

1 CITY OF LITTLETON, COLORADO

2
3 ORDINANCE NO. 10

4
5 Series, 2018

6
7 INTRODUCED BY COUNCILMEMBERS: ELROD & SCHLACHTER

8
9 AN ORDINANCE OF THE CITY OF LITTLETON, COLORADO,
10 AMENDING TITLE 6, CHAPTER 1 OF THE MUNICIPAL CODE
11 TO 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 City of
15 Littleton is important to the city; and

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

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

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23 Section 1: Title 6, Chapter 1, Section 10 is hereby amended to read as follows:

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25 **6-1-10: DEFINITIONS:**

26
27 As used in this Chapter, the following words and phrases shall have the following meanings unless the
28 context otherwise indicates:

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

32
33 HARASS: TO UNLAWFULLY ENDANGER, IMPEDE, ANNOY, PURSUE, DISTURB, MOLEST
34 OR TORMENT WILDLIFE.

35
36 HAZING: AN ACTIVITY OR SERIES OF ACTIVITIES CONDUCTED IN AN ATTEMPT TO
37 CHANGE THE BEHAVIOR OF WILDLIFE OR TO CREATE A WARINESS OF HUMANS OR TO
CHANGE WILDLIFE BEHAVIOR.

38
39 HUMANE TRAPS: Box-type live traps which do not cause bodily harm to the animal intended to be
40 captured or any other animal or person coming in contact with such trap.

41
42 MUZZLE: A device which is constructed of strong, soft material or metal such as that used
43 commercially with greyhounds which prevents a dog from biting any person or animal. Said muzzle
44 shall be made and attached in a manner which will not cause injury to the dog or interfere with its vision
45 or respiration.

46
47 OWNER: Any person owning, keeping, harboring, or having the full or temporary care of an animal at
48 the time any violation of this Chapter is committed.

49

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:

1. THOSE SPECIES DETERMINED TO BE DOMESTIC ANIMALS BY THE COLORADO PARKS AND WILDLIFE COMMISSION.
2. THOSE SPECIES DETERMINED TO BE DOMESTIC ANIMALS BY THE COLORADO AGRICULTURAL COMMISSION.

WILDLIFE HABITAT: AN AREA ON PUBLIC PROPERTY THAT HAS BEEN DESIGNATED BY THE PUBLIC ENTITY AS A HABITAT AREA FOR WILDLIFE OR AN AREA ON PRIVATE PROPERTY THAT IS SUBJECT TO A CONSERVATION EASEMENT OR A ZONING RESTRICTION DESIGNATING THE AREA AS A HABITAT FOR WILDLIFE

Section 2: Title 6, Chapter 1, Section 5 is hereby repealed and amended to read as follows:

~~6-1-5: BIRD RESTRICTIONS:~~

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

Section 3: Title 6, Chapter 1, Section 5 is amended to enact Section 6-1-5-1 and which shall read as follows:

6-1-5-1: DAMAGE OR DESTRUCTION OF DENS OR NESTS--HARASSMENT OF WILDLIFE

A. UNLESS PERMITTED BY THE STATE PARKS AND WILDLIFE DIVISION, SOUTH SUBURBAN PARKS DISTRICT OR THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT, IT IS UNLAWFUL FOR ANY PERSON TO WILLFULLY DAMAGE OR DESTROY ANY WILDLIFE DEN OR NEST OR THEIR EGGS OR TO HARASS ANY WILDLIFE LOCATED IN ANY CITY PARK. PARK DISTRICT PARK, PUBLIC PROPERTY OR PRIVATE PROPERTY DESIGNATED AS A WILDLIFE HABITAT. THE CITY OR ANY PARKS DISTRICT EXERCISING MANAGEMENT OVER CITY PROPERTY MAY POST SIGNAGE INDICATING THAT AREAS WITHIN A PARK ARE PROTECTED AREAS FOR WILDLIFE DENS OR NESTS. 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. FOR THE PURPOSES OF THIS SUBSECTION A NOTHING SHALL PROHIBIT:

