

1 **CITY OF LITTLETON, COLORADO**

2
3 **ORDINANCE NO. 04**

4
5 **Series, 2018**

6
7 **INTRODUCED BY COUNCILMEMBERS: VALDES & DRISCOLL**

8
9 **AN ORDINANCE OF THE CITY OF LITTLETON,**
10 **COLORADO, AMENDING THE MUNICIPAL CODE TO**
11 **PROVIDE FOR THE SAFETY AND PROTECTION OF**
12 **WILDLIFE**

13
14 **WHEREAS**, the city council finds that the safety and protection of wildlife in the
15 City of Littleton is important to the city; and

16
17 **WHEREAS**, there is a need for additional protection and enforcement
18 mechanisms for the protection of wildlife dens or nests.

19
20 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF**
21 **THE CITY OF LITTLETON, COLORADO, THAT:**

22
23 **Section 1:** Title 6, Chapter 1, Section 5 is hereby repealed and amended to read as
24 follows:

25
26 **~~6-1-5: BIRD RESTRICTIONS:~~**

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28 ~~It shall be unlawful for any person at any time within the corporate limits of the City to frighten,~~
29 ~~shoot at, wound, kill, take, capture, ensnare, net, trap or in any other manner molest or injure any~~
30 ~~songbird or insectivorous bird; or in any manner molest or injure the nest eggs or young of any~~
31 ~~such bird; or have in possession the nest eggs, young or body of such bird.~~

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33 **6-1-5: HARASSMENT OF WILDLIFE:**

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35 **6-1-5-1: DAMAGE OR DESTRUCTION OF DENS OR NESTS:**

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37 (A) UNLESS PERMITTED BY THE STATE PARKS AND WILDLIFE DIVISION OR THE
38 SOUTH SUBURBAN PARKS DISTRICT, IT IS UNLAWFUL FOR ANY PERSON TO
39 WILLFULLY DAMAGE OR DESTROY ANY WILDLIFE DEN OR NEST OR THEIR EGGS
40 OR TO HARASS ANY WILDLIFE LOCATED IN ANY CITY PARK, PARK DISTRICT,
41 PUBLIC PROPERTY OR PRIVATE PROPERTY DESIGNATED AS A WILDLIFE
42 HABITAT. THE CITY OR ANY PARKS DISTRICT EXERCISING MANAGEMENT OVER
43 CITY PROPERTY MAY POST SIGNAGE INDICATING THAT AREAS WITHIN A PARK
44 ARE PROTECTED AREAS FOR WILDLIFE DENS OR NESTS. ANY PERSON WHO
45 VIOLATES THIS SUBSECTION (A) IS GUILTY OF A MISDEMEANOR AND, UPON
46 CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN ONE
47 HUNDRED DOLLARS. FOR THE PURPOSES OF THIS SUBSECTION (A) NOTHING
48 SHALL PROHIBIT THE REMOVAL OF WILDLIFE DENS OR NESTS, BY THE STATES
49 PARKS AND WILDLIFE DIVISION OR THE CITY OR SOUTH SUBURBAN PARKS

DISTRICT, WHEN NECESSARY TO PREVENT DAMAGE TO PROPERTY OR LIVESTOCK.

(B) UNLESS OTHERWISE ALLOWED BY STATE STATUTE, RULE OR REGULATION INCLUDING ANY WILDLIFE MANAGEMENT PLAN OR PARK/TRAIL IMPROVEMENT OR MAINTENANCE ACTIVITY OR RULE OR REGULATION OF A PARKS DISTRICT MANAGING OR OPERATING A FACILITY UPON THE PROPERTY, IT IS UNLAWFUL FOR ANY PERSON TO KNOWINGLY OR NEGLIGENTLY ALLOW OR DIRECT A DOG OR OTHER DOMESTIC ANIMAL WHICH THEY OWN OR WHICH IS UNDER THEIR CONTROL TO HARASS WILDLIFE, WHETHER OR NOT THE WILDLIFE IS ACTUALLY INJURED BY SUCH DOG OR OTHER DOMESTIC ANIMAL. ANY PERSON WHO VIOLATES THIS SUBSECTION (B) IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS.

(C) UNLESS OTHERWISE ALLOWED BY STATE STATUTE, RULE OR REGULATION, IT IS UNLAWFUL FOR ANY PERSON TO KNOWINGLY OR NEGLIGENTLY USE ANY MOTOR VEHICLE, DRONE, MODEL AIRCRAFT, LIGHT, FIREWORKS, OR NOISE MAKER OR ANY OTHER PERSONAL PROPERTY TO WILLFULLY ATTEMPT TO DAMAGE OR DESTROY ANY WILDLIFE DEN, NEST OR THEIR EGGS OR OFFSPRING, WHETHER OR NOT THE WILDLIFE IS ACTUALLY INJURED. IT SHALL BE PRESUMED THAT USE OF ANY DRONE, MODEL AIRCRAFT, LIGHT, FIREWORKS OR NOISE MAKER IN AN AREA POSTED AS A PROTECTED AREA FOR WILDLIFE DENS OR NESTS IS A NEGLIGENT USE IN VIOLATION OF THIS SECTION. ANY PERSON WHO VIOLATES THIS SUBSECTION (C) IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS.

