

SPECIAL AVALON CITY COUNCIL MEETING
THURSDAY, NOVEMBER 2, 2023 – 4:30 PM
410 AVALON CANYON ROAD
THIS VIRTUAL MEETING IS HELD PURSUANT TO AB 361
A G E N D A

In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (310) 510-0220. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35. 102-35.104 ADA Title II). All public records relating to an agenda item on this agenda are available for the public inspection at the time the records are distributed to all, or a majority of all, members of the City Council. Such records shall be available at City Hall located at 410 Avalon Canyon Rd.

Due to social distancing recommendations from the Center for Disease Control and State of California Division of Occupational Safety and Health (Cal/OSHA) and the County of Los Angeles, and pursuant to findings made under AB 361, the CITY OF AVALON'S CITY COUNCIL SHALL GENERALLY BE AVAILABLE TO THE PUBLIC REMOTELY. *The general public may attend the meeting in the Council Chambers however must adhere to social distancing requirements.* The public is encouraged to watch and participate from the safety of their homes while practicing social distancing.

Council Chambers are open to the general public. Once the Council Chambers reach maximum occupancy (as determined by the Fire Chief), the general public may participate in Oral Communication and address the City Council on an agenda item in person by waiting in the City Hall Court Yard and entering the Chambers one at a time at the appropriate time. No one will be admitted into the Council Chambers who is ill or exhibiting symptoms of COVID-19. Additionally, the general public may participate in Oral Communication and address the City Council on an agenda items by providing comments via Zoom or by sending comments to ask@cityofavalon.com.

For the public's convenience, but not participation, the meeting can be viewed:

On local cable: Catalina Broadband Solutions channel 3

Streaming Online: www.cityofavalon.com/meetings

*Streaming on Facebook Live: www.facebook.com/CityOfAvalonOfficial

Streaming on YouTube: <https://www.youtube.com/CityofAvalonCA>

FOR REMOTE PUBLIC PARTICIPATION

- 1) Join the Meeting via Phone Conference (Voice Only):
Phone Number: (669) 444-9171
Meeting ID: 812 9847 3107
Passcode: 244906

When you would like to comment during the meeting enter *9 on the phone's key pad to activate the "raise hand" button at the time the Agenda Item is being presented for City Council consideration.

CALL TO ORDER / PLEDGE OF ALLEGIANCE / INVOCATION / ROLL CALL

ANNOUNCEMENTS / WRITTEN COMMUNICATIONS

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CITY MANAGER REPORT / CITY ATTORNEY REPORT

ORAL COMMUNICATION

Members of the public may address the City Council at this time. No action will be taken on non-agenda items at this meeting. Speakers should limit comments to two (2) minutes each.

CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9:
One (1) case.

GENERAL BUSINESS

1. An Ordinance of the City of Avalon Amending Title 6, Chapter 6-1, Section 6-1.128 Animal Care of the Avalon Municipal Code and Adoption of Exemption Findings Under the California Environmental Quality Act
This item appears on the agenda at the collective request the City Council. During the October 17, 2023 regular City Council Meeting, the City Council heard a public presentation from the Catalina Island Conservancy regarding the planned Catalina Island Restoration Project. After thoughtful consideration, members of the City Council contacted City Staff and the City Attorney's office to request an amendment to the Avalon Municipal Code to more specifically address, strengthen protections, and prohibit hunting, trapping, feeding, luring, inhumane treatment, and killing of wild animals – including deer – within the City of Avalon.
Recommended Action
Introduce and waive the all further readings of an ordinance of the City of Avalon amending Title 6, Chapter 6-1, Section 6-1.128 Animal Care of the Avalon Municipal Code and Adoption of Exemption Findings Under the California Environmental Quality Act.

ADJOURN

NOTICE OF POSTING

I, Devin Elise Hart, declare that the Special City Council Agenda for Thursday, November 2, 2023 was posted on Monday, October 30, 2023 on the City's website www.cityofavalon.com/agendacenter, and at City Hall, 410 Avalon Canyon Road.



Devin Elise Hart, Management Analyst

CITY OF AVALON CITY COUNCIL

MEETING DATE: November 2, 2023 **AGENDA ITEM:** 1

ORIGINATING DEP: Administration **CITY MANAGER:** DMM

PREPARED BY: David Maistros, City Manager

SUBJECT: First Reading of an Ordinance Amending Title 6, Chapter 6-1, Section 6-1.128 Animal Care of the Avalon Municipal Code and Adoption of Exemption Findings Under the California Environmental Quality Act

RECOMMENDED ACTION(S): Introduce and waive the all further readings of an ordinance of the City of Avalon amending Title 6, Chapter 6-1, Section 6-1.128 Animal Care of the Avalon Municipal Code and Adoption of Exemption Findings Under the California Environmental Quality Act.

REPORT SUMMARY: This item appears on the agenda at the collective request of the City Council.

During the October 17, 2023 regular City Council Meeting, the City Council heard a public presentation from the Catalina Island Conservancy regarding the planned Catalina Island Restoration Project. During the same meeting, Council heard approximately two hours of public comments from 28 different speakers regarding the proposed Restoration Project and, specifically, the planned eradication of the island's deer population. Of the 28 speakers, 22 speakers spoke in opposition of the Restoration Project, with six speakers in support of the initiative.

In addition to the information presented orally during the October 17, 2023 City Council Meeting, the City Clerk's Office received approximately 64 written communications regarding the Conservancy's proposed Restoration Project – 10 in support, 52 in opposition, and 2 neutral comments regarding the initiative. All written communications were provided to the City Council for review.

After thoughtful consideration, members of the City Council contacted City Staff and the City Attorney's office to request an amendment to the Avalon Municipal Code to more specifically address, strengthen protections, and prohibit hunting, trapping, feeding, luring, inhumane treatment, and killing of wild animals – including deer – within the City of Avalon.

In revising this ordinance, the City Council makes the determination that hunting, pursuing, feeding, killing, or trapping animals within the City represents a threat to public health, safety, and welfare to the residents and visitors within the City of Avalon. Additionally, City Council makes the determination that the feeding, luring, pursuing, or trapping of wild animals for the purposes of capturing and/or killing such wild animals can be cruel and abusive to such animals

and inconsistent with the residential, recreational, and visitor-friendly nature of the City. Feeding wildlife can lead to overpopulation, the spread of diseases, and altered natural behaviors. Additionally, hunting and trapping within City boundaries poses significant safety risks to residents and visitors, and raises a plethora of ethical and environmental concerns. Hunting and trapping within city limits could cause death, accidents, or harm to residents and visitors alike, and ensures human safety. Trapped animals could harm residents and visitors, as frightened animals can become aggressive in their attempts to escape. Frightened animals can also move quickly and without warning, causing car or bike accidents, at times fatal. Even when exercising the highest degree of care, hunting can pose a risk to residents and visitors of Avalon as it is densely populated, and the use of firearms for hunting purposes is incompatible with this densely-populated area. To address these issues, an ordinance disallowing the feeding, trapping, pursuing, killing, and hunting of animals within city limits has been proposed.

The proposed ordinance establishes penalties for non-compliance including fines of up to \$5,000 per occurrence.

The ordinance also provides exemptions for emergency action taken by trained authorized personnel to euthanize an animal found severely injured within the City as well as exemptions for trapping feral cats and dogs for the purpose of spayed or neutering. There is also an exception for bird feeders located on private property.

ENVIRONMENTAL REVIEW: The ordinance is not a project subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15378 (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Additionally, the ordinance is exempt under CEQA pursuant to Guidelines Section 15061(b)(3) (there exists no possibility that the activity will have a significant adverse effect on the environment) because this ordinance will not cause a change in any of the physical conditions within the area affected by the ordinance. No development would result from implementation of the ordinance. The ordinance preserves the status quo and avoids the potential for accidents related to hunting and use of firearms within a densely-populated area. The ordinance prohibits hunting within City limits, and would not result in an increase in deer population, as it also prohibits feeding wildlife which could lead to overpopulation. The ordinance avoids indirect impacts related to hunting within City limits as the prohibition on hunting would avoid noise impacts, potential water quality impacts related to bullets, and other health and safety impacts related to firearm-related accidents. The ordinance does not result in any indirect impacts on the environment related to overpopulation of wild animals, including mule deer, as it is strictly limited to City limits and hunting may continue outside of the City.

FISCAL IMPACTS: Undetermined.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: The Avalon Municipal Code will not be amended.

FOLLOW UP ACTION: Implement City Council direction.

ADVERTISING, NOTICE AND PUBLIC CONTACT: This item was properly listed on the posted agenda pursuant to the Brown Act.

ATTACHMENTS:

1. Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF AVALON AMENDING
TITLE 6, CHAPTER 6-1, SECTION 6-1.128 ANIMAL CARE
OF THE AVALON MUNICIPAL CODE AND ADOPTION OF
EXEMPTION FINDINGS UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT.**

WHEREAS, the Council has determined that hunting, pursuing, killing, or trapping of animals within the City of Avalon ("City") represents a threat to public health and safety within the City; and,

WHEREAS, even with the exercise of the greatest level of care, discharge of firearms can result in loss of human life and the City is a highly-populated area; and

WHEREAS, hunting, pursuing, killing, or trapping of animals are activities incompatible with the densely-populated areas of the City and pose safety hazards to residents and visitors in the City; and

WHEREAS, the Council has determined that the feeding, luring, or trapping of wild animals for the purposes of capturing and/or killing such wild animals can be cruel and abusive to such animals and inconsistent with the residential, recreational, and visitor-friendly nature of the City; and

WHEREAS, the Council has determined there is a need to ban any feeding of wild animals within City limits because feeding makes such animals dependent upon humans for their nourishment, may result in inappropriate diets for such animals, draws such animals into residential and urban areas which is inconsistent with their natural habitat, and creates a danger to such animals and/or to the City's residents and visitors due to the natural behavior and disposition of wild animals; and

WHEREAS, the specific purpose of the following amendments to the Municipal Code will have a primary public health and safety impact, with only an incidental effect on hunting; and

WHEREAS, the City wishes to now amend its Municipal Code to address these issues.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AVALON DOES
ORDAIN AS FOLLOWS:**

Section 1. The recitals set forth above are hereby adopted as the findings of the City Council in connection with the adoption of this Ordinance.

