

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER DAVIS
Council Bill No. 28
Ordinance No. 1658
Series of 2018

TITLE: AN ORDINANCE AMENDING THE WHEAT RIDGE CODE OF LAWS CONCERNING WILDLIFE AND WATERFOWL

WHEREAS, pursuant to Article XX of the Colorado Constitution and C.R.S. §§ 31-15-401(1)(m) and 31-15-702(1)(a)(I), the City of Wheat Ridge ("City") possesses the authority to prohibit the feeding of wildlife and waterfowl; to regulate the treatment of wild animals, and to regulate the use of public parks within the City; and

WHEREAS, pursuant to this authority, the City, acting by and through its City Council (the "Council"), wishes to prohibit the feeding of wildlife and waterfowl within the City; and

WHEREAS, the Council finds and determines that the imposition of rules and regulations specific to the feeding of wildlife and waterfowl are necessary and desirable to minimize the potential impacts of feeding wildlife and waterfowl to protect all people and animals using the parks; and

WHEREAS, the Council further finds that feeding wildlife and waterfowl rules and regulations should be codified within the Wheat Ridge Code of Laws ("Code") to permit the violators thereof to be prosecuted in the City's Municipal Court; and

WHEREAS, the Council therefore desires to amend certain provisions of Chapters 4, 16 and 17 of the Code, to establish uniform rules and regulations to prohibit the feeding of wildlife and waterfowl, and the treatment of wild animals and to make other conforming amendments.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Code Section 4-1 is amended by the addition of the following definitions:

"WILDLIFE" SHALL INCLUDE ANY ANIMAL, WHICH IS NOT NORMALLY DOMESTICATED IN THIS STATE, INCLUDING BUT NOT LIMITED TO BEARS, MOUNTAIN LIONS, ELK, COYOTES, DEER, FERAL CATS, FOXES, GROUNDHOGS, OPOSSUMS, RACCOONS, SKUNKS, SQUIRRELS AND WATERFOWL.

."WATERFOWL" SHALL INCLUDE ANY BIRD, DOMESTIC OR WILD, THAT FREQUENTS THE WATER, OR LIVES ABOUT RIVERS, LAKES, ETC., AN AQUATIC FOWL, INCLUDING BUT NOT LIMITED TO DUCKS, GEESE, SWANS, HERON, AND EGRETS.

“FOOD” SHALL INCLUDE ANY PRODUCT DESIGNATED FOR ANIMAL OR HUMAN CONSUMPTION.

“WILD BIRD” INCLUDES ALL UNDOMESTICATED BIRDS NATIVE TO NORTH AMERICA AND UNDOMESTICATED GAME BIRDS IMPLANTED IN NORTH AMERICA BY GOVERNMENTAL AGENCIES AND ANY DOMESTIC DUCK OR GOOSE RELEASED BY ANY PRIVATE PERSON OR RECREATIONAL AUTHORITY UPON ANY RECREATIONAL AREA WITHIN THIS CITY.

“WILD ANIMAL” INCLUDES ANY ANIMAL NATIVE TO THE STATE, BUT DOES NOT INCLUDE RATTLESNAKES, FISH, NORWAY RATS OR COMMON HOUSE MICE.

“HUMANE TRAP” INCLUDES ANY TRAP WHICH DOES NOT CAUSE PHYSICAL INJURY, PAIN OR SUFFERING OF A TRAPPED ANIMAL. STEEL-JAW LEG HOLD TRAPS AND SNARES ARE SPECIFICALLY EXCLUDED FROM THIS DEFINITION, BUT THE CITY SHALL NOT BE PRECLUDED FROM DETERMINING THAT ANY OTHER TYPE OF TRAP IS ALSO EXCLUDED FROM THIS DEFINITION.

“CAUSING DAMAGE ON LAND” SHALL MEAN PHYSICAL INJURY TO BUILDINGS OR IMPROVEMENTS OR DESTRUCTION OR INJURY OF DOMESTIC ANIMALS OR PETS LAWFULLY KEPT THEREON.

Section 2. A new Code Section 4-19 is hereby enacted to read as follows:

SECTION 4-19. FEEDING OF WILDLIFE.

- A. IT SHALL BE UNLAWFUL TO PURPOSELY OR KNOWINGLY PLACE OR PROVIDE ANY FOOD FOR ANY WILDLIFE ANIMAL OR WATERFOWL.
- B. NO PERSON SHALL PURPOSELY OR KNOWINGLY LEAVE OR STORE ANY REFUSE, GARBAGE, FOOD PRODUCT, PET FOOD, FORAGE PRODUCT OR SUPPLEMENT, SALT, SEED OR BIRDSEED, FRUIT, GRAIN IN A MANNER THAT WOULD CONSTITUTE AN ATTRACTANT TO ANY WILDLIFE OR WATERFOWL.
- C. THIS SECTION SHALL NOT APPLY TO FEEDING OF BIRDS, SQUIRRELS, OR DOMESTIC WATERFOWL ON PRIVATE PROPERTY OWNED OR CONTROLLED BY THE PERSON(S) ENGAGED IN SUCH FEEDING.

Section 3. A new Code Section 4-20 is hereby enacted to read as follows:

SEC. 16-64. - PROTECTION OF WILDLIFE.

(A) SHOOTING, CAPTURING, ETC., PROHIBITED. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IT IS UNLAWFUL TO WILLFULLY SHOOT, CAPTURE, HARASS, INJURE OR DESTROY ANY WILD BIRD OR ANIMAL OR TO ATTEMPT TO SHOOT, CAPTURE, HARASS, INJURE OR DESTROY ANY SUCH WILD BIRD OR ANIMAL ANYWHERE WITHIN THIS CITY.