(D) A SOUTH SUBURBAN PARKS DISTRICT RANGER, COLORADO WILDLIFE OFFICER OR OTHER PEACE OFFICER MAY CAPTURE AND IMPOUND ANY DOG OR OTHER DOMESTIC ANIMAL HE OR SHE DETERMINES TO BE HARASSING WILDLIFE. THE PROVISIONS OF THIS SUBSECTION (D) SHALL NOT APPLY TO DOGS OR OTHER DOMESTIC ANIMALS THAT ARE UNDER THE DIRECT PERSONAL CONTROL OF A PERSON THROUGH USE OF A LEASH. SUCH DOG OR OTHER DOMESTIC ANIMAL SHALL NOT BE RELEASED TO THE PERSON HAVING CONTROL OF THE ANIMAL WITHOUT PAYMENT OF ALL IMPOUND FEES.

6-1-5-2: ITEMS USED IN HARASSING WILDLIFE CONSTITUTING PUBLIC NUISANCE—WHEN—SEIZURE:

(A) EVERY DRONE, MODEL AIRCRAFT, LIGHT, FIREWORKS OR NOISE MAKER, OR OTHER PERSONAL PROPERTY USED IN THE HARASSING OF WILDLIFE IN VIOLATION OF THE PROVISIONS OF THIS TITLE IS DECLARED TO BE A PUBLIC NUISANCE. EVERY SUCH ITEM SHALL BE SUBJECT TO SEIZURE, CONFISCATION, AND FORFEITURE OR DESTRUCTION AS PROVIDED IN THIS SECTION, UNLESS THE

1 POSSESSION OF SAID PROPERTY IS NOT UNLAWFUL AND THE OWNER OF SAID
2 PROPERTY WAS NOT A PARTY TO THE VIOLATION AND WOULD SUFFER UNDUE
3 HARDSHIP BY THE SALE, CONFISCATION, OR DESTRUCTION OF THE PROPERTY.
4

5 (B) DISPOSAL OF PROPERTY SEIZED AS A PART OF OR INCIDENT TO A CRIMINAL
6 PROCEEDING:
7

8 1. ANY PERSONAL PROPERTY SUBJECT TO SEIZURE, CONFISCATION, AND
9 FORFEITURE OR DESTRUCTION UNDER THE PROVISIONS OF THIS SECTION,
10 WHICH IS SEIZED AS A PART OF OR INCIDENT TO A CRIMINAL PROCEEDING FOR
11 VIOLATION OF THE PROVISIONS OF THIS TITLE AND FOR WHICH DISPOSITION IS
12 NOT PROVIDED BY ANOTHER STATUTE OF THIS STATE OR PROVISION OF THIS
13 CODE SHALL BE DISPOSED OF AS PROVIDED IN THIS SECTION.
14

15 2. ANY SUCH PROPERTY, THE POSSESSION OF WHICH IS ILLEGAL AND WHICH IN
16 THE OPINION OF THE COURT HAVING JURISDICTION OVER THE CRIMINAL
17 PROCEEDING IS NOT PROPERLY THE SUBJECT OF A SALE, MAY BE DESTROYED
18 PURSUANT TO A WARRANT FOR THE DESTRUCTION OF PERSONAL PROPERTY
19 ISSUED BY THE COURT AND DIRECTED TO THE AGENCY HOLDING THE
20 PROPERTY. THE COURT SHALL STAY THE EXECUTION OF ANY SUCH WARRANT
21 DURING THE PERIOD IN WHICH THE PROPERTY IS USED AS EVIDENCE IN ANY
22 PENDING CRIMINAL OR CIVIL PROCEEDING.
23

24 3. ANY FORFEITURE PURSUANT TO THIS TITLE SHALL BE DONE IN ACCORDANCE
25 WITH THE PROVISIONS OF COLORADO REVISED STATUTES TITLE 18, SECTIONS
26 18-17-106 TO 18-17-108.
27

28 4. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE COURT MAY ORDER
29 ANY SUCH PROPERTY SOLD BY THE CITY IN THE MANNER PROVIDED BY THIS
30 CODE FOR SALES OF SURPLUS PERSONAL PROPERTY OWNED BY THE CITY. THE
31 PROCEEDS OF THE SALE SHALL BE APPLIED AS FOLLOWS:
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33 (A) TO THE FEES AND COSTS OF REMOVAL AND SALE;

