

ORDINANCE NO. 15-837

AN ORDINANCE PROHIBITING THE PRACTICE OF FEEDING, BAITING, AND/OR MAINTAINING WILDLIFE IN ANY AREA SUBJECT TO THE JURISDICTION OF THE CITY OF BURNS; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Burns, an Oregon municipal corporation ("City"), has all the powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow City; and

WHEREAS, City's citizens value wildlife and want to maintain healthy and wild populations of deer, elk, bear, and other wildlife that are not dependent upon or hazardous to humans; and

WHEREAS, feeding deer, elk, bear, and other wildlife results in artificially high concentrations of animals, increases human-wildlife conflicts, and compromises the health and safety of humans and wildlife; and

WHEREAS, it is in the best interest of the health, safety, and welfare of City's citizens to prohibit the feeding, baiting, and/or maintaining of wildlife in any area subject to the jurisdiction of City.

NOW, THEREFORE, the City of Burns ordains as follows:

1. **Findings.** The above-stated findings are hereby adopted.
2. **Short Title.** This Ordinance No. 15-837 may be referred to as the "Wildlife Control Ordinance" and will be cited and referred to herein as this "Ordinance."
3. **Purpose.** The purpose of this Ordinance is to prohibit the feeding, baiting, and/or maintaining of wildlife within City's jurisdictional limits so as to protect the public health, safety, and welfare of humans and property, and to prescribe penalties for failing to comply.
4. **Definitions.** For purposes of this Ordinance, the following terms and phrases have the meanings assigned to them below:

"Attractant(s)" means any substance, including, without limitation, food, garbage, and/or salt lick, which draws or attracts wildlife to a particular location.

"City manager" means City's city manager or his or her designee.

"Council" means the Burns City Council.

"Feed" means a substance composed of grain, mineral, salt, fruit, vegetable, hay, and/or any other food material or combination of these materials, whether natural or manufactured, that may attract wildlife and/or stray or feral cats.

"Person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency, political subdivision, and/or any other entity.

"Person responsible" means (a) the owner, agent, occupant, lessee, tenant, and/or other person

having possession or control of the property upon which the subject nuisance exists, and/or (b) the person who causes the subject nuisance to come into, or continue in, existence.

"Waterfowl" means any bird that frequents the water or lives around rivers, lakes, and/or other bodies of water, including, without limitation, ducks, geese, swans, and herons.

"Wildlife" includes any animal which is not normally domesticated including, without limitation, bears, coyotes, deer, elk, foxes, groundhogs, opossums, raccoons, skunks, turkeys, and waterfowl.

5. Feeding, Baiting, and Maintaining Wildlife Prohibited; Notice; Abatement.

5.1 The following is hereby declared to be a public nuisance and unlawful: (a) feeding, baiting, and/or maintaining any wildlife, including, without limitation, hand feeding or setting out food to be left attended or unattended, which creates or has the potential to create a hazard to the public health, safety, and/or welfare of humans and/or property; (b) leaving, storing, and/or maintaining any feed or attractant in a manner and location accessible to any wildlife which creates or has the potential to create a hazard to the public health, safety, and/or welfare of humans and/or property; and/or (c) feeding stray or feral cats if such feeding creates or has the potential to create a hazard to the public health, safety, and/or welfare of humans and/or property.

5.2 A person who violates Section 5.1 of this Ordinance may be issued a written notification by the city manager requiring the person to remove the food, garbage, bait, and/or other attractant within three days of notification. A person who receives a written notice under this Section 5.2 will immediately remove the food, garbage, bait, and/or other attractant as directed.

5.3 Any nuisance described in this Ordinance that is allowed to continue by any person responsible for a period of more than three days after notification by the city manager under Section 5.2 may be subject to City's nuisance abatement and enforcement procedures and penalties and/or any other rights and remedies available to City, including, without limitation, City's rights and remedies provided under this Ordinance. Notwithstanding anything contained in this Ordinance to the contrary, if the city manager reasonable determines that a nuisance described in this Ordinance imminently threatens and/or endangers the public health, safety, and/or welfare of humans and/or property, the city manager may cause such nuisance to be summarily abated.

