

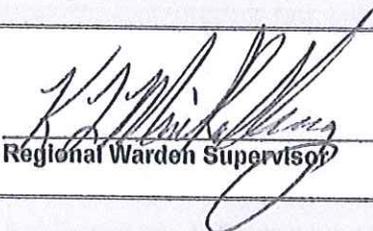


**Public Safety Team Analysis of
Nature Based Outdoor Activities on
Projects Purchased with
Stewardship Grant Funds**

Rev. August 2012

NOTE TO DNR STAFF: This completed form will be attached to the NBOA notice that the DNR will publish when considering a request for Stewardship grant funding. Do not list location information for the subject property or the seller's name because WI courts have held that this information is confidential until land ownership has changed hands. CF Staff completes the project proposal section prior to submitting to public safety team for review.

PUBLIC SAFETY REVIEW TEAM

Kyle Drake	10-02-14		10-17-14
Regional Recreational Safety Warden	Date	Regional Warden Supervisor	Date

PROJECT DESCRIPTION

Applicant/ Sponsor: City of Waukesha		Year of Application: 2015
Project Name: UP Railroad Acquisition	Primary Purpose: <input type="checkbox"/> Habitat Areas <input checked="" type="checkbox"/> Local Parks <input type="checkbox"/> Natural Areas <input type="checkbox"/> Urban Rivers <input type="checkbox"/> State Trails <input type="checkbox"/> Urban Greenspace <input type="checkbox"/> Streambank Protection	

Project Description:
The property is a long narrow railroad corridor in the City of Waukesha extending 1.45 miles, from approximately Grand Avenue (near Carroll University) to Les Paul Parkway (STH 164). The acquisition will be an off-road paved trail that will ultimately connect with the existing New Berlin Trail system. Although the total acquisition is 10.6 acres most of it is only about 50 feet wide and lies entirely within the City of Waukesha.

FINDINGS OF FACT:

The property is an abandoned railroad grade owned by Union Pacific Railroad. The eastern most portion has already had most of the railroad material removed while the rest does have rails and ties in place. This material will be removed and the entire length will be paved. The property will then be used as a trail for hiking, biking and other associated use. The acquisition is within the City of Waukesha and starts near the campus of Carroll University. It then runs eastward to and eventually connecting with the New Berlin Trail.

The SER NBOA Public Safety Team has determined that the prohibition of hunting and trapping is necessary to insure compliance with current local ordinances and to protect the public's safety as this is a heavily residential area.

Parcel Size, Shape, and Topography: Describe the size, shape, and topography of the parcel and how it relates to public safety for this activity on this site.

This 10.6 acre acquisition is a 1.45 mile long corridor in an old railroad right of way and therefore is very narrow with most of it around 50 feet wide. The site is in the City of Waukesha and runs through mostly residential areas. There are numerous houses within 300 feet to the site and a portion of it also lies within 1700 feet of Carroll University.

Proposed NBOA Prohibition or Restrictions

HUNTING			
	Gun Prohibition/Restriction	Archery Prohibition/Restriction	List Dates/Seasons (opening and closing)
Waterfowl	yes	yes	
Small Game	yes	yes	
Turkey	yes	yes	
Large Game	yes	yes	
<p>Public Safety Team Narrative: Because of its location within the City of Waukesha which has existing ordinances prohibiting discharges, its proximity to houses and a school and its configuration as a long narrow corridor that will be used as a paved trail, it is necessary for public safety to prohibit hunting on this parcel.</p>			
<p>Public Safety Factors Considered: Check all that apply.</p> <p><input checked="" type="checkbox"/> The sponsor is within its own municipality boundary</p> <p><input checked="" type="checkbox"/> Parcel is within 100 yards of building devoted to human occupancy</p> <p><input type="checkbox"/> Parcel is within 50 feet of the center line of highways & roads</p> <p><input checked="" type="checkbox"/> Parcel is within 1700 feet of school grounds, hospital, or sanatorium</p> <p><input checked="" type="checkbox"/> Ordinance exists –</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Discharge or carrying a weapon <input checked="" type="checkbox"/> Hunting within a park <input type="checkbox"/> Throwing or shooting missiles, arrows, spears, etc.</p> <p><input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance</p> <p><input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists.</p> <p><input type="checkbox"/> Parcel is adjacent to a public waterway.</p> <p><input checked="" type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:</p> <p><input type="checkbox"/> Other _____</p>			
Prohibition or Restriction Necessary to Protect Public Safety:		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

