

VILLAGE OF ELM GROVE

13600 Juneau Boulevard
Elm Grove, WI 53122

LEGISLATIVE COMMITTEE

Thursday, February 18, 2016 * 7:00 PM * Parkview Room

AGENDA

1. Call meeting to order

Documents: [legislative committee memo- 021816.pdf](#)

2. Review and Act on Previous Meeting Minutes

Documents: [LC091715md.pdf](#)

3. Review, discussion and possible action on an amendment to §95-2 Nuisances

Documents: [95-2 Dog Nuisances.pdf](#), [Public Safety Committee Minutes.pdf](#)

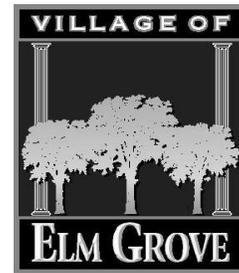
4. Other Business

5. Adjourn

Any person who has a qualifying disability as defined by the Americans with Disabilities Act who requires that the meeting or materials for the meeting has to be in an accessible location or format must contact the Village Clerk, Mary S. Stredni, at 262-782-6700 or 13600 Juneau Boulevard by 3:00 PM Friday prior to the meeting so that any necessary arrangements can be made to accommodate your request.

NOTICE: It is possible that members of, and possibly a quorum of, other governmental bodies of the Village may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to in the above notice.

Memo



To: Legislative Committee

From: Casey Griffiths, Zoning & Planning Administrator/Assistant to the Village Manager

Date: February 12, 2016

Re: Review of Agenda for February 18th Meeting

Review, discussion and possible action on an amendment to §95-2 Nuisances (Animals).

In January the Public Safety Committee reviewed a resident's request for an amendment to the Village's dog ordinance to improve public safety. The resident experienced a dog bite in October 2015, and subsequently her daughter brought forth concerns that the Village's current leash law is insufficient. The Public Safety Committee reviewed the matter and recommend that the Legislative Committee review the dog regulations under Chapter 95 and §204-3, Park and Recreation. The Public Safety Committee requested that Chapter 95 be amended to include that dogs be on a leash of no longer than six feet in length while on public right of way. They also requested that staff review the two code sections to remedy any inconsistencies between the two.

Staff has reviewed Chapter 95 and the attached revised code section show the recommend revisions. These include a change to a determination of when a dog is at large, and a greater definitions to when a dog is not at large. Included in the definitions of a dog at large is the leash requirement, which corresponds to the leash requirement in Village Parks. The Public Safety Committee also discussed the concern about what a Village Park is considered (i.e. the South Facility off of Bluemound Road). The amendment includes a greater definition of a dog at large to include public rights of way, pathways and public grounds. Included in your packet is the ordinance amendment and Public Safety Committee minutes.

Please do not hesitate to contact me with any questions or concerns.

**VILLAGE OF ELM GROVE
LEGISLATIVE COMMITTEE MINUTES
Thursday, September 17, 2015**

Present: Trustee Domaszek, Trustee Haas, President Palmer, Angie Jodie, and John Collins.
Mary Stredni, Village Clerk, Casey Griffiths, Zoning & Planning Administrator, and
Village Attorney Hector de la Mora

1. Call meeting to order

Trustee Domaszek brought the meeting to order. Mary Stredni took the roll.

2. Minutes

Palmer and Haas moved and seconded to approve the April 16, 2015 minutes. Jodie requested to change the word 'addresses' to 'addressing' in the last paragraph of item 4. Motion carried with amendment.

3. Review, discussion and possible action on the creation of §225 Garbage, Refuse and Yard Waste Collection and Disposal.

§225-2 Definitions

Commercial – remove 'and greater multi-family buildings' and add 'or more' after the word four.

Construction Waste – after 'alterations' add comma and 'demolition'

Contractor – remove comma after Garbage

Garbage – change 'enclosed' to 'sealed'

Premises – Delete 'A parcel of land which may consist of '. Change 'is' to 'may be'.

