street also would like clarification as they have a fence which is supposedly within the vision triangle and is four feet tall. Dan Arnal stated there had been a fence there and he removed it without having a permit for a new fence. If the Zoning Administrator had seen where the fence had been and one of the fence posts had been left the fence could possibly have gone back in the same place. Arnal stated he replaced the fence with a vinyl fence rather than wood and went from three feet to four feet. City Administrator Jayne Brand reminded the committee the ordinance is for all of the city and not just one property. Alderperson Otwell agreed stating if we make exceptions then we might as well not have ordinances. Alderperson Hoschette stated he would be in favor of allowing them to leave the fence. He stated they are making improvements to their property. Zwart reminded the committee they can have a fence in the vision triangle but it could not be taller than 2 ½ feet. Alderperson Seipel stated he believes the ordinance using the paved surface should be used. He feels both ordinances are okay as the ordinance using the right-of-way lines is for trees and street lights and new subdivisions. Ordinance committee left the issue with the ordinances are okay. City staff will measure again using the paved road surface. It was suggested Plan Commission could review the issue.

Ordinance committee reviewed Ordinance 506-11 Snow and ice removal section C. prohibited placement. The committee felt the ordinance explains how the snow should be handled. They would like a letter sent to David Petersen letting him know they reviewed the ordinance and the ordinance will stand.

Hoschette/Otwell motion to remove the word "Commercial" from Article II of Chapter 443 Property maintenance passed without a negative voice vote.

Ordinance committee reviewed property maintenance ordinance from another community and staff was given permission to incorporate some of the language into our current property maintenance ordinance.

Otwell/Hoschette motion to adjourn passed without a negative voice vote.

Respectfully Submitted,

Jayne M. Brand
City Administrator

Jayne Brand

From: David Palme <royaltygold@centurytel.net>
Sent: Wednesday, July 06, 2016 11:19 AM
To: Jayne Brand
Subject: RE: Chapter 435-3 Firearms;hunting;archery; etc.

Wednesday, July 06, 2016

Hello Jayne,

Back on Tuesday, December 15, 2015 I sent you an email regarding section E of Chapter 435-3 Firearms; Hunting; Archery; etc., see email below.
In addition in expressing my concerns to you, I also address them to Hank Zwart back on back on February 09, 2016.
My neighbor next door and their kids have been shooting arrows (archery) since November, 2015.
As I stated last December, if city permits such activities, who is reliable for both liability and property damages?
Recently, I found an arrow in my back yard along with a dead bird. If there is a connection between the dead animal and arrow, I don't know.
Nevertheless, my concerns are arrows landing in my yard.
Chapter 435-3; section E; Firearms; Hunting; Archery needs to be change and abolish Archery all together.
I should not have to worry about property damages and bodily injury issues.
If this continues, I will be force to seek legal actions.
So, I would appreciate your attention in addressing this issue and abolish archery from chapter 435-3, section E.

Sincerely,

Dave Palme

From: Jayne Brand [mailto:jbrand@prescottcity.org]
Sent: Tuesday, December 15, 2015 12:55 PM
To: David Palme
Subject: RE: Chapter 435-3 Firearms;hunting;archery; etc.

Dave,

I would like to share your questions with the Ordinance Committee unless there is an urgent problem. If there is a problem please let me know so we can address it now.

Thanks,

Jayne M. Brand
City Administrator
800 Borner St.
Prescott, WI 54021
715-262-5544
715-262-5764 fax

From: David Palme [mailto:royaltygold@centurytel.net]
Sent: Monday, December 14, 2015 4:02 PM
To: Jayne Brand
Subject: Chapter 435-3 Firearms;hunting;archery; etc.

Hello Jane,

Recently I was reviewing the general information on backyard archery, section E of Chapter 435. In section E, target shooting of bows and arrows shall be permitted at City-approved archery range only, and archery practice shooting on private property is permitted if the following requirements are complied with:

- Archers under the age of 18 years old must be certified by a Hunter's Safety Course or other recognized safety training program to qualify for a permit and be supervised by an adult permit holder when shooting.
- All shooting will be directed downwards towards an approved structure on the permit holder's property, and not shoot towards adjacent property unless there is a minimum of 150 yards down range, without structures.
- Contiguous property dwellers will be contacted and advised of the applicant's intention to obtain a permit for archery practice on the property.