(B) DISTURBING, ETC., NESTS, BURROWS, ETC., PROHIBITED. NO PERSON SHALL WILLFULLY DESTROY, ROB OR DISTURB THE NEST, NESTING PLACE, BURROW, EGGS OR YOUNG OF ANY WILD BIRD OR ANIMAL ANYWHERE WITHIN THIS CITY.

(C) STATE-PROTECTED BIRDS AND ANIMALS. THE PROVISIONS OF THIS SECTION ARE NOT INTENDED TO ALLOW THE DESTRUCTION OF ANY BIRD OR ANIMAL PROTECTED BY STATE OR FEDERAL LAW.

(D) WHEN TRAPPING PERMITTED. IF ANY WILD BIRD OR ANIMAL IS CAUSING DAMAGE ON LANDS WITHIN THE CITY OWNED OR LEASED BY ANY PERSON, SUCH PERSON OR ANY MEMBER OF HIS FAMILY, OR HIS AGENT, MAY TRAP SUCH WILD BIRD OR ANIMAL, SUBJECT TO THE PROVISIONS OF THIS SECTION.

(E) PROVISIONS FOR TRAPPING. TRAPPING OF ANIMALS SHALL FOLLOW THE PROVISIONS SET OUT BELOW:

(1) WHEN DEEMED NECESSARY BY POLICE OFFICERS OR THE COMMUNITY SERVICE OFFICER FOR THE HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF THE CITY, SUCH OFFICERS AND/OR THEIR AGENTS MAY PLACE A HUMANE TRAP ON CITY PROPERTY OR OTHER PROPERTY WITHIN THE CITY WHEN THE PROPERTY OWNER REQUESTS SUCH HUMANE TRAP FOR THE PURPOSE OF CAPTURING ANY WILD OR PET ANIMAL CREATING A NUISANCE IN THE CITY. PROVIDED, HOWEVER, THAT NO TRAP OF ANY KIND SHALL BE SET UPON ANY PROPERTY WITHOUT NOTIFICATION TO AND/OR PERMISSION FROM THE OWNER OF SUCH PROPERTY.

(2) ANY PERSON WHO TRAPS AN ANIMAL PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL IMMEDIATELY NOTIFY POLICE DEPARTMENT OF SUCH TRAPPING. THE POLICE DEPARTMENT SHALL HAVE THE EXCLUSIVE RIGHT AND AUTHORITY TO DETERMINE THE DISPOSITION OF ANY SUCH TRAPPED ANIMAL.

(3) COMMUNITY SERVICE OFFICERS ARE AUTHORIZED TO USE ANY HUMANE TRAPS OR OTHER SUITABLE DEVICES TO SUBDUE OR DESTROY ANY ANIMAL THAT IS DEEMED BY THE COMMUNITY SERVICE OFFICER, IN HIS DISCRETION, TO BE A DANGER TO ITSELF OR TO THE PUBLIC HEALTH AND SAFETY.

(4) IT SHALL BE UNLAWFUL FOR ANY PERSON TO SET OR CAUSE TO BE SET WITHIN THE CITY ANY STEEL-JAW LEG-HOLD TRAP, SNARE OR ANY TRAP OTHER THAN A HUMANE TRAP, FOR THE PURPOSE OF CAPTURING ANY ANIMAL, WHETHER WILD OR DOMESTIC.

(F) APPLICATION TO CITY AND STATE EMPLOYEES. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE PERSONNEL OF ANY POLICE, FIRE OR ANIMAL CONTROL AGENCY OR TO THE STATE DIVISION OF WILDLIFE OR

DEPARTMENT OF HEALTH OR OTHER STATE OR FEDERAL AGENCY, AND ALL CITY OF WHEAT RIDGE EMPLOYEES WHEN SUCH PERSONS ARE ACTING WITHIN THE SCOPE OF THEIR OFFICIAL DUTIES AS EMPLOYEES OF SUCH AGENCIES.

(G) NOTHING HEREIN SHALL LIMIT THE AUTHORITY OF A SWORN POLICE OFFICER OF THE CITY TO TAKE ACTIONS TO SUBDUE OR DESTROY ANY ANIMAL THAT IS DEEMED BY THE POLICE OFFICER, IN HIS DISCRETION, TO BE A DANGER TO ITSELF OR THE PROTECTION OF PUBLIC HEALTH AND SAFETY.

Section 4. Code Section 17-29 is amended by the addition of a new subsection (c), to read as follows:

(C) THE TREATMENT OF WILDLIFE AND WATERFOWL SHALL BE GOVERNED BY SECTIONS 4-19 AND 4-20 OF THIS CODE.

Section 5. Code Section 16-64 is hereby repealed.

Section 6. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Wheat Ridge, that it is promulgated for the health, safety, and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 7. Severability; Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 8. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 6 to 0 on this 22nd day of October, 2018, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge and Public Hearing and consideration on final passage set for November 26, 2018, at 7:00 o'clock p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 26th day of November, 2018.


SIGNED by the Mayor on this 26th day of November, 2018.



Bud Starker, Mayor


ATTEST:





Janelle Shaver, City Clerk
Robin Esten, Deputy City Clerk

Approved As To Form



Gerald E. Dahl, City Attorney

First Publication: October 25, 2018
Second Publication: November 29, 2018
Wheat Ridge Transcript
Effective Date: December 14, 2018