



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Sara L. Hensley

SUBJECT: SEE BELOW

DATE: 01-21-05

Approved

Date

1-21-05

COUNCIL DISTRICT: Citywide
SNI AREA: N/A

SUPPLEMENTAL

SUBJECT: APPROVAL OF AN ORDINANCE AMENDING SECTION 7.11.100 OF CHAPTER 7.11 OF TITLE 7 OF THE SAN JOSE MUNICIPAL CODE TO CREATE AN EXCEPTION TO THE BAN ON FEEDING WILD ANIMALS FOR ANY PERSON USING AN ATTRACTANT TO TRAP AN ANIMAL IN A LEGALLY AUTHORIZED OR PERMITTED MANNER.

ANALYSIS

On January 11, 2005, the City Council passed for publication an ordinance amending Section 7.11.100 to create an exception for persons who use an attractant to trap an animal in a legally authorized or permitted manner. The City Council sought clarification on whether the exception should be limited to persons that trap "wild animals" instead of "animals."

The San Jose Municipal Code Section 7.11.020 defines "wild animals" as coyotes, opossums, skunks, fur bearing mammals as defined by section 4000 of the California Fish and Game Code, and game mammals as defined by section 3950 of the California Fish and Game Code. Section 7.11.100 prohibits any person from providing an attractant to a wild animal. This prohibition applies regardless of whether the person's intent is to attract a wild or "non wild" animal. The exception to the prohibition includes persons who use an attractant to trap an "animal" in a legally authorized or permitted manner. We recommend the exception to the prohibition remain as written because use of the broader term "animal" will allow the lawful trapping of both wild and "non wild" animals. For example, the exception will not preclude persons who use an attractant to lawfully trap animals such as feral cats.

This memorandum was coordinated with the City Attorney's Office.

SARA L. HENSLEY
Director of Parks, Recreation
and Neighborhood Services