

## ORDINANCE 14-02

### URBAN DEER HERD CONTROL ORDINANCE

WHEREAS, the City Council of the City of North Logan, Utah, adopted and passed the Code of Revised Ordinance of the City of North Logan on March 16, 1989, which Code was published and effective on March 20, 1989; and

WHEREAS, said Code included Title 16. Animal Control and Regulations which the City Council has deemed necessary to be modified to provide for the control of the urban deer herd present within the city limits.

NOW, THEREFORE, pursuant to Title 12 Sections 12A-301 and 12A-504 of said code and Section 10-9a-205, Utah Code, and after ten (10) days' notice and a public hearing held October 9th, 2014 with the North Logan Planning Commission as required therein, the City Council of the City of North Logan, Utah hereby adopts, passes and publishes the following:

#### **AN ORDINANCE ADDING TITLE 16 SECTION 600 - DEER CONTROL REGULATIONS TO THE ANIMAL CONTROL REGULATIONS OF NORTH LOGAN CITY AND OTHER CODE CHANGES RELATED TO DEER HERD CONTROL**

BE IT ORDAINED by the City Council of the City of North Logan, Cache County, and State of Utah as follows:

**SECTION I:** Title 12C, Sections 12C-108 and 12C-110 are hereby modified as follows (highlighted portions added):

#### **CHAPTER 12C-100. GENERAL ZONING PROVISIONS.**

##### **12C-108. Wall, Fence or Hedge.** Height of fences, hedges, or shrubs.

No fence or wall or similar structure shall be erected in any required front, rear or side yard to a height in excess of six (6) feet except for accessory buildings and structures permitted herein and deer control fencing as permitted in Chapter 16-600. Where there is a difference in the grade of the properties on either side of a fence or wall, the height of the fence or wall shall be measured from the average elevation of finished grades of the adjoining properties in question at the fence line, except that no fence need be less than forty-two (42) inches in height.

Where a retaining wall protects a cut below the natural grade and is located on the line separating lots, such retaining wall may be topped by a fence, wall, or hedge of the same height that would otherwise be permitted at the location if no retaining wall existed. Where a retaining wall contains a fill, the height of the retaining wall built to retain the fill shall be considered as contributing to the permissible height of a fence, solid wall or hedge, providing that in any event a protective fence or wall not more than forty-two (42) inches in height may be erected at the top of the retaining wall.

**12C-110. Exceptions to Height Limitations.** Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and parapet walls, skylights, towers, steeples, flagpoles, chimneys, smoke stacks,

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water tanks, wireless or television masts, theater lofts, silos, or similar structures may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for the purpose of providing additional floor space. Fences may be erected above the height limits herein prescribed in accordance with 16-604. Deer Control Fencing Regulations. Fences, and the use of fence-like material, constructed as part of sport courts including but not limited to tennis courts, basketball courts, and racquetball/handball courts are regulated as structures and thus must maintain set back from property lines as other structures and otherwise regulated through the building permit process and associated building regulations. The height of such sport court fences may be higher than the fences regulated in Chapter 12C-108, Wall, Fence or Hedge, and may be constructed to the height that would be appropriate for the sport court being constructed.

**SECTION II:** Title 16, Sections 16-102, 16-104, 16-207, and 16-208 are hereby modified as follows (highlighted portions added):

#### **TITLE 16. ANIMAL CONTROL AND REGULATIONS.**

##### **CHAPTER 16-100. GENERAL PROVISIONS.**

**16-102. Duties of Animal Control Officer.** The Animal Control Officer shall perform the following duties:

- (A) Carry out and enforce the provisions of this ordinance.
- (B) Take into his possession through capture or other methods all animals found running at large contrary to the provisions of this ordinance; and impound and/or dispose of the same in a humane manner as herein provided.
- (C) Enforce the licensing and control of all animals within the municipality as hereafter provided.
- (D) Issue citations and file complaints in the courts against any person, firm, or corporation failing to comply with the provisions of this ordinance and obtain licenses when required there under.
- (E) Provide for a good and sufficient pound in which an animal duly committed to his charge or otherwise impounded by him shall be maintained.
- (F) Enter a description sufficient to provide identification thereof in records kept for that purpose stating the kind of animal and the circumstances under which received or impounded, the costs expended for the maintenance of the animal and amounts received arising out of maintenance or sale of animal.
- (G) Administer the deer control regulations and plans in accordance with Chapter 16-600 and other city ordinances in cooperation with appropriate State officials and other city

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departments as needed.

**16-104. Lawful for Officers To Go On Property.** In the enforcement of any provision of this title any police officer or Animal Control Officer is authorized to enter on to the property of any person or entity to take possession of any dangerous or vicious dog or animal, or dog or animal which has committed an act prohibited by city ordinance, when in fresh pursuit of such dog or animal at the time the dog or animal goes onto private property. Any police officer or Animal Control Officer or other individual assisting those officers in the pursuit of, taking of, or capture of an animal, is authorized to enter on to the property of any person or entity to perform duties and responsibilities as part of deer control program (Chapter 16-600 Deer Control Regulations).

#### CHAPTER 16-200. UNLAWFUL ACTS.

**16-207. Trapping of Wild and/or Nuisance Animals.** The trapping of wild and nuisance animals is regulated by State law and Chapter 16-600 Deer Control Regulations of this code. Residents are encouraged to contact the city's Animal Control Officer for assistance and/or advice regarding wild and/or other nuisance animals. The Animal Control Officer will often be able to assist with the control of such animals.

**16-208. Wild Animal Restrictions.** It is unlawful for any person to sell, possess, offer for sale, barter, give away, keep or purchase any vicious wild animal which is fierce, dangerous, noxious or naturally inclined to do harm. An animal shelter, a zoological park, veterinary hospital, humane society shelter, public laboratory, circus, sideshow, amusement park or facility for education of scientific purposes may keep such an animal if protective devices adequate to prevent such animal from escaping or injuring the public are provided. It is unlawful for any person to feed deer within the city limits as specifically regulated in Chapter 16-606-Unauthorized Feeding of Deer.

**SECTION III:** Title 16, Chapter 16-600, Deer Control Regulations is hereby added:

#### CHAPTER 16-600. Deer Control Regulations

**16-601. Purpose of Chapter.** The regulations hereinafter set forth in this chapter are intended to help regulate the excessive population of deer within the city boundaries. It is recognized that deer naturally inhabit the area but too many deer living in the city can be dangerous to traffic, a nuisance to home owners and their landscaping and gardens and can be unhealthy and harmful to the deer themselves. The control of the urban deer herd is accomplished through a combination of a variety of separate actions including but not limited to: 1) a deer trapping and relocating or culling program, 2) allowing residents to protect their property from deer by allowing reasonable deer fences to be constructed if residents desire to do so, and 3) regulating unauthorized feeding of deer within the city limits. The violation of any of the provisions of the ordinances in Chapter 16-600 shall be an infraction.

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#### 16-602. Definitions:

- (1) Deer - Mule Deer. Applies also to White-Tailed deer if present.
- (2) Deer Fence - A fence constructed with certain features including its material and height, and placed in such location and height to discourage deer from crossing it to gain access to a piece of property intended to be protected. A deer fence need not be made out of deer fencing material, in whole or in part, to be considered a deer fence.
- (3) Deer Fencing Material - Fencing material either specifically designed for controlling and barricading deer and other predators or more standard fencing material equally capable of doing so. Such material may be installed as either a stand-alone deer fence or the deer fencing material may be added to other fences and/or fencing material. The following types of materials are approved as deer fencing material:
  - (A) Plastic/Polyresin Deer Fencing in earth or neutral colors (green, black, or brown)
  - (B) Galvanized or Stainless Steel Wire Fencing made of 14 gauge wire or larger.
  - (C) PVC-Coated Steel Fencing in earth or neutral colors (green, black, or brown) made of 16 gauge wire or larger.
  - (D) Vinyl Fencing

The following fencing materials are non-exclusive examples of materials not approved as deer fencing material:

- (A) Contractor Sand/Snow fence (Usually orange)
- (B) Galvanized Steel Hardware Cloth
- (C) Poultry netting

**16-603. Deer Trapping Program.** The Chief of Police may authorize, at his own discretion, and the Animal Control Officer shall administer, a Deer Trapping Program within the City.

- (1) The trapping of deer shall be allowed in the City only in accordance with the Deer Trapping Program established by the City and any other required regulations and authorizations from applicable State regulatory agencies.
- (2) The Deer Trapping Program shall be administered by a regulating document to be approved by resolution of the City Council and shall include, as a minimum, the following:
  - (A) The manner by which those to be handling the trapped deer are selected and trained; and
  - (B) The manner by which the trapped deer are to be relocated or culled and by whom; and
  - (C) The manner by which the number and sex of deer to be relocated or culled are to be determined; and
  - (D) The manner by which the locations for the traps are to be selected; and
  - (E) The manner by which the City will be protected from liability, lawsuit and/or other harm done by this program, as much as reasonably possible; and
  - (F) The manner by which this program will be financed.

