

ORDINANCE NO. 934

AN ORDINANCE OF THE COUNTY OF RIVERSIDE PROHIBITING THE HARASSMENT AND FEEDING OF UNDOMESTICATED BURROS

The Board of Supervisors of the County of Riverside ordains as follows:

- Section 1. FINDINGS. The Board of Supervisors finds that the population growth of undomesticated burro herds, and the increased urbanization of Riverside County, has resulted in an increase in injured wild burros from traffic accidents within the County.
- a. The herds have migrated into populated areas using rail lines and roadways seeking food that is provided by well-meaning people. Food that is made available in more populated areas reduces or eliminates the burros' fear of humans and cars and encourages the burros to abandon their natural instinct to graze.
 - b. The change in the food seeking behaviors of the burros because of these well-meaning people presents a safety issue for the residents, and burros of the County.
 - c. The burros continue to move further into populated areas in search of food resulting in an increase in traffic accidents with serious injuries to citizens, burros, and the infrastructure of roadways and regional rail lines.
 - d. In an attempt to bring this problem under control, it is necessary to (1) prohibit feeding, or providing food in any manner, to burros that are not within the legal possession of that person, (2) prohibit the harassment of the animals to reduce the human interaction that has resulted in the burros abandoning their grazing grounds.

- Section 2. PURPOSE. The purpose of this ordinance is to establish reasonable and uniform regulations to protect the undomesticated burro population by encouraging the instinctual behavior of the undomesticated burros by reducing human interactions with them. This purpose will be fulfilled by enforcing restrictions on human and undomesticated burro interactions and will be enforced with infractions and administrative penalties and the resulting fines.

- Section 3. AUTHORITY. This ordinance is adopted pursuant to the authority granted by Article 11, Section 7 of the Constitution of the State of California, section 2156 and section 4600 of the California Fish and Game Code, section 53074.5 of the Government Code, and the California Code of Regulations, Title 14, Division 1, section 251.1 regarding the harassment of animals.
- Generally the area of fish and game has been preempted by the state, however, Fish and Game Code section 2156 authorizes regulation of fish and game by local government in situations where the enacted ordinances relating to the possession or care of wild animals are more restrictive than the regulations. This ordinance is based on a regulation of the Department of Fish and Game, 14 CA ADC § 251.1, which was sought by San Bernardino and Riverside Counties, and prohibits the harassment, including feeding of, undomesticated mammals, or birds. This ordinance is more restrictive than the regulation because it is specific to Riverside County burros and focuses on prohibiting feeding as its primary objective, with a secondary goal of prohibiting the harassment as set forth in the regulation. The ordinance is not duplicative of state law, or preempted by state legislation.

- Section 4. EXEMPTIONS. This ordinance shall not apply to:
- a. Animal Rescue Operation or Animal Rescuer that the County authorizes to assist the Department of Animal Services in the care and relocation of the undomesticated burro herds.
 - b. A landowner or tenant who drives or herds mammals for the purpose of preventing damage to private or public property, including aquaculture and agriculture crops. Such a person must notice the Department of Animal Services of their action as soon as they are reasonably able.

- Section 5. DEFINITIONS. As used in this ordinance, the following terms shall have the following words.
- a. Animal Rescuer. As defined in Ordinance 630 Section 1, subsection b.
 - b. Animal Rescue Operation. As defined in Ordinance 630 Section 1, subsection c.
 - c. Feeding. The intentional act of providing food to any wild burro by a person.
 - d. Harass. An intentional act which disrupts an animal's normal patterns, which includes, but is not limited to, breeding, feeding or sheltering.
 - e. Person. Any person, firm, cooperation, association, society or other organization.
 - f. Providing Food. The intentional act of making food for wild burros available in any location in the unincorporated area of the County without the approval of the County.
 - g. Undomesticated Burro. As defined in California Government Code §53074.5; A wild burro or a burro which has not been tamed or domesticated for a period of three years after its capture and is not protected by the federal government under the federal Wild Free-Roaming Horses and Burros Act

Section 6. FEEDING OF UNDOMESTICATED BURROS. Except as provided in Section 6 of this Ordinance, it is unlawful for any person to feed, or in any manner, provide food to any burro that is not owned or lawfully possessed by that person.

Section 7. HARASSMENT OF ANIMALS. Except as otherwise authorized in this ordinance or in the Fish and Game Code and regulations promulgated pursuant thereto, no person shall feed, harass, herd, drive capture, keep, or attempt to domesticate, any undomesticated burro.

- Section 8. ENFORCEMENT.
- a. The Animals Services Director shall supervise the administration and enforcement of this Ordinance and the laws of the State of California pertaining to the care and control of animals.
 - b. The Animal Services Director may post signs advising the public that feeding undomesticated burros is prohibited by this ordinance and the California Code of Regulations, Title 14, Division 1, section 251.1 regarding the harassment of animals.
 - c. The Board of Supervisors may enter into a written agreement or agreements with any veterinarian, organized humane society, association, person, corporation or organization which will provide assistance to the County in providing care for undomesticated burros.
 - d. It shall be unlawful for any person to interfere with, oppose, or resist any officer, employee or person empowered to enforce the provisions of this Ordinance while such officer, employee or person is engaged in the performance of his/her duties as provided in Riverside County Ordinance No. 630, section 8.

- e. Nothing in this Ordinance shall prevent the Animal Services Director from acting, when he/she deems it appropriate to do so, under the applicable provisions of the California Penal Code, Section 597, et seq.

Section 9.

VIOLATION.

- a. An administrative citation, infraction, or other such authorized penalty may be issued to any person in violation of this ordinance.
- b. An infraction is punishable by;
 - 1. A fine not to exceed one hundred dollars (\$100.00) for the first violation;
 - 2. A fine not to exceed two hundred dollars (\$200.00) for the second violation within one year;
 - 3. A fine not to exceed five hundred dollars (\$500.00) for each additional violation within one year.
- c. The administrative penalties assessed for each violation of a County Animal Control Ordinance shall not exceed the following amounts.
 - 1. One hundred dollars (\$100.00) for a first violation;
 - 2. Two hundred dollars (\$200.00) for a second violation of the same administrative abatement order within one year;
 - 3. Five hundred dollars (\$500.00) for each additional violation of the administrative abatement order within one year.
- d. Each such person shall be guilty of a separate offense for each and every incident in which any violation of any provision of the ordinance of the County is committed, continued or permitted by any such person, and such person shall be punishable accordingly.
- e. Where the violation would otherwise be an infraction, the administrative penalty shall not exceed the maximum fine or infraction amount.
- f. The penalties assessed shall be payable to the County of Riverside Department of Animal Services.
- g. A citation is to issue and be processed in compliance with Riverside Ordinance No. 630, section 22.

Section 10.

SEVERABILITY. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

Section 11.

EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after its adoption.

Adopted: Item 9.1 of 06/20/2017 (Eff: 07/20/2017)