

### Officials concerned about deadline, enforcement of ordinances passed in wake of state hunting rule change

At least one northern Ozaukee County township will consider an ordinance banning the use of rifles in response to a state change in deer hunting regulations, but officials in other local towns are daunted by the fast-approaching deadline to pass such laws and puzzled by how to enforce them.

There is also the question of whether laws banning rifles are needed to protect public safety in response to a recent Wisconsin Department of Natural Resources decision to allow hunters to use rifles throughout the state during next month's nine-day deer season — a decision that lifts the long-standing prohibition against the use of such firearms for deer hunting in relatively populated areas like Ozaukee County.

The Belgium Town Board plans to address that question at its Wednesday, Nov. 6, meeting, and depending on the thoughts of officials and residents, it could vote on an ordinance prohibiting the use of rifles, Town Chairman Tom Winker said.

“We want a representative cross section of the township — both hunters and non-hunters — to attend this meeting -to participate in a discussion about this issue,” he said. “We have a sample ordinance banning rifles that the board could act on if it so chooses, but first we're going to have a thorough and healthy discussion.”

Leaders of other local towns, while questioning the need for rifle laws, said it would be difficult to draft, approve and enact such ordinances prior to the Nov. 23 start of the nine-day gun deer hunting season.

“We'd have to call a special meeting, and even then it would be difficult,” Town of Saukville Chairman Barbara Jobs said. “I honestly think we're out of time.”

Jobs, who noted the Town of Cedarburg recently decided not to pass such an ordinance, said the issue will be on the Nov. 19 Town Board agenda as a discussion item.

“I have people calling asking if we're going to do anything,” she said. “It's too late for an ordinance, but I don't want people to think we're not paying attention, so we're going to discuss it.”

The DNR surprised local officials earlier this month by announcing a rule change that allows rifles to be used throughout Wisconsin for deer hunting beginning next month. Rifles had previously been banned for deer hunting in all or parts of 18 counties, including all of Ozaukee

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County, for safety reasons.

Several local town officials said they were unaware of the change until asked about it by reporters just weeks ago.

“It would have been nice for the DNR to let us know about this,” Town of Grafton Chairman Lester Bartel Jr. said.

Shotguns that fire relatively short-range slugs have typically been considered the safer alternative to rifles in populated areas because of a reduced risk of stray bullets causing injury. Some high-powered rifle ammunition used for deer hunting has a range of more than three miles.

But the DNR, which has received support for the change at annual rules hearings held through the state for the last three years, is now arguing that hunting accident data shows that rifles are no more dangerous than shotguns.

The agency says local towns and municipalities where hunting is allowed can pass ordinances prohibiting rifles if they believe they present a public safety risk.

But that’s easier said than done, town officials and legal experts say.

“You can pass anything you want, but enforcing it is a whole other matter,” Bartel said.

DNR conservation wardens will not enforce local ordinances.

“The DNR isn’t even taking note of which towns are passing ordinances,” Town of Saukville Attorney John DeStefanis said.

The Ozaukee County Sheriff’s Department cannot enforce local ordinances either, Sheriff Maury Straub said.

“If a town were to enact such an ordinance and a person would be found using an illegal weapon, we would probably forward the information to the town attorney,” he said.

A town attorney could file a complaint in circuit court or a town constable could issue a citation, DeStefanis said.

In an analysis of the options available to towns, Wisconsin Towns Association attorney Lee Turonie wrote that while the DNR is “theoretically correct” that towns can pass ordinances prohibiting rifles, the “practical problems with such an ordinance are legion ....”

In addition to being difficult to approve in time for the hunting season and challenging to enforce, ordinances that intend to prohibit the use of rifles for deer hunting may end up being overly broad, according to Turonie.

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Because only the state can regulate hunting, towns may have to draft ordinances that prohibit specific caliber rifles year-round, not just during deer hunting seasons.

“Is that what you or your citizens would actually intend or desire?” Turonie asked. “For most towns, even those with formerly shotgun-only gun deer hunting zones, probably not.”

Another problem is that ordinances prohibiting rifles would be based on “very dubious legal underpinnings” unless towns can prove rifles pose a greater risk to public safety.

Villages and towns can generally pass ordinances that place reasonable restrictions on citizens’ liberty for the purposes of ensuring public safety. But if challenged on an ordinance prohibiting rifles, a town could find itself having to refute the DNR’s argument that rifles are no more dangerous than shotguns, Turonie wrote.

In most Ozaukee County townships, officials say they aren’t convinced rifles will make next month’s deer hunting season any more dangerous.

“It came up at our last board meeting and it didn’t seem to be a concern,” Town of Port Washington Chairman Jim Melichar said. “We really don’t see a problem with allowing rifles. We figure it has more to do with the guy behind the gun, not the gun itself.”

Straub agreed, adding that the type of gun being used by a hunter won’t affect the typical law enforcement problems encountered during gun deer season.

“I really don’t see it as an issue,” he said. “We still have a few trespassing incidents, and occasionally a stray bullet problem, but it probably will make little difference whether that bullet is fired from a rifle or shotgun. Both are dangerous.”