

ORDINANCE 51-2009

ORDINANCE OF THE BOROUGH OF MADISON AMENDING THE BOROUGH CODE TO INCLUDE NEW CHAPTER 192 ENTITLED "WILD ANIMALS"

BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris, and State of New Jersey, as follows:

SECTION 1: The Borough Code of the Borough of Madison shall be amended by the inclusion of new Chapter 192 to be entitled "Wild Animals" and which shall read in its entirety as follows:

CHAPTER 192 WILD ANIMALS

Sections:

192-1 Purpose.

192-2 Definitions.

192-3 Feeding of Fish, Wild Animals and Waterfowl Prohibited.

192-4 Feeding of Other Songbirds and Other Backyard Birds Permitted.

192-5 Enforcement.

192-6 Penalties.

192-7 Severability.

§192-1 Purpose:

It has been well established that the feeding of fish, wild animals and waterfowl is both detrimental to fish, animals, and waterfowl and causes a public health nuisance and safety hazard that is detrimental to the health and general welfare of the public. Such activities also cause degradation of water quality and/or are detrimental to the natural environment.

§192-2 Definitions:

As used in this ordinance, the following terms shall have the meanings indicated:

"Body of water" shall include any stream, pond, lake, river or any and all accumulation of water.

"Wild animal" shall include any animal, which is not normally domesticated in this state, including but not limited to bears, coyotes, deer, feral cats, foxes, groundhogs, opossums, raccoons, skunks, and waterfowl.

"Waterfowl" Any bird that frequents the water, or lives about rivers, lakes, etc., or on or near the sea; an aquatic fowl, including but not limited to ducks, geese, swans, heron, and egrets.

§192-3 Feeding of Fish, Wild Animals and Waterfowl Prohibited:

- A. No person shall purposely or knowingly, as said terms are defined in Title 2C of the New Jersey Revised Statutes, feed, bait, or in any manner provide access to food to any fish, wild animal, or waterfowl in the Borough of Madison, on lands either publicly or privately owned. This section shall not apply to the feeding of farm animals.
- B. No person shall purposely, knowingly, or otherwise feed, bait, or otherwise provide access to food to any fish or cause to place in any body of water any object or material of any nature or kind, except that this shall not in any way be deemed to prohibit a person or persons possessing a valid fishing license from engaging in normal fishing activities, where permitted by law.
- C. No person shall purposely or knowingly leave or store any refuse, garbage, food product, pet food, forage product or supplement, salt, seed or birdseed, fruit, grain in a manner that would constitute an attractant to any wild animal or waterfowl.
- D. No person shall fail to take remedial action to avoid contact or conflict with wild animals, which may include the securing or removal of outdoor trash, cooking grills, pet food, bird feeders or any other similar food source or attractant after being advised by the Borough to undertake such remedial action. Further, after an initial contact or conflict with a wild animal, no person shall continue to provide, or otherwise fail to secure or remove, any likely food sources or attractants, including, but not limited to, outdoor trash, grills, pet food or bird feeders.
- E. Nothing in this section shall apply to (1) any agent of the Borough authorized to implement an alternative control method set forth in any approved community based deer management plan and possessing a special deer management permit issued by the New Jersey Division of Fish and Wildlife in accordance with the provisions of P.L. 2000, c.46, or (2) any hunter engaging in baiting for the purpose of hunting pursuant to a valid hunting license issued in accordance with the provisions of Title 23 of the New Jersey Revised Statutes.

§192-4 Feeding of Other Songbirds and Other Backyard Birds Permitted

Feeding of other songbirds and other backyard birds shall be permitted outdoors at such times and in such numbers that: (1) Such feeding does not create an unreasonable disturbance that affects the rights of surrounding property owners and renders other persons insecure in the use of their property and; (2) Does not create an accumulation of droppings on the property and surrounding properties and; (3) Does not become an attractant for rodents or other wild animals and; (4) Bird feeders are placed at least five (5) feet above the ground.

§192-5 Enforcement

- A. Each property owner shall have the duty to remove any above named materials or device placed on the owner's property in violation of this Ordinance.
- B. Failure to remove such materials or device or to make such modifications within twenty-four (24) hours after notice from the municipality shall constitute a separate violation of this Ordinance.

- C. Health Department personnel, Animal Control Officers and all Police Officers of the municipality are hereby given full power and authority to enforce this ordinance.
- D. No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this ordinance.

§192-6 Penalties

Any person violating any provision of this Chapter shall be liable to a fine not less than Fifty Dollars (\$50.00) or more than Five Hundred Dollars (\$500.00) for each offense, together with the costs of prosecution. A separate offense shall be deemed committed on each day or part of each day during which a violation occurs or continues.

§192-7 Severability

Every section of this chapter or subdivision or separate part thereof shall be considered a separate provision to the intent that if any portion shall be declared unconstitutional it shall not affect the remaining parts of this chapter.

SECTION 2: This Ordinance shall take effect as provided by law.

Attest:

MARY-ANNA HOLDEN, Mayor

ELIZABETH OSBORNE, Acting Borough Clerk