

## Chapter 6.05

### DEER FEEDING PROHIBITED

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#### Sections:

- 6.05.010 Prohibition.
- 6.05.020 Evidence—Presumptions.
- 6.05.030 Removal.
- 6.05.040 Penalty.
- 6.05.050 Exceptions.
- 6.05.060 Severability.

#### 6.05.010 Prohibition.

A. The city council finds that deer feeding by placing grain, fruit, vegetables, nuts, hay, salt, mineral or other edible material, upon real property for the purpose of attracting deer to eat such food source has the effect of enticing deer from their natural habitat into an unnatural urban environment, thereby endangering the deer, resulting in an unnatural growth of the deer population, resulting in an unnatural loss of the deer's instinctive avoidance of humans, resulting in reliance by deer upon such food source, and also endangering persons and domestic animals, and resulting in damage to property.

B. No person shall feed or allow the feeding of deer. For the purpose of this section, feeding shall mean provision of one-half cubic foot or more of grain, fruit, vegetables, nuts, hay, salt, mineral or other edible material, either on the ground or at a height of less than five feet above the ground, in a manner that attracts deer on a regular basis. Living food sources such as fruit trees and other vegetation, shall not be considered as deer feeding.

C. No person being the owner or occupant of any parcel of real property shall place or allow any device or any fruit, grain, mineral, plant, salt, vegetable, or other material to be placed outdoors on any public or private property for the purpose of attracting or feeding deer. (Ord. 636 (part), 2006)

#### 6.05.020 Evidence—Presumptions.

A. There shall be a rebuttable presumption that the following acts are for the purpose of feeding deer.

1. The placement of one-half cubic foot or more of grain, fruit, vegetables, nuts, hay, salt, mineral or other edible material, either on the ground or at a height of less than five feet above the ground.

2. The placement of grain, fruit, vegetables, nuts, hay, salt, mineral or other edible material in an aggregate quantity of greater than one-half cubic foot in a drop feeder, automatic feeder or similar device regardless of the height of the grain, fruit or vegetable material.

B. It shall be an affirmative defense to any prosecution hereunder that the placement of grain, mineral, fruit, plant, salt, vegetable, or other material in an aggregate quantity of greater than one-half cubic foot or more was placed not less than five feet above the ground and was not accessible to deer, or that the unnatural food source was placed in good faith for the purpose of feeding domestic livestock or pets by or at the request of a person owning or having responsibility for such domestic

livestock or pets, or that the unnatural food source was placed in good faith for a purpose other than attracting deer or other wildlife and that the attraction of deer is only an incidental result. (Ord. 636 (part), 2006)

#### **6.05.030 Removal.**

Each property owner shall have the duty to remove any device placed on the owner's property to which deer are attracted or from which deer actually feed. Alternatively, a property owner may modify such a device or make other changes to the property that prevent deer from having access to or feeding from the device. Failure to remove such a device or to make such modifications within twenty-four (24) hours after notice from the city shall constitute a separate violation of this chapter. (Ord. 636 (part), 2006)

#### **6.05.040 Penalty.**

Any person convicted in violation of any provision of this chapter, or maintaining any nuisance in violation of any provision of this chapter, shall be punished as Class II misdemeanors, for which the punishment is imprisonment not to exceed thirty (30) days, a fine not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), or both, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 636 (part), 2006)

#### **6.05.050 Exceptions.**

This chapter shall not apply to the following situations:

- A. Nothing in this section shall be construed to apply to any governmental agency or to any employee or authorized agent thereof in the course of his employment or agency who in the course of their duties have deer in their custody or under their management.
- B. Naturally Growing Materials. Naturally growing grain, fruit or vegetable material, including gardens and residue from lawns, gardens and other vegetable materials maintained as a mulch pile.
- C. Bird Feeders. Unmodified commercially purchased bird feeders or their equivalent.
- D. Authorized by the City Council. Deer feeding may be authorized on a temporary basis by the common council for a specific public purpose as determined by the common council.
- E. Counting. Deer feeding may be authorized on a temporary basis by the city council for the purpose of determining the deer population. (Ord. 636 (part), 2006)

#### **6.05.060 Severability.**

If any provision is declared unconstitutional, or the application of this chapter to any person or circumstance is held invalid or unconstitutional, the remainder of this chapter and applicability thereof to other persons or circumstance shall not be affected thereby. (Ord. 636 (part), 2006)

## CHAPTER 6.16: WILDLIFE AND WATERFOWL

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### Section

- 6.16.010 Definitions.
- 6.16.020 Feeding of wild animals and waterfowl prohibited.
- 6.16.030 Feeding of songbirds and other backyard birds permitted.
- 6.16.040 Continuing violation.
- 6.16.050 Penalty.

#### 6.16.010 Definitions.

For purposes of this chapter, the following terms shall have the meanings indicated:

A. **FARM ANIMAL.** Domestic animals, such as cattle, horse, or chickens, raised for home use or for profit.

B. **SONGBIRD OR OTHER BACKYARD BIRD.** Includes birds of the suborder oscines or passerine including but not limited to larks, jays, cardinals, shrikes, finches, and orioles, characterized by a vocal apparatus highly specialized for singing.

C. **WATERFOWL.** Any bird that frequents the water, or lives about rivers, lakes, or other bodies of water; an aquatic fowl, including but not limited to ducks, geese, swans, herons, and egrets.

D. **WILD ANIMAL.** Shall include any animal, which is not normally domesticated in this state, including but not limited to coyotes, deer, turkeys, feral cats, foxes, raccoons, skunks, and waterfowl.

(Ord. 5501 (part), 2010)

#### 6.16.020 Feeding of wild animals and waterfowl prohibited.

A. No person shall purposely or knowingly, with intent to provide such food, feed, bait, or in any manner provide access to food to any wild animal or waterfowl within the corporate limits of the City of Rapid City, on lands either publicly or privately owned. This section shall not apply to the feeding of farm animals lawfully kept within the city limits.

B. No person shall purposely or knowingly leave or store any refuse, garbage, food product, pet food, forage product or supplement, salt, seed, birdseed, fruit, or grain in a manner that would constitute any attractant to any wild animal or waterfowl.

C. Nothing in this section shall prohibit the actions of any agent of the State of South Dakota lawfully engaged in a wildlife or waterfowl management program.

D. Nothing in this section shall prohibit the actions of an agent of the City of Rapid City 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 South Dakota Game Fish and Parks.

(Ord. 5501 (part), 2010)

#### 6.16.030 Feeding of songbirds and other backyard birds permitted.

Feeding of 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 with wildlife; (2) any apparatus used to feed such birds does not become an attractant for wild animals and (3) bird feeds are placed where wildlife other than songbirds would have a difficult time eating from them.

(Ord. 5501 (part), 2010)

**6.16.040 Continuing violation.**

Failure to remove or remedy a violation of this chapter within 24 hours after notice from the city shall constitute a separate violation of this chapter.

(Ord. 5501 (part), 2010)

**6.16.050 Penalty.**

Any person violating any provision of this chapter shall be liable for a fine not more than \$5 for each offense.

(Ord. 5501 (part), 2010)