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#### **16-604. Deer Control Fencing Regulations.**

(1) **Deer Fences Allowed.** Fences may be installed higher than six feet only if their purpose is designated as a deer fence and provided such fences comply with the requirements of this chapter. Any deer fence that is six feet (6') or more in height, shall require a building permit and its installation verified to be correct by a city official authorized to do so. The following types and combinations of fencing are permitted as deer fences:

- (A) Any fence or fencing material if the height of the fence is six feet (6') or less.
- (B) Any fence over six feet in height provided that any portion of the fence above the six foot height is either:
  - 1. constructed with Deer Fencing Material as defined in paragraph 16-601 (3), or
  - 2. constructed of material similar to the bottom part of the fence provided that such fencing material can be shown to be at least as strong as the any of the fencing material listed in paragraph 16-601 (3) and constructed to not cause a safety hazard for a deer; and
  - 3. in either case constructed such that at least 50% of the face of the fence above six feet (6') is open. In other words, "privacy fences" or the privacy portions of fences are only allowed to a height of six feet (6').
- (C) Deer fences up to eight feet (8') in total height may only be located to the rear of the front set back line for the lot. The front set back line for the lot shall be that line that is established by the land use zone for the subject property.
- (D) Deer fences up to ten feet (10') in total height may be located on residential lots by conditional use permit.

(2) **Deer Fence Construction.** Deer fencing material must be securely supported by posts or attached to existing fencing and shall be installed in accordance with the manufacturer specifications. The measurement of the height of the deer fence shall be measured from the ground and include the height of any fence to which it may be attached. Deer fencing material may not be attached to trees.

(3) **Deer Fence Maintenance.** Deer fencing and its installation shall be maintained in good condition and subject to periodic inspection by a designated city officer to ensure that it has not deteriorated, come loose or has otherwise become a visual nuisance or hazard to people or animals.

**16-605. Unauthorized Feeding of Deer.** The attracting and feeding of deer within the City limits results in the deposit of refuse, debris, fecal matter and other offensive substances and in the attraction of predatory wildlife. It also creates traffic hazards, property damage, and nuisance and annoyance of other persons. Unless otherwise expressly permitted by law, no person shall deposit, place, distribute or leave any fruit, grain, hay, vegetable, salt, or other food, of any kind or nature, with the intent to attract or feed deer on public or private lands.

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- (1) A property owner shall immediately remove any materials placed on their property by others in violation of this section.
- (2) There shall be a rebuttable presumption that the placement of fruit, grain, hay, vegetable, minerals, salt, or other food in aggregate volume of more than one-half gallon at a height of less than six feet (6') off the ground, or in any drop feeder, automatic feed, or similar device regardless of height, is for the purpose of feeding deer in violation of this section. Naturally growing plants, gardens, residue maintained as a mulch pile, and bird feeders designed or placed to limit access to deer, are not prohibited under this section.
- (3) The provisions of this Ordinance shall not apply to any resident or agent of the City authorized to implement a wildlife management program and who possesses the necessary permits from the State of Utah, nor shall it apply to any public officer or public employee in the performance of his duties. The provisions of this Ordinance shall not apply to the feeding of domestic animals.
- (4) The Chief of Police or the Animal Control Officer may authorize temporary feeding for the purposes of counting the deer population, baiting deer traps, or other public purposes.
- (5) City officials shall issue a written warning for the first offense under this section. Thereafter, offences shall be subject to standard procedures for ordinance violators. The violation of this ordinance shall be an infraction.

**SECTION IV: SEVERABILITY.** The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.


**SECTION V: EFFECTIVE DATE.** In the opinion of the City Council of North Logan, it is necessary that this ordinance take effect immediately; therefore, this Ordinance shall take effect immediately upon its passage and first posting as provided by law.

ADOPTED AND PASSED by the City Council of the City of North Logan, Utah, this 22nd day of October, 2014.

NORTH LOGAN CITY, A Utah Municipal Corporation

By   
Lloyd Berentzen, Mayor

ATTEST:

  
Scott Bennett, City Recorder

CERTIFICATE OF DUE POSTING

I, SCOTT BENNETT, City Recorder of North Logan, Utah, hereby certify that I, on the 23rd day of October, 2014, in the City of North Logan, Cache County, State of Utah, posted the foregoing Ordinance No. 14-02 in a likely manner, a copy of which is hereto attached, in each of three public places in the said City of North Logan, to-wit:

1. North Logan City Offices, 2076 North 1200 East
2. North Logan City Library, 475 East 2500 North
3. North Park Police Department, 575 East 2500 North

WITNESS my hand this 23rd day of October, 2014.

  
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City Recorder