

City of Horseshoe Bay

ORDINANCE NO. ORD 07-02-20C

DEER MANAGEMENT ORDINANCE

AN ORDINANCE OF THE CITY OF HORSESHOE BAY, TEXAS, PROVIDING FOR THE RESTRICTION ON PUBLIC ACCESS TO AREAS IN WHICH DEER CONTROL ACTIVITIES OCCUR; PROHIBITING THE FEEDING OF DEER INCLUDING CERTAIN EXEMPTIONS; PROHIBITING INTENTIONAL DISRUPTION OF DEER CONTROL ACTIVITIES; ENFORCEMENT, INCLUDING CIVIL FINES NOT TO EXCEED \$250.00 AND CRIMINAL PENALTIES NOT TO EXCEED \$500.00; PROVIDING FOR SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING

WHEREAS, the City of Horseshoe Bay (City) has a significant deer population that is ever increasing; and

WHEREAS, the deer population in the City poses a hazard to motorists in the City, causes a reduction in the native plant life and other wild animals, and causes damage to landscaping installed by resident and commercial landowners of the City; and

WHEREAS, the feeding of deer has been shown to increase the concentration of deer in the area of feeding, thereby increasing the likelihood of collisions between vehicles and deer, and increasing damage to vegetation and landscaping in the City; and

WHEREAS, the feeding of deer has been shown to attract deer to remain in an urbanized area; and

WHEREAS, it is necessary to protect the health and safety of the public in connection with such deer control activities, and necessary for the success of such activities, to restrict access by the public to areas in which deer control activities are undertaken; and

WHEREAS, it is necessary to restrict access by the public to areas in which deer control activities are undertaken in order to protect City or contractor owned equipment in such activities; and

WHEREAS, pursuant to Texas Local Government Code section 51.012, the City may adopt an ordinance, act, law or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the City as a body politic; and

WHEREAS, pursuant to Texas Local Government Code section 51.001, the City Council of the City of Horseshoe Bay (City Council) may adopt an ordinance, rule or police

regulation that is for the good government, peace or order of the City or the trade and commerce of the City; and

WHEREAS, the City Council finds that the adoption of an ordinance regulating deer promotes the health, safety and welfare of the citizens of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY, TEXAS:

1. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

2. DEER REGULATIONS

A. Scope

The provisions of this Ordinance shall apply within the City Limits (i.e., incorporated municipal boundary).

B. Compliance Required

It shall be unlawful for any person to violate the provisions of this Ordinance.

C. Restricted Access to Sites of Deer Control Activity

(a) Access to sites owned, leased or lawfully used for the purpose of deer trapping and relocation or destruction efforts pursuant to this Ordinance shall be restricted to the public during all times that trapping or destruction is occurring. Notices shall be posted providing reasonable warning of such activities and the restriction on access to the affected area. In the event that any unauthorized person gains access to the site of any deer control activities described by subsection (c) of this Section D, any peace officer, animal control officer, or other agent of the City engaged in such deer control activities is authorized to notify such person of any restriction on access to the site and order such person to immediately leave the area of deer control activities.

(b) The area of restricted access shall be limited to a reasonable area and distance, taking into consideration the particular activity and the danger attendant with such activity, the public or private status of the affected property, the need for conditions necessary to attract deer, and the health and safety of the public.

(c) Access to a site of deer control activities may be restricted at such time that any of the following conditions exist:

- (i) trap or bait sites have been made ready for use;
- (ii) food or other materials designed and intended to attract deer to a site are put into place; or
- (iii) any firearm or other weapon used to destroy wild deer is present at the prepared trap or bait site.

D. Feeding of Deer Prohibited

(a) No person shall purposely feed or provide food (as described in subsection (b) below) through a ground-feeding station, salt lick or by other means, to wild deer in the City of Horseshoe Bay on any public or private land.

(b) A person shall be deemed to have purposely fed or caused wild deer to be fed if the person places wheat, pelleted livestock food, corn in any form, fruit, vegetables, hay or alfalfa, human food scraps, any form of commercially sold wildlife feed, birdseed or livestock feed, or any other edible matter that deer will consume (not including live vegetation such as ornamental landscaping or flowers) on the ground, or within reach of deer. This prohibition shall not apply to edible matter located either in an enclosed building or stored in a securely sealed package.

(c) The prohibition of this Section D shall not apply to any peace officer, animal control officer, or other agent of the City acting pursuant to a deer control program in conformance with this Ordinance.

E. Disruption of Deer Control Activity Prohibited

(a) No person shall intentionally disrupt a deer control activity conducted pursuant to this Ordinance by any means including, but not limited to, the use of noise, lights, chemicals or by the intrusion into a restricted area.

(b) No person shall damage or destroy any equipment, either City or Contractor owned, used in a deer control activity conducted pursuant to this Ordinance.

3. EXEMPTIONS

Section 2.D. of this Ordinance does not apply to agricultural operations that are protected from governmental requirements as provided by Texas Agriculture Code, Chapter 251, as may be amended.

4. ENFORCEMENT

A. Enforcement

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations.

B. Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not less than one hundred dollar (\$100.00) and not more than five hundred dollars (\$500.00), except as may be otherwise expressly provided by state law. Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a Class C misdemeanor.

C. Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

- (a) injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance;
- (b) a civil penalty up to two hundred fifty dollars (\$250.00) a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
- (c) other available relief.

5. EFFECTIVE DATE

This Ordinance shall be and become effective immediately upon and after its passage and publication as may be required by governing law.

6. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

7. SEVERABILITY

Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

