

## **ORDINANCE NO. 2013-20**

**AN ORDINANCE AMENDING TITLE 6, POLICE REGULATIONS, CHAPTER 6-01, GENERAL OFFENSES, BY ADDING SECTION 6-01-001-0023 PROHIBITING THE FEEDING OF WILDLIFE WITHIN FLAGSTAFF CITY LIMITS; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE**

### **RECITALS:**

WHEREAS, feeding wildlife may attract uncontrollable numbers of animals which may result in damage to property and irritation to surrounding property owners; and

WHEREAS, uneaten food may attract rodents, insects and other pests, thereby increasing the potential for transmittal of disease to other animals and humans; and

WHEREAS, providing wildlife with an artificial supply of food may lead to the production of animal families larger than the natural food supply can support; and

WHEREAS, feeding wildlife may cause wildlife to lose their natural fear of humans, thereby increasing the risk of injury from wild animals.

### **ENACTMENTS:**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

#### **SECTION 1. In General**

The Flagstaff City Code, Title 6, Chapter 6-01, General Offenses is hereby amended by adding the following section:

#### **SECTION 6-01-001-0023 OUTDOOR FEEDING AND PROTECTION OF WILDLIFE**

##### **A. Definitions. In this Section unless the Context otherwise requires:**

1. "Feeding" or "to feed" means placing edible material in a location where it can be consumed by wildlife.
2. "Attracting" or "to attract" means placing edible material in a location likely to entice wildlife to the source of the edible material.

3. "Edible material" means any human or animal food, food by-product, salt organic material, refuse, garbage or water.
4. "Wildlife" means all wild mammals and/or wild birds.
5. "Public employees" means any federal, state, county or city employees.

**B. Feeding or attracting wildlife prohibited**

It is unlawful for any person to intentionally, knowingly or recklessly feed wildlife or to attract wildlife.

**C. Applicability**

This section applies to all areas within the Flagstaff city limits.

**D. Exceptions**

This section does not apply to:

1. Public employees, or their authorized agents, acting pursuant to A.R.S. Title 17 or Game and Fish Commission rule or order or acting, within the scope of their authority for public safety or wildlife management purposes.
2. Edible material located in a residence, closed vehicle, fully enclosed storage structure, or in a closed trash container.
3. A person feeding their own horses or domestic animals.
4. Seeds, nectar, and other material for birds or squirrels placed specifically for attracting wild birds and/or tree squirrels in a closed top container placed at least four (4) feet above the ground.

**5. OPTION (1)**

Growing plants or parts of growing plants, including parts of the growing plants that have dropped directly from those plants.

**OPTION (2)**

Growing plants or parts of growing plants, including gardens and fruit bearing trees or plants and the parts of those plants that may have fallen to the ground from those plants.

**OPTION (3)**

Strike entire section

6. Compost piles that are fully contained and made inaccessible to wildlife.

**E. Limitations to Exceptions**

The exceptions do not apply to any person who knows or has reason to know that an activity is attracting wildlife other than birds or tree squirrels. To avoid a violation, a person shall modify placement of any edible material, immediately cease the activity, or take such actions as the situation may require.

**F. Enforcement**

An Arizona Game and Fish officer, animal control officer or any state certified peace officer may issue a written warning or citation for the violation of this section.

**G. Separate Offenses**

Each violation pursuant to this section shall constitute a separate offense and each day a violation remains unabated may constitute a separate offense.

**H. Penalties**

1. Upon a first violation of this section, an officer shall issue a written warning and provide the person with wildlife educational materials.
2. If there is a violation of this section within ninety (90) days from the date a warning was issued, the new violation is a petty offense punishable by a fine not to exceed one hundred and fifty dollars (150.00), plus any other penalties assessments or surcharges authorized by law.
3. If there is a violation of this section and the person has previously been convicted within ninety (90) days of violating this section it is a petty offense punishable by a fine not less than one hundred and fifty dollars (\$150.00) and not more than three hundred dollars (\$300.00) ), plus any other penalties assessments or surcharges authorized by law.
4. If there is a violation of this section and the person has previously been convicted two or more times within one hundred and eighty (180) days of violating this section, it is a class three misdemeanor, plus any other penalties assessments or surcharges authorized by law.

SECTION 2. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent decision, such decision shall not affect the validity of the remaining portions thereof.

SECTION 3. Clerical Corrections.

The City Clerk is hereby authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary, related to this ordinance as amended herein, and to make formatting changes needed for purposes of clarity and form or consistency within thirty (30) days following adoption by the City Council.

SECTION 4. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 17<sup>th</sup> of September, 2013.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY