

Memo from the City Attorney regarding creation of an ordinance prohibiting the feeding of wild animals

## A. Issue

Shall the City of Wauwatosa create a local ordinance, by adopting an administrative rule of the Wisconsin Department of Natural Resources, to prohibit the feeding of wild animals within the City Limits?

## B. Background/Options

The “Tosa Turkeys” have become a common and familiar site throughout the City of Wauwatosa in recent years. As stated in the attached Urban Wildlife Factsheet from the Wisconsin Department of Natural Resources, this is primarily the result of re-introduction of the species in Wisconsin over the past 50 years. “However, the success of these efforts has led to an increase in human-turkey conflicts. Backyards and parks provide excellent habitat for turkeys, and urban areas have fewer natural predators than rural areas.” Coyotes have also become quite a common sight in the City, in addition to other “wild” animals.

While most of us appreciate the presence and visibility of such natural elements in the urban setting, at times wild animals can become a nuisance or even create dangers to health and safety. The general advice given by experts on handling urban wildlife nuisances is commonly distilled into three easy-to-remember steps: Educate, Regulate, Eliminate. First, *educate* citizens on how to avoid conflicts and live alongside wild animals in the community. Next, *regulate* human behavior to avoid or minimize creation of conflicts and create a policy to make plans clear to residents. The final step is to actively remove or *eliminate* conflicts.

Through our website and other social media outlets the City’s communications team has done an excellent job of attempting to educate residents as to how to live alongside the urban wildlife population. The Common Council created a [Coyote Nuisance Management and Response Plan](https://www.wauwatosa.net/home/showpublisheddocument/690/636552833867370000) <<https://www.wauwatosa.net/home/showpublisheddocument/690/636552833867370000>> a number of years ago, but this plan was specific to coyotes and does not directly regulate the activities of individuals in the community. The *eliminate* step has been used very sparingly in regards to coyotes, but also with turkeys, and is a last ditch effort when other efforts have been unsuccessful or the nuisance is too acute and immediate to be ignored.

Since educating citizens can only provide a certain amount of success in eliminating human/wildlife conflicts, staff and the Mayor feel it is necessary to take the next step in regulating behavior so as to minimize such conflicts. That step is to create an ordinance prohibiting the feeding of wild animals. This prohibition is already “the law” under regulations of the Wisconsin Department of Natural Resources, but adopting a local ordinance in this regard would provide much easier and more effective enforcement at the local level.

The proposed ordinance, attached, would adopt Section NR 19.60 of the Wisconsin Administrative Code. The full text of that Administrative Rule is attached to the ordinance for reference. Wisconsin Statutes Sec. 29.038(2) specifically prohibits local governments from regulating management of wild animals *except* that we can adopt DNR regulations into the local code, as is being proposed here.

The DNR has consistently interpreted this Administrative Rule to prohibit the feeding of wild turkeys in Wisconsin. The code provision itself, in applicable part, states that “[n]o person may place, deposit or allow the placement of any material to feed or attract wild animals for non-hunting purposes...” *except* “[m]aterial placed solely for the purpose of attracting and feeding wild birds and small mammals when

*placed in bird feeding devices and structures at a sufficient height or design to prevent access by deer and only when the structures and devices are no further than 50 yards from a dwelling”. NR 19.60(1)(a) and NR 19.60(3)(a)1.*

**C. Strategic Plan (Area of Focus)**

Priorities: Public Safety and Quality of Life

Vision: “...maintaining a high quality of life for residents, visitors, and businesses.”

Values: Innovation, Resilience, Service Excellence

**D. Fiscal Impact**

Consistent application of the ordinance should reduce the need for responses by City staff to human/animal conflict situations, and also the need for more active measure such as elimination of conflicts, thus saving City resources.

**E. Recommendation**

Staff recommend that the Common Council adopt the proposed ordinance to incorporate the provisions of Section NR 19.60 of the Wisconsin Administrative Code into the Wauwatosa Municipal Code.