Section 2. Avalon Municipal Code section 6-1.128 is amended to read as follows (new language is underlined, removed language is struck):

§ 6-1.128 Animal Care and Conduct Toward Animals.

(a) No person being the owner or an individual having the custody, care, and/or control of such animal, shall fail to provide his/her fowl, cat, dog, or other domesticated animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

(b) No person shall beat, wound, maltreat, mutilate, injure, cruelly-ill treat, torment, overload, overwork, kill, or otherwise abuse any fowl, cat, dog, or any other animal, including both domesticated and wild animals, nor shall any person cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between any fowl, cat, dog, or other animal, including both domesticated and wild animals, or between the same and humans. As used herein, "wild animals" means deer, foxes, owls, bison, or any other non-domesticated animal. This section shall not apply to the City's bird abatement program.

(c) No person being the owner, or an individual having the custody, care, and/or control, of any fowl, cat, dog, or other domesticated animal shall abandon the same.

(d) No person shall provide food for wild animals, including but not limited to, feral cats, foxes, squirrels, and deer, by setting such food out on public property, or within 150 yards of any private residence, other building, or public right-of-way. This section does not apply to bird feeders placed on private property.

(e) No person shall hunt, pursue, kill, or trap any domesticated or wild animal in the City. Additionally, even if a permit to hunt, pursue, kill, or trap animals is issued by a State or Federal Agency, such permit shall be subject to this Section 6-1.128 in order to protect public health, safety and welfare. This prohibition on killing animals shall not apply to the removal or extermination of rats, mice, squirrels, stinging insects, or other vermin from private or public property. This section shall not apply to City of Avalon Code Enforcement personnel in the discharge of his/her duties.

(f) No person shall feed, trap, or lure any wild animal located within the City with the intent to hunt or kill such wild animal or with the intent to transport that wild animal out of the City to hunt or kill said animal.

(g) As used in this section, "hunt" means the killing or wounding of any animal by means of any trap, fireworks, firearm, weapon, air gun, archery device, slingshot, spear, javelin, knife, paintball gun, or explosive of any type with the specific intent to frighten, injure, mutilate, or kill any animal, domesticated or wild.

(h) Nothing in this Ordinance prevents authorized and trained personnel from humanely euthanizing a domesticated or wild animal found severely injured or ill in the City when such action is taken to prevent or stop the pain or suffering of the animal(s), nor shall this ordinance prohibit or prevent authorized and trained personnel from trapping feral cats or dogs for the purpose of spaying and neutering by a trained veterinarian.

(i) Any violation of this Ordinance shall be punishable by a fine of \$500 for a first violation, \$1000 for a second violation, and \$5000 for each subsequent violation in the same calendar year. A person shall be deemed guilty of a separate offense for each separate occurrence of any violation of this Ordinance that is committed, continued, or permitted, and shall be punishable as provided herein.

Section 3. Severability. If any section, subsection, subdivision, sentence, clause, or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, void, or invalid, such decisions shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional, void, or invalid.

Section 4. CEQA Exemptions. The City Council finds that adoption of this Ordinance is not a project subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15378 (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Additionally, this Ordinance is exempt under CEQA pursuant to Guidelines Section 15061(b)(3) (there exists no possibility that the activity will have a significant adverse effect on the environment) because this Ordinance will not cause a change in any of the physical conditions within the area affected by the Ordinance. None of the exceptions to the exemptions found in State CEQA Guidelines section 15300.2 apply. Staff is hereby directed to prepare, execute and file with the Los Angeles County Clerk a CEQA Notice of Exemption within five (5) working days of the adoption of this Ordinance.

Section 5. Certification. The City Clerk of the City of Avalon shall certify the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and/or posted in the manner required by law.

Section 6. Effective Date. This Ordinance shall become effective thirty days from its adoption.

INTRODUCED at a special meeting of the City Council of the City of Avalon on the 2nd day of November, 2023, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Avalon on this 7th day of November, 2023, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Ann H. Marshall, Mayor

ATTEST:

Gabrielle Morones, Deputy City Clerk

APPROVED AS TO FORM:

Scott Campbell
Best Best & Krieger, LLP