My questions and concerns are with the rights of contiguous property dwellers, especially of those who would not approve of such practices of shooting on private property.
If contiguous property dwellers are to be contacted, who is responsible for contacting them, and how are they contacted?
If contiguous property dwellers do not agree with the City approval of shooting on private property, what rights do contiguous property owners have in expressing their concerns and grievances?
If land behind property owners is city property, how does that factor in with the city approval or disapproval of such practices?
If permitted, who is reliable for both liability and property damages?
If permitted, who would be responsible for carry and providing proof of Insurance certificate of both liability and property damages?
And if permitted, what would be the minimum limited of insurance to be carried for such private practices?
If permitted, how long are such practices to be permitted?

Thanks,

Dave Palme

City of Prescott, WI
Thursday, July 7, 2016

Chapter 435. Peace and Good Order

Article II. Offenses Against Public Safety and Peace

§ 435-3. Firearms; hunting; archery; explosives; projectiles.

[Amended 5-29-2012 by Ord. No. 08-12; 5-27-2014 by Ord. No. 04-14]

A. Firearms. Subject to § 66.0409(3)(b), Wis. Stats., no person, except a law enforcement officer in the performance of an official duty, shall discharge any firearm within the City. This shall not apply to the children's toys equipped with rubber-tipped arrows, airsoft guns, or target shooting of bows or crossbows inside privately owned buildings with the owner's consent. Target practicing with bows is allowed as permitted by Subsection **E** below. This subsection shall not apply to a starter pistol (blank pistol) used in starting of athletic events, with the approval of the Chief of Police, or his designee, who shall be notified at least 24 hours in advance prior to any such event.

B. Hunting prohibited. Hunting with firearms within the City is prohibited, but the Chief of Police may issue written permits to owners or occupants of private premises to hunt or shoot on such premises if he finds such privileges necessary for the protection of life or property, and subject to such safeguards as he may impose for the safety of the lives and property of other persons within the City of Prescott. In addition, the Common Council may authorize a deer management program in conjunction with the Wisconsin Department of Natural Resources if the Council finds that it is necessary to protect the health, safety and general welfare of the City.

C. Hunting allowed. Hunting with a bow or crossbows within the City is allowed per 2013 Wisconsin Act 71.[1] Hunting with a bow or crossbow must comply with the following restrictions:

   (1) Hunting is prohibited within 100 yards of a building. This restriction does not apply if the person who owns the land on which the building is located allows the hunter to hunt within the specified distance of the building.

   (2) Hunters are required to comply with all Wisconsin Statutes, Rules and Regulations, including the ones listed below.

      (a) Wisconsin Deer Baiting and Wildlife Feeding Regulation.

      (b) Wisconsin Statutes for trespassing.

[1] *Editor's Note: See § 29-038, Wis. Stats.*

D. Shooting into City limits. No person shall in the territory adjacent to the City discharge any firearm in such manner that the discharge shall enter or fall within the City.

E. Backyard archery. Target shooting of bows and arrows shall be permitted at City-approved archery ranges only. Archery practice shooting on private property is permitted if the following requirements are complied with:

(1) Archers under the age of 18 years old must be certified by a Hunter's Safety Course or other recognized safety training program to qualify for a permit and be supervised by an adult permit holder when shooting.

(2) All shooting will be directed downwards towards an approved structure on the permit holder's property, and not shoot towards adjacent property unless there is a minimum of 150 yards down range, without structures.

(3) Contiguous property dwellers will be contacted and advised of the applicant's intention to obtain a permit for archery practice on the property.

F. Shooting ranges. This section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Common Council, upon the recommendation of the Chief of Police, where proper safety precautions are taken.

G. Explosive devices. No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the City without first obtaining a permit to do so from the Common Council.

H. Throwing or shooting of stones or other missiles prohibited.

(1) No person shall throw or shoot any object, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the City.

(2) This subsection shall not apply:

(a) To the shooting or discharging of toy arrows or arrows which have a tip made of rubber or similar material.

(b) To a supervised archery range approved by the Common Council.

(c) Within the interior of a single-family dwelling.

(d) To persons engaged in activities ordinarily and reasonably conducted by participants of recreational or professional games such as playing catch, baseball, tennis, football, soccer, etc., which ordinarily involve throwing or hitting a ball or puck or similar object (but this exception does not apply to any hunting activities).

CHRONIC NUISANCE PREMISES.

(1) Findings. The Prescott Common Council finds that certain premises within the City receive and require more than the general, acceptable level of police services, place an undue and inappropriate burden on City of Prescott taxpayers, and constitute public nuisances. Nuisance activity contributes to the general decay of an affected neighborhood and negatively impacts law-abiding residents in these neighborhoods. The vast majority of properties with chronic nuisance activity are non-owner occupied. This ordinance is enacted to encourage premises owners to recognize their responsibility to ensure that activities occurring on their premises conform to the law and do not unduly burden the City's police resources and to provide a mechanism for the City to take action against premises owners who fail to ensure premises they own do not require a disproportionate level of police resources to be devoted to such premises. This ordinance provides a method for Police to use in a progressive manner when working with property owners to abate nuisance activities occurring on their premises. Therefore, the Common Council determines that the City will charge the owners of such premises with the costs associated with abating nuisance activity at premises where nuisance activities chronically occur. This section is not intended to discourage crime victims or a person in legitimate need of police services from requesting them.

(2) Definitions. For the purposes of this section:

(a) "Chronic Nuisance Premises" means a premises that meets any of the following criteria:

1. Is a Premises which has generated three (3) or more calls for police services that have resulted in Enforcement Action for Nuisance Activities on three (3) separate days within a ninety (90) day period. Three (3) or more calls for police services resulting in Enforcement Action for Nuisance Activities includes Enforcement Action taken against any person associated with the Premises while at or within two hundred (200) feet of the Premises for a Nuisance Activity;
2. Is a Premises for which a Pierce County Court of law has determined that, pursuant to a search warrant request, probable cause exists that manufacture, distribution or delivery of a controlled substance has occurred on or in association with the Premises within thirty (30) days prior to the date of the search warrant application; or
3. Is a Premises which has had one (1) Enforcement Action associated with the Premises resulting from the manufacture, delivery or distribution of a controlled substance(s) as defined in Chapter 961 of the Wisconsin Statutes.

(b) "Chronic Nuisance Premises Notice" means the notice issued by the Chief of Police and referred to in Subsection (3)(a) of this ordinance.

(c) "Enforcement Action" means any of the following: The physical arrest of an individual(s), the issuance of a citation for a law violation and/or referral of charges by the police to the District Attorney for prosecution for Nuisance Activities.

(d) "Nuisance Activities" means any of the following activities, behaviors or conduct:
1. An act of harassment as defined in s. 947.013, Wis. Stats.
2. Disorderly conduct as defined in s s. 947.01, Wis. Stats.
3. Crimes of violence as defined in ch. 940, Wis. Stats.
4. Resisting or obstructing an officer as prohibited by s. 946.41,Wis. Stats.
5. Indecent exposure as prohibited by s. 944.20(1)(b) Wis. Stats.
6. Damage to property as prohibited by s. 943.01, Wis. Stats.
7. The production or creation of noises disturbing the peace, as prohibited by Sec. 435-9
8. Discharge of a firearm as prohibited by Sec. 435-3

9. Crimes involving illegal possession of firearms as defined in ss. 941.23, 941.26, 941.28, 941.29 and 948.60, Wis. Stats.
10. Trespass to land as defined in s. 943.13, Wis. Stats. or criminal trespass to dwelling as defined in s. 943.14, Wis. Stats, or unlawful trespass as prohibited in Sec. 435-26.
11. Theft as defined in s. 943.20, Wis. Stats.
12. Arson as defined in s. 943.02, Wis. Stats.
13. Possession, manufacture, distribution or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.
14. Maintaining a drug dwelling as defined in Sec. 961.42 of the Wisconsin Statutes.

(e) "Person" means any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using property in the City of Prescott.

(f) "Person Associated With" means any person who, whenever engaged in a Nuisance Activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a premises or person present on a premises, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner of a premises.

(g) "Person in Charge" means any person, in actual or constructive possession of a Premises including but not limited to an owner or occupant of Premises under his or her ownership or control.

(h) "Chief of Police" means the City of Prescott Police Department Chief of Police or designee.

(i) "Premises" means a place of abode, a residence, a house or multiple dwelling unit for one (1) or more persons, including lodging houses, hotels, motels and tourist rooming houses, and associated common areas, yards and parking lots. In the case of multiple dwelling units, "Premises", as used in this Section, may consist of any single unit providing complete, independent living facilities for one (1) or more persons, including provisions for living, sleeping, eating, cooking and sanitation.

(3) Procedure.
(a) Upon finding that a Premises meets the definition of a Chronic Nuisance Premises, the Chief of Police may declare the Premises a Chronic Nuisance Premises. The Chief of Police shall provide written notice of his or her determination to the Premises owner identified by the City of Prescott Assessor's records for that Premises. The Chronic Nuisance Premises Notice ("CNP Notice") shall be deemed delivered if sent either by first class mail to the Premises owner's last known address or delivered in person to the Premises owner. If the Premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the Premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age, or a competent adult currently residing there and who shall be informed of the contents of the CNP Notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the CNP Notice is sent by first class mail to the last known address of the owner as identified by the records of the City Assessor. The CNP Notice shall contain the following information:

1. Street address, parcel number or a legal description sufficient to identify the Premises.

2. A concise statement, including a description of the relevant activities supporting the determination that the Premises is a Chronic Nuisance Premises.
3. A statement that the owner shall immediately notify the Chief of Police of any change in address to ensure receipt of future notices.
4. A statement that the cost of future enforcement may be assessed as a special charge against the Premises.
5. A statement that the owner shall, within ten (10) days of receipt of the CNP Notice, respond to the Chief of Police either with an appeal or to propose a written course of action to abate the Nuisance Activities. The Statement shall direct the Premises owner to schedule a meeting with the Chief of Police to discuss the Nuisance Activity and the Premises owner's intent regarding abatement.
6. A statement that the Premises owner shall, when appropriate, consider and implement alternatives to eviction when formulating an abatement plan.
7. A statement that the Premises owner may be subject to a forfeiture action with a penalty of not less than five hundred nor more than one thousand dollars ($1,000) for permitting a Chronic Nuisance Premises and may be subject to imprisonment for failure to pay such forfeiture.

(b) 1. In reaching a determination that a premises is a Chronic Nuisance Premises, activities that were reported to the police by the Premises owner or on-site Premises manager shall not be included as Nuisance Activities.

2. Wis. Stat. § 968.075, broadly defines "domestic abuse". Therefore, in reaching a determination that a Premises is a Chronic Nuisance Premises, activities that are "domestic abuse" incidents pursuant to Wis. Stat. § 968.075, shall not be included as Nuisance Activities unless the incidents have been reviewed by the Chief of Police and a determination is made that, based upon the specific facts of each incident, the activities should be deemed Nuisance Activities under Subsection (2)(d). In determining whether to include such activities, the Chief of Police shall consider the strong public policy in favor of domestic victims reporting alleged abuses, and this ordinance shall not operate to discourage such reports.

3. a. If the owner responds to the CNP Notice pursuant to Subdivision (a) with a nuisance abatement proposal, the Chief of Police may accept, reject or work with the owner to modify the proposal. The plan is acceptable if it can reasonably be expected to result in abatement of the Nuisance Activities described in the CNP Notice within sixty (60) days.

b. Premises owners shall be counseled regarding nuisance abatement methods and strategies and shall be encouraged to submit a comprehensive nuisance abatement plan that considers alternatives to eviction in situations where eviction is not the sole remedy available to abate the nuisance activity.

c. Premises owners shall be counseled regarding use of available resources, including community service providers, when Nuisance Activity associated with the Premises is not caused or contributed to by the direct actions of a tenant.

d. If the Premises owner meets with the Chief of Police and presents an acceptable abatement plan and initiates action to abate the Nuisance Activities occurring on the Premises, the Police Department will delay further enforcement of this ordinance, including cost recovery under Subsection (4)(a).

e. If the Premises owner ceases to cooperate with the efforts to abate the Nuisance Activities, the Chief of Police will reinstitute enforcement of this ordinance and the Premises owner will be sent a Change In Status Letter. This letter will document the Police Department efforts to contact and/or obtain cooperation of the owner.

f. Failure by the Premises owner to respond within ten (10) days as directed in this subdivision shall result in a forfeiture of one thousand dollars ($1,000) plus court costs and fees.
Whenever the Chief of Police determines that any of the following have occurred:
1. A Premises owner has failed to respond to the CNP Notice in Subsection (3)(a), or
2. Enforcement action for an additional Nuisance Activity has occurred at a Premises for which Notice has been issued pursuant to Subdivision (a) and this Enforcement Action has occurred not less than fifteen (15) days after the CNP Notice has been issued, or
3. A course of action submitted pursuant to Subsection (3)(b)3. has not been completed.

Then the Chief of Police may calculate the cost of enforcement to abate this and any subsequent Nuisance Activities and may refer such cost to the Finance Director so that the cost may be billed to the Premises owner.
The Chief of Police shall notify the Premises owner of the decision to refer the cost of enforcement to the Finance Director. Delivery of this notice, along with a copy of the Chief's referral letter to the Finance Director, shall be made as set forth in Subdivision (a). The notice shall contain:
a. The street address or legal description sufficient for identification of the premises.
b. A Statement that the Chief of Police has referred the cost of enforcement to the Finance Director with a concise description of the Nuisance Activities and the relevant sections of the ordinances.
c. Notice of the premises owner's right to appeal pursuant to Subsection (5).
d. Each subsequent incident of enforcement action for Nuisance Activity shall be deemed a separate violation and costs will continue to be assessed pursuant to Subsection (3)(c) until the nuisance is abated.