1. THE REMOVAL OF WILDLIFE, WILDLIFE DENS OR NESTS WHEN NECESSARY TO PREVENT DAMAGE TO PROPERTY OR LIVESTOCK;

2. THE HAZING OF WILDLIFE THAT HAS LOST ITS NATURAL WARINESS OF PEOPLE.

3. THE REMOVAL OF WILDLIFE, WILDLIFE DENS OR NESTS BY THE STATE, CITY, PARKS DISTRICT, URBAN FLOOD CONTROL AND DRAINAGE DISTRICT OR A PRIVATE LANDOWNER TO PRESERVE HUMAN SAFETY.

B. UNLESS OTHERWISE ALLOWED BY THE STATE STATUTE, RULE OR REGULATION OR RULE OF REGULATION OF A PARKS DISTRICT OR URBAN DRAINAGE AND FLOOD CONTROL DISTRICT MANAGING OR OPERATING A WILDLIFE HABITAT 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 DRONE, MODEL AIRCRAFT, LIGHT, FIREWORKS, OR NOISE MAKER OR ANY OTHER PERSONAL PROPERTY TO WILLFULLY ATTEMPT TO DAMAGE; 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. NOTWITHSTANDING THE ABOVE, HAZING AS DEFINED IN THIS CHAPTER OR AS DEFINED BY THE STATE OF COLORADO, DIVISION OF WILDLIFE SHALL NOT BE A VIOLATION OF THIS SUBSECTION. 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 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 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.

Section 4: Title 6, Chapter 1, Section 5 is amended to enact Section 6-1-5-2 and which shall read as follows:

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

B.

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

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

3. ANY FORFEITURE PURSUANT TO THIS TITLE SHALL BE DONE IN ACCORDANCE WITH THE PROVISIONS COLORADO REVISED STATUTES TITLE 16, SECTIONS 16-13-505 – 16-13-508.

4. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE COURT MAY ORDER ANY SUCH PROPERTY SOLD BY THE CITY IN THE MANNER PROVIDED BY THIS CODE FOR SALES OF SURPLUS PERSONAL PROPERTY OWNED BY THE CITY. THE PROCEEDS OF THE SALE SHALL BE APPLIED AS FOLLOWS:

(A) TO THE FEES AND COSTS OF REMOVAL AND SALE;

(B) TO THE PAYMENT OF THE STATE'S COSTS ON SUCH ACTION; AND

(C) THE BALANCE, IF ANY, OR ANY PORTION THEREOF NOT OTHERWISE DISTRIBUTED PURSUANT TO THIS PARAGRAPH (C), TO THE CITY TO BE USED FOR THE MAINTENANCE AND ENHANCEMENT OF OPEN SPACES.

Section 5: Title 6, Chapter 1, Section 5 is amended to enact Section 6-1-5-3 and which shall read as follows:

6-1-5-3: DAMAGE TO PROPERTY OR HABITAT UNDER CITY OR PARKS DISTRICT.

A. IT IS UNLAWFUL FOR ANY PERSON TO REMOVE, DAMAGE, DEFACE, OR 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, PARKS DISTRICT MANAGING PROPERTY WITHIN THE CITY OR URBAN FLOOD CONTROL AND DRAINAGE DISTRICT. 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, THE PARKS DISTRICT MANAGING PROPERTY WITHIN THE CITY OR THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT FOR ANY DAMAGES.

Section 6: 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 7: 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 6th day of March, 2018, passed on first reading by a vote of 7 FOR and 0 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 20th day of March, 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 20th day of March, 2018 and ordered published by posting at Littleton Center, Bemis Library, the Municipal Courthouse and on the City of Littleton Website.

1 ATTEST:

2 _____
3 Wendy Heffner
4 CITY CLERK

5
6 _____
7 Lena McClelland
8 ASSISTANT CITY ATTORNEY

Debbie Brinkman
MAYOR