

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, September 19, 2016

I. MEETING CALLED TO ORDER BY: Andy Sikkema at 7:00 p.m.

ROLL CALL

Members Present: Andy Sikkema (Chair), Richard Bohjanen (Board), Kendell Milton, Bruce Ventura

Members Absent: Andy Smith (Vice Chair), Eric Meister (Secretary), Tom Mahaney

Staff Present: Suzanne Sundell (Administrative Assistant), Dale Throenle (Planning Director/Zoning Administrator)

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Motion by Ventura, and seconded by Bohjanen, to approve the agenda as written.

Vote: Ayes: 4 Nays: 0 MOTION CARRIED

III. MINUTES

August 15, 2016

Motion by Bohjanen, and seconded by Milton, to approve the minutes as written.

Vote: Ayes: 4 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

Deborah Mulcahey, 633 Lakewood Lane – On the issue of a separate position for the Zoning Administrator – why not keep Zoning in-house, and look at using CUPPAD for Planning. The next issue was the survey that had been done with the postcards – this required the resident deciding what district they were in. The results of the survey were flawed, and Mulcahey would ask that the Planning Commission note that the WFR district did not support poultry. The issue with this was due to private wells and septic systems, and there is always the on-going issue of enforcement. Mulcahey is confused on the animal control in relation to dogs. The Ordinance indicated that Animal Control would be checking for kennels. Would there be a separate person doing animal control? In Section 12 Violations, Mulcahey questioned the statement “...need not be physically restrained, but must be under reasonable control...” What is the definition of reasonable control? Also, there were exceptions to hunting dogs - need to keep in mind that hunting dogs are not always perfect. The definition of “Owner” states a time period of 5 days – not quite sure what this means. Mulcahey was bothered by Section 4(B)7, which states that the officer would “Have discretion to refrain from making a determination that an animal is a potentially dangerous animal ...” She feels that basically all animals are dangerous. In Section 4(C)2 it states that if there is non-compliance, the owner shall be notified of the provision of this Ordinance and allowed ten business days to comply. She

feels that the Planning Commission should look at this closely. In Section 11, Poultry, as far as personal use goes, is not commercial. This would seem to mean no selling, but what about bartering or giving away. Ordinance 63 – be mindful that not everyone has a mailbox and that some may not be able to comply with the marking on both sides, as there are sometimes rows of mailboxes. If the Planning Commission is really concerned, they may want to take a look at the green vertical signs on properties – may want to make this an option for people.

V. PUBLIC HEARINGS

None

VI. PRESENTATIONS

None

VII. NEW BUSINESS

None

VIII. UNFINISHED BUSINESS

A. Ordinance 62 - Animal Control

Throenle presented the revised document that was discussed at last month’s meeting. The first discussion will address the language changes and changes that are recommended by the Police Department, and then the issue of poultry will be addressed. The document being reviewed is VIII.A.1.7 of the packet.

Definitions:

Livestock	Means animals used for human food and fiber or animals used for service to human beings Includes, but is not limited to, cattle, swine, sheep, llamas, goats, bison, horses and rabbits
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Throenle questioned the inclusion of rabbits in livestock, as they do not fall into the same category as cattle or horses. Sikkema indicated that he feels that raising rabbits would fall under the category of livestock, not pets. It was decided that rabbits will stay in the category of livestock.

Owner	Means, but not be limited to, any person or persons owning premises, occupying or in the possession of any property, having proprietorship of an animal, right of property of an animal, or an authorized agent; Any person who keeps, harbors, has care of, custody of or control of an animal for a period of five or more calendar days; Any person that allows any animal to remain on his or her premises for a period of five or more calendar days.
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Throenle questioned if “five or more calendar days” is an accurate measurement. Sikkema felt that this may be referring to visiting animals (pet sitting, guests with

animals). This would refer to the owner of the property, not the owner of the dogs. The wording will stay as is.

Section 4(A)2:

Removed “*Meet the requirements of the Michigan Department of Agriculture for animal control.*” and renumbered the remaining points.

Police comment reflected there was no special training required.

Section 4(B)5:

Removed “*Inspect kennels for licensing and may suspend or revoke a license if the Animal Control Officer has reason to believe conditions exist which are unsanitary or inhumane to the animals.*” and renumbered the remaining points.

Police comment was that the Health Department does the inspecting and licensing.