Refuse – remove dash between 'non-putrescible'.

Yard Waste – Change to read – 'Earth and organic waste resulting from the growing, trimming or removal of plants and parts thereof from Village plotted lot.'

§225-3 Yard Waste; Construction Waste

(B) Change to read – 'Refuse, Construction Waste, Garbage or Yard Waste created, collected or transported by a Contractor shall not be collected by the Village nor dumped, abandoned, deposited or placed at the Village Public Works facility. The collection and disposal of the same shall be the responsibility of the property owner where such items originated.'

(C) (1) Change the word 'will' to 'can'.

(C) (1) (c) add the word 'in' between pointed and one

(C) (1) (d) change to read 'Branches, tree limbs, brush and logs shall not be placed at the roadside any earlier than the Friday preceding the scheduled period pick up week and shall be so placed prior to 7:00 a.m. of the Monday of the pick-up week.

(C) (2) change to read 'Leaves will be collected in the fall by the Village's contracted refuse hauler provided they are placed at the roadside contained within a paper yard waste bag purchased from the Village or a paper yard waste bag with the proper sticker purchased from

the Village. Weather permitting leaves will be collected in this manner beginning in October through the end of November and at other times as determined by the Village Board.

(C) (3) change 'set forth' to 'provided'

§225-4 Preparation, Storage and Disposal of Refuse and Recycling

(B) (1) Change second sentence to read 'At all times refuse must be contained in such a way as to prevent blowing materials.'

Change third sentence – delete 'a plastic bag' add 'any container or packaging'

(B) (2) At end of second sentence add 'provided by the Village.'

(B) (3) delete the word 'no' at the beginning of sentence. Change the word 'made' to read 'declined'.

(C) Delete 'nor shall they be loaded' and add 'or filled'.

(D) Delete the word 'stay' and add 'be permanently be retained'.

(F) Change to read 'Refuse and recycling containers shall be returned, by the property owner, to their point of storage before dawn the day after pickup. Refuse and recycling containers must be screened from casual view.'

§225-5 Special Refuse and Brush Collection

(A) Delete 'garbage'; in second sentence change 'waste' to 'refuse'.

(B) Period after 'pick up' in first sentence. Second sentence delete 'may request a special pick up', after 'payment' add 'of fee', period after 'advance'. Next sentence add 'That fee', delete 'fees'. Last sentence add 'provided' before 'under'.

§225-6 Department of Public Works Facility

(A) Second sentence Add after 'Use' "of the Village Public Works Facility". Period after owners. Last sentence delete 'during posted hours only'. Add 'as posted provided they receive a facility use permit.'

(B) Delete 'displays' and add 'engage in any form of'. Delete 'toward the well being of the facility' and add 'in a manner detrimental to the operation of the facility'. Add at end of sentence 'Subject to an appeal to the Public Works Committee filed within ten calendar days of the restriction.'

(C) Delete 'left' and change to 'placed'. Capitalize 'root'. Add comma after 'root balls'. Change 'accepted' to 'acceptable'. Delete last sentence and add 'Failure to comply with these restrictions or any posted restrictions shall result in disallowance of the use of the facility.'

§225-7 Fees

(A) Change beginning of sentence to read 'A Fee for Garbage, Refuse, Recycling or Yard Waste collection shall be placed on the property tax bill as a special charge.'

(B) Delete 'Yard Waste disposal'. Make b in Business small b, make e in Employees small e.

Jodie and Haas moved and seconded to approve as amended and subject to staff review.
Motion carried.

Adjourn

As there was no other business, Palmer and Jodie moved and seconded to adjourn at 8:10 p.m. Motion carried.

