



REQUEST FOR COUNCIL ACTION

To: Honorable Mayor and Members of the City Council
From: Patrick Urich, City Manager

AGENDA DATE REQUESTED: September 24, 2013

ACTION REQUESTED: RECEIVE AND FILE REPORT BACK REGARDING URBAN DEER HUNTING AND PROVIDE DIRECTION TO STAFF REGARDING ANY CHANGES SOUGHT IN CITY ORDINANCES GOVERNING HUNTING WITHIN THE CORPORATE LIMITS OF THE CITY.

BACKGROUND: During the past two years, Council members have received inquiries/complaints relative to the practice of hunting (particularly deer hunting) on properties within the City. One such complaint was also accompanied by a recommendation for the City to adopt an ordinance restricting hunting. Attached is a report submitted by the Police Department, outlining the issue as well as presenting several options for Council consideration.

FINANCIAL IMPACT: Variable depending upon Council direction. The adoption of an ordinance that would continue to allow hunting but establish restrictions beyond current state law would result in an increased workload on staff at a cost yet to be determined.

NEIGHBORHOOD CONCERNS: See attached report back.

IMPACT IF APPROVED: N/A

IMPACT IF DENIED: N/A

ALTERNATIVES: N/A

EEO CERTIFICATION NUMBER: N/A

WHICH OF THE GOALS IDENTIFIED IN THE COUNCIL’S 2011 – 2026 STRATEGIC PLAN DOES THIS RECOMMENDATION ADVANCE?

- 1. Responsive, Efficient City Organization

WHICH CRITICAL SUCCESS FACTOR(S) FROM THE COMPREHENSIVE PLAN DOES THIS RECOMMENDATION IMPLEMENT?

- 1. Not applicable.

DEPARTMENT: Police



Peoria Police Department

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Memorandum

To: City Manager Patrick Urich
From: Chief Steven Settingsgaard
Date: Wednesday, February 13, 2013
Subject: Urban Deer Hunting

Sir, in response to a citizen complaint to Council members regarding lawful urban hunting for deer by use of the bow and arrow (and crossbow), I examined the issue and offer the following in response. Please note that my comments are restricted to deer hunting by bow only because City ordinance already prohibits the discharge of a firearm.

Complaint

On January 22, 2013, members of the City Council received an email from a citizen who expressed safety concerns regarding deer hunting within their subdivision. The complainant resides on Derby Road, in the Galena Park Subdivision (Derby and Galena). The Galena Park Subdivision (photos attached) has relatively few homes, with large wooded lots. The lots located on Derby Rd. and Orchard Rd. range in size (approximately) from 2/3 to 4 ½ acres. The complainants in this case expressed concerns about the legality of hunting with a bow and arrow (and crossbow) in a residential neighborhood and the dangers that are posed particularly to children and pets. As a solution, the complainants recommended that the Council adopt an urban hunting ordinance, similar to what currently exists in Charleston, W.V. Charleston requires the registration of both hunters and properties and restricts hunting to only properties that are 5 acres or larger.

Current Legal Status

State Law: The Illinois D.N.R. regulates deer hunting within the State of Illinois and governs such things as licensing, permits, safe transport of firearms/bows, trespassing, etc., but these provisions apply uniformly, state-wide, irrespective of density of population. The D.N.R. does not specifically regulate hunting within urban or suburban areas other than to require safe shooting distances from dwellings. The 2013 Illinois Digest of Hunting and Trapping Regulations requires that a bow hunter be at least 100 yards from a dwelling unless the hunter has permission from the owner or tenant of that dwelling. If permission is granted, there is no minimum distance required. The actual verbiage is as follows:

Hunting Near Inhabited Dwellings: It is unlawful to hunt or allow a dog to hunt within 300 yards of an inhabited dwelling without first obtaining permission of the owner or tenant of the dwelling.

*Except: A 100-yard restriction shall apply while trapping, **hunting with bow and arrow**, or hunting with shotgun using shotshells only, or on licensed game breeding and hunting preserve areas, on federally owned and managed lands, on DNR-owned, -managed, -leased or -controlled lands and areas operated under a Waterfowl Hunting Area permit.*

Peoria City Ordinance: City ordinance does not prohibit hunting by bow and arrow if it takes place solely on private property. It does prohibit the discharging of a bow on a public way, or in such a way as to cause an arrow to cross a public way. The applicable ordinance is as follows:

Sec. 20-161. - Discharging, etc., prohibited; exception.