TRAPPING		
Location	Prohibition/Restriction	List Dates/Seasons (opening and closing)
Upland	yes	
Water	NA	
Public Safety Team Narrative: Because if its location within the City of Waukesha which has existing ordinances prohibiting trapping, its proximity to houses and a school and its configuration as a long narrow corridor that will be used as a paved trail, it is necessary for public safety to prohibit trapping on this parcel.		
X No Water On Site Public Safety Factors Considered: Check all that apply. <input checked="" type="checkbox"/> The sponsor is within its own municipality boundary. <input checked="" type="checkbox"/> Parcel is within 100 yards of building devoted to human occupancy and per s. NR 10.13(1)(b)(12)(c), the following traps are prohibited: conibear body gripping traps (with jaws wider than 60 sq. inches) and cable restraints. <input checked="" type="checkbox"/> Ordinance exists that prohibits trapping or some type of trapping. <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input type="checkbox"/> Parcel is adjacent to a public waterway. <input checked="" type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe: <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

FISHING		
Method	Prohibition/Restriction	List Dates/Seasons (opening and closing)
Shore	NA	
Boat	NA	
Public Safety Team Narrative: No prohibition or water		
X No Water on Site <input type="checkbox"/> Public Safety Factors Considered: Check all that apply. <input type="checkbox"/> Ordinance exists – <input type="checkbox"/> _____ <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input type="checkbox"/> Parcel is adjacent to a public waterway. <input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe: <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

HIKING		
Location	Prohibition/Restriction	List Dates (opening and closing)
On-Trail	yes	
Off-Trail	no	
Public Safety Team Narrative: No prohibition		
Public Safety Factors Considered: Check all that apply. <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input type="checkbox"/> Parcel is adjacent to a public waterway. <input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe: <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

CROSS COUNTRY SKIING		
Type of Trail	Prohibition/Restriction	List Dates (opening and closing)
Off-Trail (un-groomed)	no	
On-Trail (un-groomed)	yes	
On-Trail (groomed)	no	
Public Safety Team Narrative: No prohibition		
Public Safety Factors Considered: Check all that apply. <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input type="checkbox"/> Parcel is adjacent to a public waterway. <input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe: <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

11.13 Firearms and Other Weapons

(1) **FIREARMS.** No person shall discharge or cause to be discharged any revolver, pistol, shotgun, rifle or other related device in the City that propels a projectile or projectiles by the burning of powder within a cartridge or barrel that creates a quantity of gas to expand and propels a projectile or projectiles without the permission of the Chief of Police to do so, except in self-defense or in the course of the lawful discharge of duties as a peace officer.

(2) **AIR GUNS AND RELATED DEVICES.** No person shall discharge or cause to be discharged any revolver, pistol, rifle or other device that propels a missile, projectile or substance by the expansion of compressed air, gas or spring, within the City.

(3) **RESTRICTIONS ON HUNTING WITH BOW OR CROSSBOW.**

(a) No person shall hunt with a bow and arrow or crossbow within 100 yards of a building located on another person's land. This prohibition does not apply if the person who owns the land on which the building is located allows the hunter to hunt within 100 yards of the building. The term "building" shall have the meaning as set forth in sec. 29.38(3)(b)1.a., Wis. Stats.

(b) A person who hunts with a bow or crossbow within the City limits may only discharge the arrow from the respective weapon towards the ground.

(4) **EXCEPTIONS.** This section does not apply to authorized dealers within the City in the ordinary course of their business providing the proper safeguards are utilized.

11.24 Birds and Animals.

(1) **HUNTING ON CITY LANDS PROHIBITED.** Hunting or trapping on City owned or leased land is prohibited within the jurisdictional limits of the City of Waukesha.

(2) **RUNNING AT LARGE.** The owner or keeper of one or more horses, mules, cattle, sheep, goats, swine, chickens, geese, ducks, pigeons or other domestic fowl shall prevent them from running at large in any part of the City.

(3) **PIGS AND GOATS.**

(a) No person shall keep any pigs or goats except in conformity with the following requirements.

1. No pig or goat shall be kept or permitted in any building, shelter, yard or enclosure unless it be at least 200 yards from any residence, street or highway.

2. All unconsumed food and excreta from the animals shall be removed daily by burying the same in the ground.

3. The floor of any building or shelter in which the animals are kept, fed or housed, shall be washed daily and the washings disposed of in a drywell.

(b) The provisions of (a) do not apply to or include the species *sus scrofa*, more commonly known as a Vietnamese Pot Bellied Pig. Persons keeping Vietnamese Pot Bellied Pigs in the City must comply with the following requirements:

1. Every owner of a Vietnamese Pot Bellied Pig shall pay a license fee and obtain a license in the same manner as is provided for the licensing of dogs under §§174.05 and 174.07, Wis. Stats., respectively.

2. Vietnamese Pot Bellied Pigs must be spayed or neutered prior to receiving the license required by §11.24(3)(b)1. above.

3. No owner or keeper of any Vietnamese Pot Bellied Pig shall permit or allow the pig to "run at large within the City" as that term is defined in §11.22(1)(c)1.

4. Subject to 11.22(4), no more than 2 Vietnamese Pot Bellied Pigs over the age of 3 months shall be kept in any dwelling unit in the City. The owner or keeper of a pig shall properly water and feed it at regular intervals and shall keep the premises occupied by it in a sanitary condition.

