

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM
3.13
(ID # 3844)

MEETING DATE:

Tuesday, April 11, 2017


FROM : ANIMAL SERVICES:

SUBJECT: ANIMAL SERVICES: Initiation of an Ordinance that would Prohibit the Harassment and Feeding of Undomesticated Burros. [Districts-2 & 5]; [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Adopt an order to introduce and set for public hearing the adoption of Ordinance No. 934 Prohibiting the Harassment and Feeding of Undomesticated Burros;
2. Find Ordinance No.934 is not a project under CEQA per CEQA Guidelines section 15060 (c)(3) and section 15378 and is otherwise exempt from CEQA pursuant to CEQA Guidelines section 15061 (b)(3) based on the findings and conclusions contained in the attached Notice of Exemption;
3. Authorize the Clerk of the Board to place an advertisement for the public hearing in the appropriate local Publications; and
4. Upon the close of the Public Hearing, adopt Ordinance No. 934


ACTION: Set for Hearing, Clerk to Advertise


Robert P Miller, Director Animal Services 4/11/2017

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Washington and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended adopting an order to initiate the Ordinance.

Ayes: Jeffries, Tavaglione, Washington and Ashley
Nays: None
Absent: None
Date: April 11, 2017
xc: Animal Services, Co.Co.

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS:			Budget Adjustment:	No
			For Fiscal Year:	16/17

C.E.O. RECOMMENDATION: Approve.

BACKGROUND:

Summary

The Department of Animal Services provides services to the County of Riverside and cities in Riverside County, including the management of undomesticated burro herds that live in highly populated areas of County.

Burros generally inhabit the Reche Canyon and Pigeon Pass area, but are now using roadways and railroad tracks to enter populated areas. The burros are enticed to move further into more urbanized neighborhoods by increased contact with humans by way of food left on the side of the road, or handed out vehicle windows directly to the animals. This process has greatly reduced the burro's instinctual fear of humans and vehicles and has led to burros being found on rail lines and roadways, increasing the number of vehicle accidents in which burros and citizens are injured.

The concern that rail and vehicle accidents are likely was realized on December 4, 2015. Riverside County Transportation Commission requested that the Department of Animal Services assist in removing burros from the Perris Valley Line, a commuter rail-line that runs through portions of Riverside City and unincorporated Riverside County. The burros were found either on or very close to the tracks that were being tested. The rail line has now been placed into service.

The Department of Animal Services' investigated the rail line issue and discovered that the majority of burros removed for their safety were no longer observing their normal behavior patterns. In the wild, burros eat mostly grass or vegetation and fear people and vehicles. However, due to easy access to foods not generally found in the wild, burros' behavior has adapted. Instead of normal grazing, the burros now seek out populated areas, roadways and people in order to obtain the treats provided.

The federal government recognized the importance of the issue presented by undomesticated animals entering populated areas and enacted the Wild Free Roaming Horses and Burro Act of 1971, assigning the management of the animals on federal lands to the United States Department of the Interior, Bureau of Land Management. The federal act does not apply to the burro herds found in Riverside County because the land that they occupy is not federally controlled.

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The State of California is also vested in addressing undomesticated burro herds. The Department of Fish and Game enacted Title 14, Division 1, Section 251.1 in an effort to assist Counties in managing the wild herds. The regulation expressly prohibits the harassment, and feeding, of undomesticated burros. Ordinance No. 934 was based on section 251.1, and provides additional protections to these unique animals, as permitted by Fish and Game Code section 2156.

Reducing contact between burros and the public results in several positive outcomes, including reducing accidents on roadways and rail lines and encouraging the herds to return to their natural behaviors.

Ordinance No. 934 is not a project under the California Environmental Quality Act (CEQA) per CEQA Guidelines sections 15060 (c)(3), 15061 (b)(3), and 15273.

Impact on Residents and Businesses

Ordinance No. 934 will entice burros to return to their natural habitat by reducing human contact, thereby decreasing vehicle accidents that result from burros entering populated areas. This reduction would reduce the cost of emergency response when an accident occurs on roadways or rail lines.

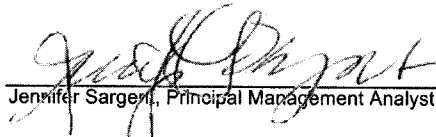
SUPPLEMENTAL:

Additional Fiscal Information

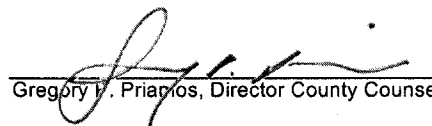
Approval of this ordinance will not result in a cost to the county and no budget adjustment is required. Implementation costs are included in the FY 2016/2017 budget. Additional support is anticipated by non-profit organizations, through cooperative agreements, offsetting costs of managing the herds.