5.4 If any part or area within City's jurisdictional limits experiences the presence of wildlife and/or feral cat populations that endangers, threatens, and/or creates a hazard to the health, safety, and/or welfare of humans and/or property, City may take those steps authorized by the appropriate regulatory agency to disperse or otherwise control the offending wildlife and/or feral cats.

6. Exceptions; Feral Cats. The prohibitions described in Section 5 does not apply to the following: (a) feeding birds, other than waterfowl, utilizing a bird feeder that can be accessed only by birds; (b) feeding livestock in normal agricultural operations; and/or (c) feeding wildlife kept under a valid license or permit issued by the Oregon Department of Fish and Wildlife, and in compliance with all applicable federal, state, and local laws, regulations, and ordinances, by the person who is the legal owner or guardian of such wildlife. Nothing in this Ordinance will prohibit the actions of an authorized agent of the State of Oregon lawfully engaged in a wildlife or waterfowl management program. Any person feeding stray or feral cats may be required to cooperate with any humane program (which is supported by or operating under the auspices of local governmental authorities) that traps stray and feral cats for the purpose of spaying/neutering the cats, immunizing the cats from rabies, and then returning the cats to their environment in the general vicinity in which they were trapped.

7. Investigations and Complaints: Property Entry. Upon receiving a complaint by one or more persons alleging a violation of this Ordinance, an authorized City agent may investigate the complaint to determine if there has been a violation of this Ordinance. The city manager, or a person authorized by the city manager, may enter upon the property to abate a nuisance described in this Ordinance and/or to otherwise enforce this Ordinance.

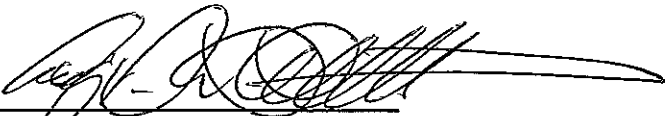
8. Enforcement: Penalties. This Ordinance will be enforced by any sworn peace officer authorized to enforce the laws of City and any other City official authorized to administer City's land use, development, nuisance, building, and/or other regulations. In addition, City may initiate appropriate suit or legal action in a court of competent jurisdiction to enforce this Ordinance. Any violation of this Ordinance is punishable by a fine not to exceed \$250.00 per violation. City will be entitled to collect from any person violating this Ordinance City's attorney fees and other fees, costs, and expenses incurred by City to enforce this Ordinance. Each violation, and each day that a violation continues, constitutes a separate civil infraction. The remedies available under this Ordinance are not exclusive of any other remedies available under any applicable federal, state, and/or local laws, regulations, and/or ordinances. It is within City's discretion to seek cumulative remedies for a violation of this Ordinance. Nothing in this Ordinance will be construed to relieve a person from complying with any applicable federal, state, and/or local laws, regulations, and/or ordinances. Failure of any person responsible to receive a notice required under this Ordinance and/or an error in the name or address of the person responsible will not render the notice void and in such case the notice will be sufficient.

9. Interpretation: Severability: Errors. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, rule, regulation, code, or ordinance includes the law, rule, regulation, code, or ordinance as now in force and which may hereafter be amended. The provisions of this Ordinance are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the council to cure editorial and/or clerical errors.

10. Emergency Declaration. The Council finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health, and safety of City's citizens by prohibiting the feeding, baiting and/or maintaining of wildlife within City. The Council further finds that a delay of thirty (30) days prior to the effective date of this Ordinance may result in acts, omissions, and/or conditions detrimental to the public health, safety, and welfare. Therefore, an emergency is declared to exist and this Ordinance will be in full force and effect upon its passage by the Council and approval of the mayor.

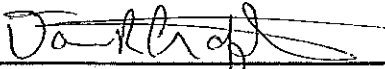
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This Ordinance was PASSED and ADOPTED by the Burns City Council by a vote of 6 for and 1 against and APPROVED by the mayor on this 16 day of December, 2015.



Craig LaFollette, Mayor

ATTEST:



Dawn Crafts, City Recorder