THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: May 12, 2020

Subject: Citizen Request to amend Firearms Ordinance to Allow Bow Hunting for Deer Population Control on Private Property

Staff Resource(s): Aarin Miles, Asst. City Attorney, Brad Branham City Attorney

Action Requested: Adopt amendment to Sec. 11-7 of the Code of Ordinances of the City of Asheville.

Background:

- On January 28, 2020, Christopher Arbor, a teacher at Asheville School, spoke at the Public Safety Committee, during public comment requesting that the City amend its firearm ordinance to allow bowhunting of deer in order to control the deer population, with concerns of lyme disease and deer interfering with the school's forestry efforts.
- Mr. Arbor was accompanied by Joe Lasher of Backyard Bow Pro, who would be the third party that Asheville School would contract with to hunt the deer on the School's property, if permitted. Mr. Lasher indicated that meat from the harvested deer would be donated to food banks.
- Another person, who was the President of the Hillside Terrace Neighborhood Association, spoke to the Committee in support of the amendment indicating that this initiative would help with neighborhood beautification.
- On February 25, 2020, Legal presented research to the Public Safety Committee.
- Christopher Arbor, Steven Beltrem, Joe Lasher, and the President of the HIllside Terrace Neighborhood Association were present and provided public comment in response to staff presentation.
- Legal staff was directed by the Public Safety Committee to draft a proposed amendment to Sec. 11-7: Discharge of Firearms and Weapons, of the Code of Ordinances of the City of Asheville.
- This amendment would allow archery hunting of deer within the City limits under very limited circumstances to include: property size restrictions, height from which hunting must occur, occurring only during the Western Deer season or with a depredation permitted issued by the North Carolina Wildlife Resource Commission, the hunter possess a valid NC hunting license, and hunter receives a permit to proceed from APD prior to commencing archery hunting on the property.

Vendor Outreach Efforts:

- None

Council Goal(s):

- Clean and Healthy Environment
- Connected and Engaged Community

Committee(s):

- Public Safety Committee - February 25, 2020 - Voted unanimous for Legal to draft ordinance amendment.

Pro(s):

- If this is an effective means of controlling deer, it would assist in agricultural production within the City which aligns with the Food Policy, as well as creating a better balance of deer population and their food supply.

Con(s):

- Discharge of any type of weapon within the City may be viewed as a risk and a public safety concern. Additionally, if exceptions are made, enforcement of the ordinance as it relates to discharge of other types of weapons or for control of other nuisance animals, may become more difficult

Fiscal Impact:

- None

Suggested Motion:

- Motion to adopt the amendment to Sec. 11-7 entitled “Discharge of Firearms or Weapons,” of the Code of Ordinances of the City of Asheville.

Attachment(s)

- Ordinance
- PowerPoint

ORDINANCE NO:_____

ORDINANCE AMENDING CHAPTER 11 ENTITLED “MISCELLANEOUS PROVISIONS,” SECTION 11-7 ENTITLED “DISCHARGE OF FIREARMS OR WEAPONS,” OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

WHEREAS, North Carolina General Statute 160A-189 authorizes cities to adopt ordinances to regulate, restrict, to prohibit the discharge of firearms at any time or place within the city limits except when used in the defense of person or property or pursuant to lawful directions of law-enforcement officers, and may regulate the display of firearms on the the streets, sidewalks, alleys, or other public property; and

WHEREAS, under the City’s existing ordinance Section 11-7, discharge of any firearm or weapon, including bows and arrows, is prohibited; and

WHEREAS, amending this ordinance to allow for limited exceptions is consistent with the City Council Vision of a Clean and Healthy Environment as it will assist in managing the local deer population with a more balanced ecosystem and allow for the creation of locally sourced foods;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Section 1. The City Council hereby adopts amendments to Article I of Chapter 11 of the Code of Ordinances of the City of Asheville regarding Discharge of Firearms or Weapons, reading as follows:

Sec. 11-7. Discharge of firearms or weapons

No person shall shoot or discharge, within the corporate limits of the city, any firearm, gun, rifle, pistol, air rifle, spring gun or compressed air rifle or pistol or other similar device or weapon which impels or discharges with force any bullet, shot or pellet of any kind, including arrows with metallic tips or sharp tips of any nature, designed to penetrate and propelled by a bow or spring device.

(a) This section shall not apply to any law enforcement officer of any governmental agency or body charged with the duties of protecting life or property or enforcing laws and regulations while engaged in the performance of his official duty.

(b) This section shall not apply in defending one's self or property or the safety and property of others nor to a firing or archery range operated or supervised by an individual, club or organization for educational or sporting purposes, if such firing or archery range has first been inspected and approved by the police department.

(c) This section shall not apply, to deer hunting by bow and arrow or crossbow (“collectively archery”), as defined by the North Carolina Wildlife Resources Commission, on private property, solely for the purpose of controlling the deer population (and no other wildlife), and further complies with the restrictions described below. This exception shall apply only during the Western Deer Season, or outside of season with a valid depredation permit issued by the N.C.Wildlife Resource Commission. A person may engage in deer archery on his or her own property if he or she has on his or her person a valid hunting licences and written notice to proceed issued by Asheville Police Department (“APD”), or on the property of another in their absence if he or she has on his or her person a valid hunting license, written permission from the property owner or the property owner’s authorized agent or manager, and written notice to proceed issued by the APD described in this section. Parcels or tracts of land that are either owned by a person engaged in deer archery or for which that person has been given written permission to hunt shall

be hereinafter referred to as the “property of consent.” Archery may be permitted if all of the following conditions are met:

(1) The property of consent must be twenty (20) acres or greater in area and may be comprised of contiguous parcels or tracts; and

(2) Deer Archery must be conducted from a permanent or portable elevated platform of at least ten (10) feet above the ground; and

(3) No arrow shall be discharged within two hundred and fifty (250) feet from any residential dwelling, public right of way, street,highway, school, church, government property, occupied structure, park, or other recreational area, nor shall any arrow be discharged within two hundred and fifty (250) feet of the perimeter of the property of consent; and

(4) No deer archery shall commence without a posting, located as to sufficiently alert the public, that hunting by archery is occurring on the property of consent; and

(5) There is a valid hunting season in effect, or by valid depredation permit issued by the N.C. Wildlife Resource Commission, for which the hunting license applies at the time the bow or crossbow is discharged; and

(6) Hunters shall make every reasonable effort to track wounded deer for the purposes of completing the harvest and recovering the carcass; and

(7) The Hunter adheres to all applicable state and local regulations; and

(8) The person discharging the bow or crossbow exercises reasonable regard for the safety and property of other persons.

Prior to commencing any deer archery activity on the property of consent, the Property Owner or third parting with property owner’s consent, must present all of the aforementioned documentation (i.e. proof property size, written permission, copy of hunting license, depredation permit) to the Asheville Police Department (“APD”) for review and approval. APD may inspect the property as part of this approval process. If approved, APD may issue a written notice to proceed to the Property Owner.

Section 2. Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

Section 3. All ordinances or part of ordinances in conflict are hereby repealed to the extent of such conflict.

Section 4. This ordinance shall be enforced as provided in City Code section 1-5.

Section 5. This ordinance will become effective upon adoption.

Read, approved and adopted this 12th day of May, 2020.

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CITY CLERK MAYOR

Approved as to form:

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CITY ATTORNEY