Section 4(B)7:

Added “~~Have discretion to refrain from making a~~ **Shall make a determination that an animal is a potentially dangerous animal if the officer determines that the animal’s behavior was not the result of the victim abusing or tormenting the animal, was directed toward a trespasser or person committing or attempting to commit a crime, involved was not the result of accidental or instinctive behavior while playing, did not involve a significant injury, or other similar mitigating or extenuating circumstances.**”

Ventura indicated that there were some difficulties with this whole paragraph – the Police officer is coming on the scene after the fact and would not have witnessed the incident. He doesn’t feel there should be discretion in an ordinance. Sikkema asked if this was written internally – Throenle indicated that he found this in several other ordinances that he was researching. Discussion ensued with the pros and cons of the word “discretion”. Ventura suggested there be a change of wording.

Section 6(B):

~~Any person~~ **Any owner** who at any one time owns **or harbors** four or more dogs at a single location within the boundaries of a non-agricultural area within the Township **shall apply for a County kennel license on or before June 1 of every year have a valid County kennel license posted on the premises.**

Throenle indicated that this was a rewording of the original. After discussion, wording was changed as reflected above.

Section 8(A):

Any animal kept as a pet that bites **or scratches** a person or other animal, penetrating the skin, shall be securely confined by the owner **away from other animals** inside an appropriate building or enclosure for a period of ten calendar days. **The owner shall immediately report any unusual behavior or appearance change during the ten**

calendar day period to the Animal Control Officer. In the event the Animal Control Officer has reason to **believe the owner will not comply with this section**, the Animal Control Officer shall take custody of the animal and confine it at the impound facility for ten business days at the expense of the **owner**.

Bolded wording added as comment by Police department. Changed to add the phrase "or scratches".

Section 9(G):

Any owner **who willfully fails to redeem the impounded animal after notification of impoundment** shall be cited for cruelty by neglect of said animal under the Cruelty Statutes of the State.

Throenle indicated he had changed the language to make it a little easier to read. No other changes were made.

Section 10(B):

The Animal Control Officer may, at his or her discretion, shoot a dog running at large if it is determined the dog is chasing or harassing deer.

After discussion, the Planning Commission decided to delete this.

Section 12(B)3:

Seize, harass or tease any animal while held or led by any person or while ~~of~~ **on** the property of the owner.

Ventura indicated there was a typographical error on this – changed "of" to "on".

Section 14(B & C):

None of the language has changed – only the numbering.

Section 11 Livestock or Poultry in Non-Agricultural Areas

- A. No livestock **or poultry, except chickens**, shall be owned, kept, possessed, harbored or kept charge of within the boundaries of a non-agricultural area within Chocolay Township.
- B. The keeping of **chickens** ~~poultry (such as chickens, turkeys, ducks, or geese)~~ in non-agriculture districts shall be subject to the following requirements:
 1. A ~~poultry~~ **chicken** permit is required prior to ~~poultry~~ **chickens** being permitted on the premises.
 2. ~~Poultry~~ **Chicken** owner(s) may not keep more than ~~three~~ **six** ~~poultry~~ **chicken** hens on the premises at any one time. Hens are for personal use only and not for any business or commercial use.
 3. ~~Poultry use is restricted to personal use;~~ **No** selling of ~~poultry~~ **chickens** or eggs is permitted.
 4. Roosters are prohibited.
 5. ~~Slaughtering of any poultry on the premises is prohibited.~~

6. Poultry **Chickens** shall not be kept in any location on the property other than in the backyard. **(Exception: Waterfront residential can be either in the front yard or backyard if screened from public view.)**
7. Poultry ~~hens~~ **Chickens** shall be maintained in a fully enclosed structure or a fenced enclosure and shall be kept in the enclosed structure or fenced enclosure at all times. Fenced enclosures and structures are subject to all fence and structure provisions and restrictions in the Township Zoning Ordinance.
8. Poultry **Chicken** structures, or the portions of other structures used to house or provide shelter for small animals, shall not exceed two hundred square feet of ground floor area nor exceed ~~twelve~~ **ten** feet in height. ~~Maximum ground floor areas for poultry set forth above may be increased by fifty percent for each acre in addition to the minimum lot size for the zoning district.~~
9. ~~No~~ **An** enclosed structure shall ~~be located within any setback area~~ **follow all zoning setback requirements for the zoning district.**
10. An enclosed structure or fenced enclosure shall not be located closer than thirty feet to any ~~occupied~~ residence on an adjacent property.
11. All structures and enclosures for the keeping of poultry **chickens** shall be constructed and maintained so as to prevent rats, mice, or other rodents or vermin from living underneath or within the walls of the structure or enclosure.
12. All feed and other items associated with the keeping of chickens likely to attract rats, mice, or other rodents or vermin shall be secured and protected in sealed containers.
13. All poultry **chickens** shall be kept in compliance with the Michigan Department of Agriculture Generally Accepted Agricultural and Management Practices for the Care of Farm Animals.

