



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney

**SUBJECT:** Proposed Ordinance To Ban  
The Feeding Of Wild Animals

**DATE:** 10/22/2004

## **RECOMMENDATION**

Consider approval of the proposed Ordinance amending Title 7 of the San Jose Municipal Code to add a new Chapter 7.11 to ban the feeding of wild animals including deer, bears, coyotes, foxes, mountain lions, opossums, raccoons and skunks.

## **BACKGROUND**

On October 5, 2004 and October 12, 2004, the City Council discussed various issues contributing to the presence of coyotes in the Villas of Almaden. One of the factors discussed was the feeding of certain wild animals that potentially provided a food source for the coyotes to settle and thrive in and around the Villas of Almaden. On October 12, 2004, the City Council directed staff to develop an ordinance to ban the feeding of wild animals.

The State Department of Fish and Game ("State") prohibits the harassment of animals including any game or nongame bird or mammal or furbearing mammal. Harassment is defined as an intentional act which disrupts an animal's normal behavior patterns, which includes, but is not limited to, breeding, feeding or sheltering. The State also specifically bans the feeding of big game mammals including deer and black bears.

## **ANALYSIS**

The proposed Ordinance would ban the feeding of wild animals such as deer, bears, coyotes, foxes, mountain lions, opossums, raccoons and skunks. The proposed Ordinance applies city-wide because it is unknown at this time which areas have a greater risk of attracting coyotes and other wild animals. The proposed Ordinance does exempt (1) legal owners of wild animals, (2) persons caring for wild animals while waiting for the agency charged with animal control to pick up the animal, (3) wildlife rehabilitators, and (4) persons with bird feeders.

The proposed Ordinance will enable Animal Care Services to take enforcement action against persons who leave food or other attractants out to feed wild animals and

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persons who leave food out to feed their dogs or cats but the food also attracts wild animals. A person who violates the ban could be charged with a misdemeanor unless the City Council amends section 1.08.020 to add the proposed section 7.11.100 as an infraction. Alternatively, the violator may receive an administrative citation for a fine in the amount of \$25.00, the default amount, until the Administrative Citation Schedule is amended to reflect a new fine amount.

Animal Care Services' ability to enforce the proposed ban will depend in part on the person's consent to an inspection of their property, the cooperation of neighbors, and/or the execution of an inspection warrant for suspected violators.

### **PUBLIC OUTREACH**

Not applicable.

### **CEQA**

Exempt, File No. PP04-289

RICHARD DOYLE  
City Attorney

By \_\_\_\_\_  
ROSA TSONGTAATARII  
Associate Deputy City Attorney

cc: Del Borgsdorf

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