



## City Council Agenda Item

**City Council Meeting Date:** August 17, 2021

**TO:** Honorable Mayor and City Councilmembers

**FROM:** Mario Guerrero, Parks and Recreation Manager  
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Jeff Malawy, City Attorney  
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**SUBJECT:** Introduction of Ordinance No. 1684(21) Prohibiting the Feeding of Wild Animals in City Parks and on Public Property

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### **Recommendation:**

Staff recommends the City Council:

- 1) Introduce, for first reading by title only with further reading waived, Ordinance No. 1684(21) Prohibiting the Feeding of Wild Animals in City Parks and Public Property (attached); or
- 2) Provide other direction to staff.

### **Background:**

For the past several months, large numbers of ground squirrels at Beattie Park have damaged the top parking lot. Staff fenced off the lot, as the integrity of the asphalt has been compromised. The proliferation of ground squirrels is related to the public feeding of the animals on a daily basis. On the following page is a photo showing the problem.

Parks and Recreation sought assistance from the City Attorney's Office to address this issue with an ordinance to prohibit feeding of wild animals. The City does not currently have such an ordinance. The City of Berkeley had a similar problem with the public feeding of ground squirrels, and adopted such an ordinance. The proposed ordinance is modeled after the City of Berkeley's.



### **Discussion:**

#### *Feeding Wild Animals is Illegal Under State Law*

Feeding wild animals is considered harassment under state law, because it disrupts an animal's normal behavior patterns. California Code of Regulations, Title 14, Section 251.1 states:

Except as otherwise authorized in these regulations or in the 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.

Although the California Department of Fish & Wildlife enforces that state regulation, the City is not prevented from creating its own laws to prohibit feeding of wild animals.

#### *Policy Prohibiting the Feeding of Wild Animals*

Those who feed wildlife usually have good intentions, but they may not be aware of the long and short-term consequences. Feeding wildlife can cause a loss of foraging skills, loss of fear of humans, inadequate nutrition, the spread of disease, interference with migratory patterns, disruption of the natural balance, loss of biodiversity, destruction of habitat, and creation of nuisance wildlife. This is currently being experienced at Beattie Park where the squirrels come dangerously close to the public utilizing the park, putting both animals and humans at risk of harm.

Below the reasons are elaborated on, using information from [wildcarebayarea.org](http://wildcarebayarea.org):<sup>1</sup>

#### Loss of Foraging Skills

Feeding wildlife can lead to dependence on humans for food. This can be especially dangerous for young animals that become dependent on humans for food and may not learn to hunt and forage on their own, which can lead to starvation.

#### Loss of Fear of Humans

Fed squirrels are likely to approach visitors at parks as has been witnessed at Beattie Park.

#### Inadequate Nutrition

Supplemental food provided to wildlife rarely consists of the natural foods wildlife would find while foraging. This can lead to malnutrition and oddly enough, even emaciation.

#### Spread of Disease

Wildlife is opportunistic and will take advantage of the most convenient food source available.

Feeding leads to higher concentrations of animals and interaction with other species, as well as humans. In these higher population concentrations, diseases spread more rampantly, examples: salmonella, distemper and trichomoniasis.

Competition for free and easy food can also lead to aggression between animals.

#### Disruption of the Natural Balance

In the wild, the number of animals born is directly related to the amount of natural food available to the parents. The number of young that survive will also depend on how much food is available, which is nature's way of balancing populations when availability of natural foods cannot support larger numbers.

Overpopulation leads to more competition for food which can lead to aggression between animals.

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<sup>1</sup> See Attachment 2.

### Overpopulation

Wildlife has learned how to thrive among people, and many animals have become overpopulated in urban areas, as witnessed by the overpopulation of squirrels in Beattie Park.

### Creates Nuisance Wildlife

Fed wildlife will identify people as a source of free and easy food and may even approach people for handouts. This behavior has been witnessed at Beattie Park. When others are not as tolerant about the presence of wildlife, this may result in serious consequences and potentially death for the animal. Further, the animals may ruin property where they collect, as they have by burrowing under the asphalt at Beattie Park.

### *How Will the Proposed Ordinance Work?*

The proposed ordinance will prohibit the feeding of wild animals, including ground squirrels, birds, and gophers, within City parks and on public property. If a citing official witnesses a violation, then they may issue either an administrative citation or an infraction (criminal) citation.

The administrative citation process is detailed in Chapter 1.36 Administration Penalties and Citations of the Lompoc Municipal Code (LMC). Administrative fines start at \$25.00 for a first violation, progress to \$100.00 for a second violation within the same 12-month period, and \$500.00 for each subsequent violation within that same 12-month period. (LMC § 1.36.050.)

An infraction citation will use the criminal courts, similar to a traffic violation. For an infraction, the fine for the first violation cannot exceed \$100, the fine for a second violation within the same year cannot exceed \$200, and the fine for each additional violation within the same year cannot exceed \$500. (LMC § 1.24.010; Gov. Code § 36900.)

### **Fiscal Impact:**

Creating a new violation of the municipal code may increase enforcement costs; however, not by a significant amount. Further, the benefits from such enforcement will likely exceed the cost of harm to the City's parks. Currently, Beattie Park's upper parking area needs to be rehabilitated due to the infiltration of squirrels burrowing under the pavement. The upper parking lot is currently roped off to prevent damage to vehicles from asphalt potentially caving in under them. The natural reduction of squirrel population, due to cessation of feeding, will allow that parking lot to be rehabilitated in the future, providing much needed parking for the new, and very popular, playground.

**Conclusion:**

Prohibition of feeding of wild animals, especially squirrels, will benefit both the animal population and the public. It will prevent overpopulation of wild animals in areas where humans frequent. This will lead to more desirable conditions at the City's parks, as well as cost savings for maintenance of those parks.

Respectfully submitted,

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Mario Guerrero, Parks and Recreation Manager



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Jeff Malawy, City Attorney

**APPROVED FOR SUBMITTAL TO THE CITY MANAGER:**

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Christie Alarcon, Community Development Director

**APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:**

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Jim Throop, City Manager

- Attachments: 1) Ordinance No. 1684(21)  
2) Dangers and Consequences of Feeding Wildlife