ATTACHMENT

Ordinance No. 934
Notice of Exemption


Jennifer Sargent, Principal Management Analyst

4/4/2017


Gregory V. Priaplos, Director County Counsel

4/4/2017

1 undomesticated burro interactions and will be enforced with infractions and
2 administrative penalties and the resulting fines.

3 Section 3. AUTHORITY. This ordinance is adopted pursuant to the authority granted by
4 Article 11, Section 7 of the Constitution of the State of California, section 2156 and
5 section 4600 of the California Fish and Game Code, section 53074.5 of the
6 Government Code, and the California Code of Regulations, Title 14, Division 1,
7 section 251.1 regarding the harassment of animals.

8 Generally the area of fish and game has been preempted by the state, however, Fish
9 and Game Code section 2156 authorizes regulation of fish and game by local
10 government in situations where the enacted ordinances relating to the possession or
11 care of wild animals are more restrictive than the regulations. This ordinance is
12 based on a regulation of the Department of Fish and Game, 14 CA ADC § 251.1,
13 which was sought by San Bernardino and Riverside Counties, and prohibits the
14 harassment, including feeding of, undomesticated mammals, or birds. This
15 ordinance is more restrictive than the regulation because it is specific to Riverside
16 County burros and focuses on prohibiting feeding as its primary objective, with a
17 secondary goal of prohibiting the harassment as set forth in the regulation. The
18 ordinance is not duplicative of state law, or preempted by state legislation.

19 Section 4. EXEMPTIONS. This ordinance shall not apply to:

- 20 a. Animal Rescue Operation or Animal Rescuer that the County authorizes to assist
21 the Department of Animal Services in the care and relocation of the
22 undomesticated burro herds.
- 23 b. A landowner or tenant who drives or herds mammals for the purpose of preventing
24 damage to private or public property, including aquaculture and agriculture crops.
25 Such a person must notice the Department of Animal Services of their action as
26 soon as they are reasonably able.

27 Section 5. DEFINITIONS. As used in this ordinance, the following terms shall have the
28 following words.

- 1 a. Animal Rescuer. As defined in Ordinance 630 Section 1, subsection b.
- 2 b. Animal Rescue Operation. As defined in Ordinance 630 Section 1, subsection c.
- 3 c. Feeding. The intentional act of providing food to any wild burro by a person.
- 4 d. Harass. An intentional act which disrupts an animal's normal patterns, which
- 5 includes, but is not limited to, breeding, feeding or sheltering.
- 6 e. Person. Any person, firm, cooperation, association, society or other organization.
- 7 f. Providing Food. The intentional act of making food for wild burros available in any
- 8 location in the unincorporated area of the County without the approval of the
- 9 County.
- 10 g. Undomesticated Burro. As defined in California Government Code §53074.5; A
- 11 wild burro or a burro which has not been tamed or domesticated for a period of
- 12 three years after its capture and is not protected by the federal government under
- 13 the federal Wild Free-Roaming Horses and Burros Act

14 Section 6. FEEDING OF UNDOMESTICATED BURROS. Except as provided in Section 6

15 of this Ordinance, it is unlawful for any person to feed, or in any manner, provide

16 food to any burro that is not owned or lawfully possessed by that person.

17 Section 7. HARASSMENT OF ANIMALS. Except as otherwise authorized in this ordinance

18 or in the Fish and Game Code and regulations promulgated pursuant thereto, no

19 person shall feed, harass, herd, drive capture, keep, or attempt to domesticate, any

20 undomesticated burro.

21 Section 8. ENFORCEMENT.

- 22 a. The Animals Services Director shall supervise the administration and enforcement
- 23 of this Ordinance and the laws of the State of California pertaining to the care and
- 24 control of animals.
- 25 b. The Animal Services Director may post signs advising the public that feeding
- 26 undomesticated burros is prohibited by this ordinance and the California Code of
- 27 Regulations, Title 14, Division 1, section 251.1 regarding the harassment of
- 28 animals.

- 1 c. The Board of Supervisors may enter into a written agreement or agreements with
2 any veterinarian, organized humane society, association, person, corporation or
3 organization which will provide assistance to the County in providing care for
4 undomesticated burros.
- 5 d. It shall be unlawful for any person to interfere with, oppose, or resist any officer,
6 employee or person empowered to enforce the provisions of this Ordinance while
7 such officer, employee or person is engaged in the performance of his/her duties as
8 provided in Riverside County Ordinance No. 630, section 8.
- 9 e. Nothing in this Ordinance shall prevent the Animal Services Director from acting,
10 when he/she deems it appropriate to do so, under the applicable provisions of the
11 California Penal Code, Section 597, et seq.