(4) Penalties and Remedies.
(a) Cost Recovery. The Chief of Police shall keep an accurate account of the cost of enforcement and shall report it to the Finance Director. The Finance Director shall establish a reasonable charge for the costs of enforcement of this section. Upon receipt of a notice from the Chief of Police issued pursuant to Sub. (2)(b), the Finance Director shall charge any Premises owner found to be in violation of this section the costs of enforcement in full or in part. Such costs shall be billed to the Premises owner by invoice sent by regular mail and must be paid within thirty (30) days of the date on the invoice. Any unpaid invoice shall be a lien on such Premises and may be assessed and collected as a special charge pursuant to Wis. Stat. § 66.0627. A one hundred dollar ($100) administrative fee shall be added to the cost of enforcement charged to the benefited premises any time the premises is declared a chronic nuisance premises.
(b) Suspension of Cost Recovery. If after the receipt of a billing notice from the Finance Director, the Premises owner develops an acceptable plan and initiates action to abate nuisance activities occurring on the Premises, the Chief of Police will suspend further enforcement of this ordinance. The Premises owner is still responsible for any enforcement costs incurred prior to the Premises owner's submitting an abatement plan, including the administrative fee. If the Premises owner ceases to cooperate with the efforts to abate the Nuisance Activities, the Chief of Police will reinstitute enforcement of this ordinance after sending the Premises owner a Change In Status letter.
(c) Forfeiture. A forfeiture action may be commenced by the Chief of Police for each Enforcement Action for Nuisance Activity occurring after the Premises has been declared a Chronic Nuisance Premises. The forfeiture shall be not less than five hundred ($500) nor more than one thousand dollars ($1,000) for each enforcement action.

(5) Appeal. Appeal of the determination of the Chief of Police on pursuant to either Subsection (3)(a), or the action of the Finance Director imposing special charges pursuant to Subsection (4)(a) against the Premises, may be submitted in writing to the Prescott City Council.

(6) Eviction or Retaliation Prohibited.
(a) It shall be unlawful for a landlord to terminate the lease agreement or periodic tenancy of any tenant or otherwise retaliate against any tenant that complained to the Chief of Police about Nuisance Activities on the landlord's premises. It shall be unlawful for a landlord or any person acting as an agent for the landlord, to intimidate or actively discourage a tenant and/or persons associated with a tenant, from calling the police to report Nuisance Activity associated with a Premises. It shall be presumed that any attempt to increase charges, reduce services, or to otherwise harass or retaliate against the tenant during the 12-month period following receipt of the complaint by the Chief of Police constitutes unlawful retaliation under this subsection. Such presumption shall be rebutted by the preponderance of evidence that the actions taken by the landlord were based upon good cause. Notwithstanding the foregoing, a tenant's lease agreement or periodic tenancy may be terminated for a failure to pay rent; committing Nuisance Activity as defined in Sub. (2)(d); violating the terms and conditions of the lease agreement or periodic tenancy or as otherwise provided in Wis.Stat. ch. 704, and Wis. Admin. Code ch. Ag. 134. A landlord's failure to renew a lease agreement or periodic tenancy upon expiration of such lease agreement or periodic tenancy shall not be deemed a violation of this subsection.
(b) "Good cause" as used in this subsection means that a landlord must show good cause for his or her actions, other than one related to or caused by the operation of this section.
(c) Penalty. Any person violating Subsection (6) shall be subject to a forfeiture of not less than $100 nor more than $1000 for each violation.
(7) When Nuisance Is Deemed Abated. The public nuisance created by a Chronic Nuisance Premises shall be deemed abated when no Enforcement Action to address Nuisance Activities occurs for a period of six (6) consecutive months from the date stated on the notice declaring the Premise a Chronic Nuisance Premises generated for a period of six (6) consecutive months from the date stated on the notice declaring the Premises a Chronic Nuisance Premises.
(8) Severability. The provisions of any part of this section are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this section that the same would have been adopted had such invalid provisions, if any, not been included herein.
(9) Report. The Chief of Police shall annually report to the Common Council on the following:
(a) How many Premises were declared Chronic Nuisance Premises.
(b) How many Premises that were declared Chronic Nuisance Premises were abated and the length of time it took for abatement to occur.
(c) How often the Cost Recovery provision was used and the dollar amount collected under this provision.