(a)No person shall fire or discharge any gun, pistol or other firearm within the city, except on premises used by a duly licensed shooting gallery, gun club or rifle club.

(b)No person shall be permitted to fire or discharge upon any public way within the city any air gun, spring gun or other similar device which is calculated or intended to propel or project a bullet, arrow or similar projectile; provided, however, that nothing in this article shall prevent the use of such weapons in shooting galleries or in any private grounds or residence, where the projectile fired or discharged from any such gun or device will not traverse any space used as a public way.

Complaints/Investigations

The Peoria Police Department has responded to the Derby Rd deer hunting complaint twice. The first was in the fall of 2011 and the second was this past fall (2012). Both complaints centered on the same property on Derby where the hunting was taking place.

2011: In the fall of 2011, a complaint came in regarding deer that had been taken by a bow hunter on private property. The Police Department determined that no ordinance had been violated but the Illinois D.N.R. was called in to investigate whether any hunting laws had been broken. The D.N.R. officer did investigate and determined that deer had been taken illegally and the offending person was prosecuted. However, the illegality was not in the act of hunting itself, but rather the hunter did not possess the proper permits for the deer. Had the hunter possessed those permits, the hunting and the taking of the deer in that location would have been lawful.

2012: A similar complaint was received this past fall, again complaining that someone was bow hunting on private property within the subdivision. I assigned a sergeant to investigate and he spoke with both the complainants and the owners (hunters) from the neighboring property. In this instance the complainant not only expressed safety concerns related to the bow hunting, but also mentioned trespassing, the sound of a gunshot at night, and the possibility that hunters are paying for hunting rights. Neither the trespassing nor the gunshot allegations could be verified. The owners of the property where the hunting took place did speak with the sergeant and they were knowledgeable on the law and aware that they can legally hunt on their property. They denied that anyone has paid to hunt and said the only people hunting are themselves and/or two of their relatives. They have registered a counter complaint with our Department, reporting that a neighbor is stopping in their driveway and writing down license plates, all in relation to the hunting issue. Our investigation was concluded and no violations of the laws or ordinances were proven.

The only other deer hunting related complaint I can locate was from 2009 and in that case the complainants reported men were going into the woods with guns in the 2900 block of W. Nevada (Trewyn Park, near I-474 and Adams). The DNR was called in to assist with that investigation and no criminal case could be substantiated. This activity alleged in that complaint is already prohibited by ordinance because it entailed the use of firearms.

Safety Concerns

The crux of the complaint seems to hinge on the danger that bow hunting presents to the neighborhood, particularly children and pets. I cannot support that argument with evidence. While bow hunting is and has been legal in the City, we can find no instances of anyone ever being injured by an arrow. I have polled the comparable cities in Illinois and received nine responses. Of the 6 cities that also allow bow hunting, none reported anyone being injured. Archers hunting whitetail deer typically need to be within 30 yards or less of their quarry to be effective which makes it relatively easy for them to be able to identify and differentiate a child or a dog from a deer. The possibility that a bow hunter would mistake a child, or even a dog, for a deer is not very likely. A stray arrow is a possibility but arrows lose their energy and velocity rather quickly and unless they are traveling at an upward angle, they will not fly very far before gravity pulls them to the ground. The hunters in this case, like most bow hunters, were reportedly using an elevated position which means the arrows fly in a downward angle toward the ground, making it even less likely that they would travel far enough to cause a true safety risk. The State of Illinois sets the legal distance from a residence for a firearm at 300 yards while the legal distance for a bow is only 100 yards. The great reduction in what the State of Illinois considers a safe distance is indicative of the lesser danger posed by an arrow and the shorter distances for which an arrow poses a legitimate risk. Injury certainly is not impossible, but it is improbable to the degree that considering bow hunting to be dangerous to others is difficult to justify.