12 Section 9. VIOLATION.

- 13 a. An administrative citation, infraction, or other such authorized penalty may be
14 issued to any person in violation of this ordinance.
- 15 b. An infraction is punishable by;
- 16 1. A fine not to exceed one hundred dollars (\$100.00) for the first violation;
- 17 2. A fine not to exceed two hundred dollars (\$200.00) for the second violation
18 within one year;
- 19 3. A fine not to exceed five hundred dollars (\$500.00) for each additional
20 violation within one year.
- 21 c. The administrative penalties assessed for each violation of a County Animal
22 Control Ordinance shall not exceed the following amounts.
- 23 1. One hundred dollars (\$100.00) for a first violation;
- 24 2. Two hundred dollars (\$200.00) for a second violation of the same
25 administrative abatement order within one year;
- 26 3. Five hundred dollars (\$500.00) for each additional violation of the
27 administrative abatement order within one year.
- 28

- 1 d. Each such person shall be guilty of a separate offense for each and every incident in
2 which any violation of any provision of the ordinance of the County is committed,
3 continued or permitted by any such person, and such person shall be punishable
4 accordingly.
- 5 e. Where the violation would otherwise be an infraction, the administrative penalty
6 shall not exceed the maximum fine or infraction amount.
- 7 f. The penalties assessed shall be payable to the County of Riverside Department of
8 Animal Services.
- 9 g. A citation is to issue and be processed in compliance with Riverside Ordinance No.
10 630, section 22.

11 Section 10. SEVERABILITY. If any provision, clause, sentence or paragraph of this
12 Ordinance or the application thereof to any person or circumstances shall be held
13 invalid, such invalidity shall not affect the other provisions or applications of the
14 provisions of this Ordinance which can be given effect without the invalid
15 provision or application, and to this end, the provisions of this Ordinance are
16 hereby declared to be severable.

17 Section 11. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after its
18 adoption.

19
20 BOARD OF SUPERVISORS OF THE COUNTY
21 OF RIVERSIDE, STATE OF CALIFORNIA

22 By: _____
23 Chairman, Board of Supervisors

24 ATTEST:

25 CLERK OF THE BOARD:

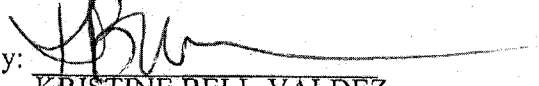
26 By: _____
27 Deputy

28 (SEAL)

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APPROVED AS TO FORM:

Date: 4/4/17

By: 
KRISTINE BELL-VALDEZ
Deputy County Counsel

KBV:nh
04/04/17

NOTICE OF EXEMPTION

To: _____ Office of Planning and Research From: County of Riverside
1400 Tenth Street, Room 121 4080 Lemon Street
Sacramento, CA 95814 Riverside, CA 92501
To: X Office of the County Clerk & Recorder

Project Title: Ordinance No. 934 Prohibiting the Harassment and Feeding of Udomesticated Burros.

Project Location: The unincorporated area of Riverside County and the jurisdiction of city partners that contract with the Department of Animal Services for field, sheltering and related services.

Project Description: Ordinance No 934 provides management of undomesticated burro herds that live in Riverside County. The Ordinance prohibits the harassment of the undomesticated burros, including feeding the burros unless the individual or organization is authorized to do so by the Riverside County Board of Supervisors, and authorized the Department of Animal Services to erect signs advising the public of the ordinance and related law. The California Code of Regulations, Title 14, Division 1, section 251.1 regarding the harassment of animals includes substantially similar language, and Fish and Game Code section 2156 authorizes the county to enact an ordinance that is more restrictive than the regulation.

Name of Public Agency Approving Project: County of Riverside

Project Sponsor: Department of Animal Services

- Exempt Status: (check one)
[] Ministerial
[] Declared Emergency
[] Emergency Project
[] Categorical Exemption
[] Statutory Exemption
X Other: (State CEQA Guidelines Sec. 15061(b)(3) and Sec. 15378)

Reasons Why Project is Exempt: The adoption of Ordinance No. 934 is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15060 (c)(3), citing section 15378 and section 15061 (b)(3). The Ordinance does not qualify as a project because it does not lead to a potential physical change in the environment or cause a reasonably foreseeable indirect physical change in the environment. The Ordinance is intended to protect and encourage the natural behaviors of the undomesticated burro in its habitat. The herds residing in the Inland Empire are not within a protected rangeland, and therefore are not protected by the federal or California Endangered Species Act or the federal Wild Horse and Burros Act, and Ordinance No 934 will provide protection. The ordinance is also exempt under the common sense exemption of CEQA Guidelines section 15061(b)(3) in that it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment. The ordinance merely ensures the protection of Riverside County's undomesticated burro population.

Robert Miller, Director Department of Animal Services (951) 358-7442
County Contact Person Phone Number

Signature: [Handwritten Signature] Title: Director Date: 3/20/17

For County Clerk's Use Only