Respectfully submitted,

Mary S Stredni
Village Clerk

draft

CHAPTER 95
THE VILLAGE OF ELM GROVE CODE OF ORDINANCES
ANIMALS

THE VILLAGE BOARD OF THE VILLAGE OF ELM GROVE DO ORDAIN AS FOLLOWS:

Section 1: §95-2 Nuisances of the Village of Elm Grove Code of Ordinances is hereby amended by the addition of underlined text and deletion of ~~strikethrough text~~.

A. Running at large.

- (1) Except for any police canine, while performing a law enforcement function, it shall be unlawful for a dog to run at large on any public property or on private land other than that of its owner. A dog shall not be deemed to be at large if: ~~it is accompanied by its owner, a member of the owner's household or the designated canine handler if a police canine and is under the control or command of such person and is not threatening or disturbing any other persons or animals or any public or private property.~~

[Amended 2-12-2001]

(a) It is attached to a leash of sufficient strength to restrain the dog and the leash is held by a person competent to govern the dog;

(b) It is properly restrained within a motor vehicle;

(c) It is accompanied by its owner, a member of the owner's household or the designated canine handler if a police canine and is under the command control of a person competent to govern the animal.

- (2) No owner of or person harboring or keeping a fierce or vicious dog or female dog in season shall suffer the same to run at large at any time within the Village.¹¹

[1] Editor's Note: Former Subsection A(3), regarding dogs on Village municipal grounds, which immediately followed this subsection and was added 2-12-2001, was repealed 11-22-2005.

B. Fierce or vicious animal.

[Amended 2-12-2001; 2-26-2002]

(1) Any humane officer or law enforcement officer having reasonable grounds to believe that any animal, except for any police canine while performing a law enforcement function, has caused injury to persons or animals within the Village may take such animal into custody pursuant to § 173.13, Wis. Stats., where such humane officer or law enforcement officer has reasonable grounds to believe that the animal poses a significant threat to public health, safety, or welfare.

(a) If a humane officer or law enforcement officer takes custody of an animal with the knowledge of the owner, the humane officer or law enforcement officer shall explain the procedure by which the owner can recover the animal, including the procedure under § 173.22, Wis. Stats., and the procedure to be followed if the animal is not returned to the owner.

(b) If a humane officer or law enforcement officer takes custody of an animal without the knowledge of the owner, the humane officer or law enforcement officer shall promptly notify the owner, in writing, if he or she can be identified and located with reasonable effort. The notice shall explain the procedure by which the owner can recover the animal, including the procedure under § 173.22, Wis. Stats., and the procedure to be followed if the animal is not returned to the owner. The notice shall also inform the owner that the owner must notify any person with a lien on the animal that the animal has been taken into custody.

(c) If the owner informs the humane officer or law enforcement officer in writing that he or she will not claim the animal, it may be treated as an unclaimed animal under § 173.23(1m), Wis. Stats.

(2) Disposition of any animal taken into custody under this section shall be governed by § 173.23 of the Wisconsin Statutes, as amended from time to time.

C. Frequent and habitual howling. It shall be unlawful for any person to own, keep, have in his or her possession or harbor any dog which by frequent or habitual howling, yelping, barking or otherwise shall cause serious annoyance or disturbance to persons or to the neighborhood. No persons shall be convicted under the provisions of this subsection except upon the evidence of two persons.

D. Dog residue. It shall be unlawful for any owner of a dog to fail to immediately remove the waste matter of the dog from any public or private property except that property owned by the dog owner.

Section 2: If any section, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of such ordinance.

Section 3: This ordinance shall take effect and be in full force from and after its passage.

VILLAGE OF ELM GROVE

Dated this day of

Neil H. Palmer, Village President

Mary S Stredni, Village Clerk

PUBLIC SAFETY COMMITTEE MEETING MINUTES

THURSDAY, JANUARY 14, 2016

Present: Chair Trustee Jack Nelson, Trustee Pat Kressin, Committee Members, Mr. Vrakas, Ms. Schafer, and Ms. Decker

Members Excused: Trustee Kujawa, Mr. Moulas

Also Present: Chief Jim Gage

1. Call the meeting to order

The meeting was called to order, at 6:01pm, by Trustee Nelson.