The issue here may be more about the perception of safety. To some, particularly those not comfortable or familiar with deer hunting and/or archery, the perception and belief may be that the practice is dangerous, especially within the corporate limits of the City. Others might object to the practice for other reasons that are not related to safety. Some may be opposed to hunting altogether, while others might support it in a rural setting but just not inside the City or “not in my backyard.”

On the topic of safety, I would be remiss to not point out that there is a legitimate and verifiable risk that is posed by deer in our community as a result of motor vehicles crashes caused by deer in the roadway. State Farm Insurance estimated over 1.2 million deer/car collisions for the 1 year period between July of 2011 and June of 2012, with over 51,000 in Illinois alone. According to the Insurance Institute for Highway Safety, in 2007 alone, 223 people died as a result from vehicle/deer crashes. Logic might dictate that fewer deer would result in fewer crashes and a reduced risk to the motoring public.

Prohibition/Restrictions by Ordinance

The Council has multiple options available in response to this issue as outlined below:

- A. Status Quo: Make no change in the ordinance which will allow the continuance of legal bow hunting for deer in the City, in places not prohibited by State law.
- B. Prohibit all hunting in the City, including by bow and arrow (crossbow).
- C. Adopt an ordinance that allows limited hunting but is more restrictive than State law.

Option A would require the least amount of staff time and expense and based upon historical data, poses no true safety risk to the public. However it may have an impact on the perception of safety.

Option B would require the drafting of an ordinance as well as some enforcement efforts when violations are reported, but would be considerably less work and less expense than Option C.

Option C has multiple alternatives available for consideration that are present in ordinances in other jurisdictions, many of which could be combined into a single policy or ordinance. The administration and enforcement of a new ordinance based on any combination of these options could be costly to administer and enforce.

- **Hunter Registration:** Require that all hunters pre-register with the City, for a fee.
 - Advantages:
 - Potential hunters could be screened for suitability (background check).
 - A shooting proficiency test could be included.
 - A safety course certificate could be required .
 - A database of known hunters could make identification easier in the event of an incident.
 - City could recoup all or a portion of the costs for administering the program.
 - Disadvantages:
 - Staff time would be committed to administer the program.
 - Staff time would be committed to enforcement.
 - Processes would have to be developed.
 - Consequences for failing to comply would be difficult to apply, violations difficult to detect.
 - Appeal process for license denial would be required.
 - Hunter registration would not guarantee a safer or more ethical hunter.

- **Property Registration:** Require that any properties to be hunted must pre-register with the City, for a fee.
 - Advantages:
 - Potential properties could be screened for suitability.
 - A database of registered properties would help in identifying when hunting is taking place illegally.
 - City could recoup costs for administering the program.
 - Disadvantages:
 - Staff time committed to administer the program.
 - Staff time committed to enforcement.
 - Approval processes would need to be developed.
 - Appeal process for denials would be required.
 - Property registration would not guarantee a safer or more ethical hunter safety.
 - Some property owners in the City may view this as an infringement on their property rights.

- **Lot Size Restriction:** Require that a property must be of certain acreage. 5 acres is required in Charleston, WV, other communities have different restrictions such as a 3 acre minimum.
 - Advantages:
 - Lot size restrictions would reduce the number of properties that would be lawful to hunt on.
 - Increase the odds that a hunter will be further from a dwelling than what is currently required by State law.
 - Decrease the potential for conflict between hunters and opposing neighbors.
 - Disadvantages:
 - Staff time would be committed to administration and enforcement.
 - Lot size does not guarantee an increase in the distance between a hunter and a neighboring property line or a neighboring house. For example: Council could enact a 5 acre restriction but without additional restrictions, a hunter could legally sit alongside a neighbor's property line within just a few feet of the neighbor's yard, children's play area, etc.
 - Lot size restrictions could result in hunting rights only for the wealthier citizens with very large lots.
 - Fewer properties to hunt could result in fewer deer killed by hunters, perhaps increasing property damage from over foraging and an increase in traffic crashes.

