



CITY COUNCIL AGENDA REPORT

Meeting Date: January 16, 2020

From: Director of Public Works/City Engineer

Subject: Ordinance 648 – Harassment of Animals

Community Goal/Result

Ecological Sustainability - Brisbane will be a leader in setting policies and practicing service delivery innovations that promote ecological sustainability

Purpose

To revise Chapter 6.08 of the Brisbane Municipal Code (BMC) to include prohibitions on feeding wild animals.

Recommendation

Introduce Ordinance No. 648, waiving first reading, adding §6.08.115 “Harassment of Animals” to the Brisbane Municipal Code.

Background

The language in the proposed ordinance is copied nearly verbatim from California Fish and Game (CA DFG) regulations found in Title 14 of the California Code of Regulations. The reason for incorporating it directly into the BMC is that violations will then be subject to the penalties and remedies specified in Chapters 1.14, 1.16 and 1.18 of the BMC, rather than CA DFG penalties.

Discussion

The primary purpose for enforcing the prohibition on harassing wild animals is that feeding them creates unnatural foraging behaviors, which can create significant problems, including overpopulation. The current major concerns in Brisbane are the feeding of pigeons and ground squirrels at the Marina (where ground squirrels are slowly wreaking havoc on the dikes), and feeding of a large pigeon flock at the “curve” on Bayshore Boulevard (which creates a driving hazard when the flock alights). There have also been a few reports of well-intentioned but misguided individuals leaving food out for raccoons and coyotes.

Note that this regulation will not apply to the feeding of feral cats, because notwithstanding their “wild” designation, they are still classified as domesticated mammals.

Fiscal Impact

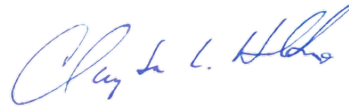
There are no direct impacts anticipated as a result of implementing this ordinance.

Attachments

1. Ordinance No. 648



Randy Breault, Public Works Director



Clay Holstine, City Manager

ORDINANCE NO. 648

**AN ORDINANCE OF THE CITY OF BRISBANE
AMENDING TITLE 6 OF THE MUNICIPAL CODE
PERTAINING TO HARASSMENT OF ANIMALS**

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: **Section 6.08.115 is hereby added to Chapter 6.08 of Title 6 of the Municipal Code:**

§6.08.115 – Harassment of Animals.

Except as otherwise authorized in this chapter or in the California Fish and Game Code, no person shall harass, herd or drive any game or nongame bird or mammal or furbearing mammal. For the purposes of this section, harass 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. This section does not apply to a landowner or tenant who drives or herds birds or mammals for the purpose of preventing damage to private or public property, including aquaculture and agriculture crops.

SECTION 2: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 3: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2020, by the following vote:


AYES:
NOES:
ABSENT:
ABSTAIN:

Terry O'Connell, Mayor

ATTEST:

Ingrid Padilla, City Clerk

APPROVED AS TO FORM:



Thomas R. McMorrow, Interim City Attorney