Throenle indicated that he had looked at several different models to come up with Section 11. Ventura questioned (B)5 on the slaughtering of chickens. He indicated that most people who are raising small amounts of chickens are doing so for the eggs and the meat. The Planning Commission decided to remove (B)5 from the proposed language. After discussion, it was decided to change the wording of “poultry” to “chicken”. There was also discussion on the number of chickens that should be allowed – changed from three to six. There was also some discussion on how location of chickens should be done on Lakewood Lane – front or back, it would need to be obscured from public view.

Bohjanen moved, and Ventura seconded that the draft of Ordinance 62, as amended, be submitted for Public Hearing for the next meeting, and publish the necessary notices.

Vote: Ayes: 4 Nays: 0 **MOTION CARRIED**

B. Ordinance 63 - Street Address Numbers

Throenle indicated that the only change recommended by the Fire Department is in Section 4(C) **“On roads that provide access for two-way traffic, numbers on a**

mailbox must be placed on both sides of the mailbox to enable emergency response vehicles to see the numbers from either direction.” This may not always be possible to put numbers on both sides, as some people put up snowboards to protect their mailboxes, so the numbers would need to be on the snowboards.

(A) ~~The **street address** number shall, at a minimum, be affixed to a structure or place of business in numbers not less than three and one-half (3 ½) inches in height. The number must be clearly visible and legible from the street.~~

(B) ~~“If the **street address** number is not clearly visible from the street when affixed to a structure or place of business in accordance with subsection A, then the street number shall be displayed in numbers not less than three and one-half (3 ½) inches in height which shall be affixed to a sign or mailbox placed adjacent to the driveway or road entrance to the structure or place of business, **and is visible from both directions of travel.** The sign or mailbox shall be constructed of durable material and shall be mounted not less than four feet above ground level.”~~

The Planning Commission suggested removal of Section of 4(C).

There was a question on the requirement of affixing the street number to a structure or place of business. It was determined it needs to be in the ordinance for emergency purposes.

Section 3 Definitions:

Street Address Number	Means the number assigned to the premises by the Township
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Ventura moved, and Milton seconded that the draft of Ordinance 63, as amended, be submitted for Public Hearing for the next meeting, and publish the necessary notices.

Vote: Ayes: 4 Nays: 0 MOTION CARRIED

IX. PUBLIC COMMENT

Deborah Mulcahey, 633 Lakewood Lane – felt that Section 4(B)7 should be go to our attorney for legal opinion. Mulcahey also felt that people should be encouraged to put up the vertical signs with fire numbers, which are more visible.

X. COMMISSIONER’S COMMENTS

Bohjanen – none

Milton – none

Ventura – none

Sikkema – brought up the issue of vacation rentals. He had been in a small community over the weekend where there was one person that was buying up available property

and converting them into vacation rentals. Sikkema did not know what their ordinance was like. Our ordinance cannot be enforced, but we are not addressing the issue. He feels this is a disservice to the Township residents. If nothing else, we should at least clean up the ordinance. The other issue he has is commercial dumpsters. He wondered if this should also be addressed by the Planning Commission on what is allowed. He feels we should try to keep our community looking nice. Bohjanen stated that about a year ago he drove the Township and looked for instances of blight, and didn't find that many. Sikkema feels that these may be issues the Planning Commission should be looking at.

XI. DIRECTOR'S COMMENTS

Throenle indicated that he would like some direction on a matter. There is an individual in the AF district that has a short term rental. If he pursues this individual for not having a Conditional Use permit, he feels that he is doing selective enforcement. He would like to put short term rentals on a future agenda for the Planning Commission.

Throenle also indicated that in a recent MTA publication, there were two articles he would like to point out. The first one is State legislation dealing with Medical Marijuana law, which states the Townships have the option not to permit Medical Marijuana business within the confines of the Township, unless it is in the Ordinance. The second one is legislation on chickens that would supersede what the townships have on the books.

Throenle indicated that he would like to propose in addition to the Public Hearings next meeting, he would like to get back to the overlay districts, and possibly the Sign Ordinance. Sikkema suggested just adding the Sign Ordinance on for the next meeting, along with the Public Hearings.

Throenle indicated that he has done several hundred observations this year – the difficulty in going to a particular property is that on any given day it may be clean. He feels that Zoning is enforcement by sight – he is not able to go on the property without permission, so he is restricted on the taking of pictures.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Minutes – 08/09/16 Marquette City Planning Commission
- B. Minutes – 08/16/16 Marquette City Planning Commission
- C. Minutes – 09/07/16 Township Board minutes draft

XIII. ADJOURNMENT

Sikkema adjourned the meeting at 9:28 pm.

Submitted by:

Planning Commission Secretary
Eric Meister