- **Increase Shooting Distances from Dwellings:** Council could choose to increase the legal shooting distance from a residence for a bow and arrow which is currently set at 100 yards by the State. Distances could be increased to 150 yards, 200 yards, etc.
 - Advantages:
 - The likelihood of an arrow accidentally striking a residence or a person at or near a residence could be reduced.
 - Fewer properties would be eligible for hunting without permission of neighbors. The further a hunter has to be from a dwelling, the less likely a given property will have area to hunt that complies with the State's distance requirements.
 - Disadvantages:
 - Staff time would be committed to administration and enforcement.
 - Violations for specific distances would be difficult to prove and enforce.
 - This increase in distance from a dwelling does not reduce the distance from neighboring properties, only from neighboring dwellings. Hunters may still be allowed to shoot very close to a neighboring property line.
 - Distance increases could result in hunting rights only for the wealthier citizens since smaller properties would not be able to qualify.
 - Fewer properties to hunt could result in fewer deer killed by hunters, perhaps increasing property damage from over foraging and an increase in traffic crashes.

- **Establish Shooting Distances From Property Lines:**
 - Advantages:
 - Restrictions of distance from property lines goes beyond the State’s required distance from a dwelling and actually requires a set distance from any portion of a neighboring property, which would include yards and play areas.
 - The likelihood of an arrow accidentally striking a person could be reduced, assuming that person is not walking upon the property where the hunting occurs.
 - Fewer properties might be disqualified when compared to a total acreage restriction.
 - Of the options presented in “C”, this restriction may present the greatest opportunity for a reduction in conflict between neighbors and exposure to risk. For example, a restriction of a minimum distance of 150 feet from a property line places a hunter at a far greater minimum distance from a neighbor’s property than does an acreage restriction alone, no matter how large the property.
 - Disadvantages
 - Staff time would be committed to administration and enforcement.
 - Violations for specific distances would be difficult to prove and enforce.

Staff Recommendation

Option A: The police department recommends option A as outlined above, with no change in the ordinances relative to bow hunting in the City. Evidence does not support the assertion that the practice poses a realistic danger. I surveyed comparable Illinois cities (survey attached) and received responses from 9 of them (Aurora, Belleville, Decatur, Elgin, Joliet, Normal, Rockford, Urbana, Waukegan). Including Peoria, six of the ten cities do not prohibit bow hunting for deer and of those cities where bow hunting is lawful, none of them regulate the practice through hunter registration, property registration, minimum lot sizes, etc. None of the cities that responded, including Peoria, has experienced anyone being injured from being struck by an arrow (or a bullet) fired by a hunter. Based upon the survey responses and my conversations with the respective chiefs, deer hunting is not common in any of the cities where it is lawful since deer are present in only a portion of the city and even then, few properties are of such size or configuration as to qualify under the state’s 100 yard requirement. The limited amount of hunting that has taken place has not posed a problem in any of the other municipalities where it is legal to hunt.

Option B: If the Council would choose to move from the status quo and craft a regulating ordinance, the Police Department would then recommend option B which would prohibit all hunting within the City limits. This option would eliminate lawful hunting and only illegal hunting would need to be addressed. A total prohibition would require the least amount of City resources to administrate and enforce and illegal behavior would be easily identified by the community.

Option C: As noted above, Option C provides a variety of means by which the City could choose to allow bow hunting for deer to continue in the City while regulating the activity well beyond the State of Illinois’ current limitations. The multiple variations in Option C may require a considerable amount of staff time to administer and enforce, yet would likely accomplish very little

in the way of public safety. If our goal in regulating hunting is based on safety concerns, none of the measures in Option C would absolutely prevent an accidental injury to a child, adult, or a pet. Even when you restrict hunting on a particular piece of property in the hopes of protecting neighboring properties, you have not prevented children, pets, or even adults from walking in areas where hunting is taking place legally and thus coming into contact with hunters.

If we would regulate hunting because we deem it to be an activity that is inappropriate or otherwise unwanted in our City, then I again would recommend that it be prohibited altogether.

In the event that some form of Option C is desired, than I would recommend we draft an ordinance that prohibits the firing of an arrow (or bolt) within 150 feet of a neighbor's property line unless permission is granted, in writing, from the affected property owner. This ordinance, in addition to the State's 100 yard requirement, would keep legal hunters at a sufficient distance from both dwellings and properties, without creating an unnecessary burden upon staff. Creating a system of registering hunters, registering properties, limiting property eligibility, etc., would be a costly solution to a problem that is relatively non-existent.