(4) **HORSES AND CATTLE.** No person shall keep any horse, cow or bull except in conformity with the following requirements: All excreta from the animals shall be removed daily from any building or shelter in which the animal is kept or from any yard or enclosure in which the animal is permitted and the same shall be buried in the ground or placed in a covered container. If placed in a covered container, subsequent and final disposal thereof, if made in the City, shall be done by burying the same in the ground.

(5) **INSPECTION OF PREMISES.** Premises used in the keeping or maintaining of one or more horses, mules, cattle, sheep, goats, swine or other domestic animals, shall be open to inspection of City officials or their duly designated representatives at all times.

(6) **WASTE PRODUCTS AND MANURE.**

(a) The owner or person in charge of any animal shall not permit solid fecal matter of such animal to be deposited on any street, alley or other public or private property unless such is immediately removed therefrom by the owner or person in charge.



(b) The owner or person in charge of private property shall not permit solid fecal matter of animals kept on the private property to accumulate on the private property, including the space between the street or curb and the sidewalk adjacent to such property, for a period in excess of 24 hours.

(7) WILD AND EXOTIC ANIMALS PROHIBITED.

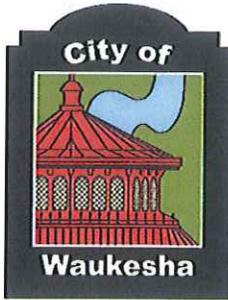
(a) No person shall keep, maintain or have in such person's possession or under such person's control any poisonous reptile, dangerous or wild animal or insect including, but not limited to, poisonous insects and arachnids, all poisonous snakes, constrictor snakes, non-human primates, bears, crocodiles, alligators, coyotes, elephants, gamecocks and other fighting birds, hippopotami, hyenas, jaguars, leopards, lions, lynx, pumas, cougars, mountain lions, panthers, ocelots, tigers or other wild feline species, and wolves.

(b) Exceptions. The prohibitions set forth in sub. (a) shall not apply to licensed pet shops; zoological gardens; public or private educational institutions; circuses and professional animals acts or other shows requiring an amusement activity permit as required by sec. 8.11(1) of this Municipal Code; provided that:

1. Their location conforms to the zoning requirements of Chapter 22.
2. All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
3. Animals are maintained in quarters so constructed as to prevent their escape.

(c) Enforcement. Any person violating this section may be subject to a penalty as provided for in sec. 25.05 of this Municipal Code.





Office of the City Attorney

City Hall, Room 206
201 Delafield Street
Waukesha, Wisconsin 53188-3646
Telephone (262) 524-3520
Fax (262) 650-2569
Email attorneys@ci.waukesha.wi.us

Brian E. Running
City Attorney
Miles W.B. Eastman
Assistant City Attorney
Julie M. Gay
Assistant City Attorney
Anne Marie Iselin
Assistant City Attorney
Donna Hylarides Whalen
Assistant City Attorney

November 24, 2014

Daniel Kemmerer
Community Services Specialist
Wisconsin Department of Natural Resources
2300 North Dr. Martin Luther King Drive
Milwaukee, Wisconsin 53212

Re: City of Waukesha Hunting, Trapping and Fishing Ordinances

Dear Mr. Kemmerer:

This is in response to your request for a summary of Waukesha ordinances affecting hunting, fishing and trapping, and an explanation of compliance with Wis. Stats. §29.038, known as Act 71.

1. **Municipal Code §11.13 Firearms and Other Weapons.**

(1) Firearms. This subsection prohibits the discharge of firearms in the City, except for self-defense or in the course of police duties.

This subsection has an incidental effect on hunting in the City, but its only purpose is to protect public safety, and is therefore allowed by Wis. Stats. §29.038(3)(a). Waukesha is a densely-populated, urban environment. The discharge of firearms in such an environment is an unquestionable public safety hazard.

(2) Air Guns. This subsection similarly prohibits the discharge of spring, compressed-air, or compressed-gas powered guns in the city, for the same reasons as stated above in regards to subsection (1).

(3) Bow and Crossbow Hunting. This subsection prohibits hunting with a bow or crossbow within 100 yards of a building, except for doing so on one's own land or with permission of the landowner. It also requires that bows and crossbows only be discharged towards the ground. This subsection follows the language of, and is complies with, Wis. Stats. §29.038(3)(b)3.



2. **Municipal Code §11.24(1) Hunting on City Lands Prohibited.** This subsection prohibits hunting and trapping on City-owned or -leased land within the City limits. This subsection follows the language of, and complies with, Wis. Stats. §29.038(2)(b).
3. **Municipal Code §11.26.** This section placed restrictions on trapping within City limits. It has been repealed to comply with Act 71, because it applied to trapping on private land, and it did not exist primarily for public health or safety reasons.

The complete text of Municipal Code §§11.13 and 11.24 is attached to this letter.

Please let me know if you need further information, or if I can be of any further assistance.

Sincerely,



Brian E. Running
City Attorney

Copy: Ron Grall, Waukesha Department of Parks, Recreation and Forestry