2. Review and approve minutes from January 8, 2015.

Trustee Nelson entertained a motion for approval. Trustee Kressin made a motion for approval of the minutes, from January 8, 2015, with Ms. Schafer seconding and the motion passed unanimously.

3. Review and approve minutes from joint committee meeting of August 19, 2015.

Trustee Nelson entertained a motion for approval. Trustee Kressin made a motion for approval of the minutes, from the joint meeting of August 19, 2015, with Ms. Schafer seconding and the motion passed unanimously.

4. Review and possibly act on citizen request to recommend amendment to the dog ordinance to improve public safety.

Ms. Micaela Logan, of 15065 Westover Road, Elm Grove, WI, appearing with her mother, Ms. Vicki Logan, of the same address, to comment on her letter to the Committee, dated November 5, 2015, regarding changes that she views as necessary to the Village's Dog ordinance. Ms. Logan surmised the points of her letter, written in regards to a dog bite incident that occurred, on October 23, 2015, where her mother was the victim. Ms. Logan, in summary, feels as that the current leash ordinance is insufficient. She also asks that the Committee discuss solutions to addressing dogs at large that escape invisible fencing. She further suggests that one possible solution is to require residents to perform regular checks of their invisible fencing system, through code enforcement.

Chief Gage provided a summary of existing dog regulations, specific to Chapters 95 Animals and Chapter 204-3 Park and Recreation, Dogs. Chief Gage also discussed the Village's adoption of state law, with regard to keeping and harboring vicious animals.

There was considerable discussion among committee members, centering on the differences between the regulation of dogs in village park areas, vs. the regulation of dogs in other public areas, such as pathways and streets. One distinction, is that there is a leash requirement in village parks, as opposed to no leash restrictions in other public areas of the village. Additionally, committee members discussed the viability of regulating the maintenance of invisible fencing. It was the general consensus of the Committee that the maintenance of private invisible fencing, is not a function of government, and that any failure of such safeguard that results in injury, or damage to property, is best resolved by the civil court system.

There was general consensus that, in review of current animal regulations, there is enough inconsistency in current ordinance to cause a safety concern, through lack of understanding, by the public, of the regulations. As a result, the Committee felt that the matter should be reviewed by the Legislative Committee.

Trustee Nelson entertained a motion that this matter be forwarded to the Legislative Committee, to review the dog regulations, as outlined in Chapter 95 and the regulations in Chapter 204-3, Park and Recreation, Dogs, to remedy any general inconsistencies, and to specifically address applying a six foot leash requirement to public streets, pathways, or other public areas of the village. The motion also included a review of the fee structure for dog at large violations, to ensure that they are in line with neighboring communities. Mr. Vrakas made this motion and it was seconded, by Ms. Decker, and the motion passed unanimously.

There was additional discussion regarding defining what is considered "village parks" for the purpose of Chapter 204-3 and whether this already includes pathways as part of the park system.

This discussion lead to a larger discussion on informing the public of any new changes that result from the Legislative Committee action. This included the suggestion of providing a regulatory pamphlet to residents, at the time of licensing their dogs, and publication of any changes in the village newsletter and webpage.

Trustee Nelson made a motion for staff to create an educational element to inform the public of all dog regulations, highlighting any changes stemming from the legislative process, to include but not limited to, pamphlets provided at the time of registration, publications in the village and community news products and entries on the village webpage. Ms. Decker seconded this motion and the motion passed unanimously.

5. Other Business.

There was no other business.

6. Adjournment

Trustee Nelson entertained a motion to adjourn the meeting at 6:49pm. Trustee Kressin, so moved, with Mr. Vrakas seconding and the meeting was adjourned.

Respectfully submitted

James P Gage

Chief of Police