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35 (B) TO THE PAYMENT OF THE CITY'S COSTS ON SUCH ACTION; AND
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37 (C) THE BALANCE, IF ANY, OR ANY PORTION THEREOF NOT OTHERWISE
38 DISTRIBUTED PURSUANT TO THIS PARAGRAPH (3), TO THE CITY TO BE USED FOR
39 THE MAINTENANCE AND ENHANCEMENT OF OPEN SPACES.
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41 **6-1-5-3: DAMAGE TO PROPERTY OR HABITAT UNDER CITY OR PARKS**
42 **DISTRICT:**
43

44 (A) IT IS UNLAWFUL FOR ANY PERSON TO REMOVE, DAMAGE, DEFACE OR
45 DESTROY OR TO USE ANY INSTRUMENT, FIREWORKS, DRONE, OR MODEL

AIRCRAFT TO REMOVE, DAMAGE, DEFACE OR DESTROY ANY REAL OR PERSONAL PROPERTY OR WILDLIFE HABITAT UNDER THE CONTROL OF THE CITY OR ANY PARKS DISTRICT MANAGING PROPERTY WITHIN THE CITY. ANY PERSON WHO VIOLATES THIS SUBSECTION (A) IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS, OR BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN ONE YEAR, OR BY BOTH SUCH FINE AND IMPRISONMENT. IN ADDITION, THE COURT MAY REQUIRE THE DEFENDANT TO REIMBURSE THE CITY AND OR ANY PARKS DISTRICT MANAGING PROPERTY WITHIN THE CITY FOR ANY DAMAGES.

Section 2: Section 10 of Chapter 1 of Title 6 is hereby amended to read as follows:

6-1-10: DEFINITIONS:

As used in this Chapter, the following words and phrases shall have the following meanings unless the context otherwise indicates:

AT LARGE: An animal that is off the premises of the owner, as “owner” is defined in this Section, and is not under the actual physical control of such owner.

HUMANE TRAPS: Box-type live traps which do not cause bodily harm to the animal intended to be captured or any other animal or person coming in contact with such trap.

MUZZLE: A device which is constructed of strong, soft material or metal such as that used commercially with greyhounds which prevents a dog from biting any person or animal. Said muzzle shall be made and attached in a manner which will not cause injury to the dog or interfere with its vision or respiration.

OWNER: Any person owning, keeping, harboring, or having the full or temporary care of an animal at the time any violation of this Chapter is committed.

PERSON: Any person regardless of age and specifically including minors under the age of eighteen (18) years.

WILDLIFE: WILD VERTEBRATES, MOLLUSKS AND CRUSTACEANS WHETHER ALIVE OR DEAD, INCLUDING ANY PART, PRODUCT, EGG OR OFFSPRING THEREOF THAT EXIST AS A SPECIES IN A NATURAL WILD STATE IN THEIR PLACE OR ORIGIN OR HISTORICALLY. WILDLIFE DOES NOT INCLUDE:

(A) THOSE SPECIES DETERMINED TO BE DOMESTIC ANIMALS BY THE COLORADO PARKS AND WILDLIFE COMMISSION.

(B) THOSE SPECIES DETERMINED TO BE DOMESTIC ANIMALS BY THE COLORADO AGRICULTURAL COMMISSION.

Section 3: Severability. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of this ordinance. The City Council hereby declares that it would have passed this ordinance, including each part, section, subsection, sentence, clause or phrase hereof, irrespective of the fact that one or more parts, sections, subsections, sentences, clauses or phrases may be declared invalid.

Section 4: Repealer. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are hereby repealed, provided that this repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

INTRODUCED AS A BILL at a regularly scheduled meeting of the City Council of the City of Littleton on the 16th day of January, 2018, passed on first reading by a vote of 5 FOR and 1 AGAINST; and ordered published by posting at Littleton Center, Bemis Library, the Municipal Courthouse and on the City of Littleton Website.

PUBLIC HEARING on the Ordinance to take place on the 6th day of February, 2018, in the Council Chambers, Littleton Center, 2255 West Berry Avenue, Littleton, Colorado, at the hour of 6:30 p.m., or as soon thereafter as it may be heard.

PASSED on second and final reading, following public hearing, by a vote of _____FOR and _____ AGAINST on the 6th day of March, 2018 and ordered published by posting at Littleton Center, Bemis Library, the Municipal Courthouse and on the City of Littleton Website.

ATTEST:

Wendy Heffner
CITY CLERK

Debbie Brinkman
MAYOR

APPROVED AS TO FORM:

Lena McClelland
ASSISTANT CITY ATTORNEY