



MURIEL BOWSER
MAYOR

JUL - 9 2019

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Suite 504
Washington, DC 20004

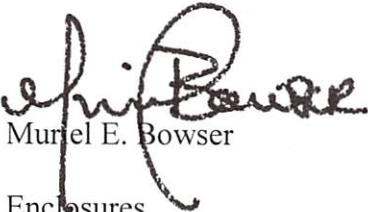
2019 JUL -9 PM 3:19
OFFICE OF THE
SECRETARY

Dear Chairman Mendelson:


Enclosed for consideration and approval by the Council of the District of Columbia is the "Wildlife Infractions Schedule of Fines Resolution of 2019." The proposed resolution would establish a schedule of civil infractions for violations of the District's Wildlife Protection Act of 2010.

I urge the Council to take prompt and favorable action on the "Wildlife Infractions Schedule of Fines Resolution of 2019."

Sincerely,


Muriel E. Bowser

Enclosures


Chairman Phil Mendelson
at the request of the Mayor

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6 A PROPOSED RESOLUTION
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11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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16 Chairman Phil Mendelson, at the request of the Mayor, introduced the following resolution,
17 which was referred to the Committee on _____.
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19 To approve the proposed rules to establish a schedule of civil infractions for violations of the
20 District's Wildlife Protection Enforcement Amendment Act.
21

22 RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
23 resolution may be cited as the "Wildlife Protection Infractions Approval Resolution of 2019".

24 Sec. 2. Pursuant to section 104(a)(1) of the Department of Consumer and Regulatory
25 Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official
26 Code § 2-1801.04(a)(1)), the Council approves the proposed rulemaking adopted by the
27 Department of Energy and the Environment, which was published in the *D.C. Register* on April
28 20, 2018, to establish a schedule of civil infractions for violations of the District's Wildlife
29 Protection Enforcement Amendment Act.

30 Sec. 3. Fiscal impact statement.

31 The Council adopts the fiscal impact statement in the committee report as the fiscal
32 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
33 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

34 Sec. 4. Transmittal.

35 The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to
36 the Mayor, the Director of the Department of Energy and Environment, and the Administrator of
37 the Office of Documents and Administrative Issuances.

38 Sec. 5. Effective date.

39 This resolution shall take effect immediately.

DEPARTMENT OF ENERGY AND ENVIRONMENT

NOTICE OF FINAL RULEMAKING

Wildlife Protection Infractions

The Director of the Department of Energy and Environment (Department), pursuant to the authority set forth in the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2 1801.04(a)(1)(2013 Repl.)), the Wildlife Protection Act of 2010, effective March 8, 2011 (D.C. Law 18-289; D.C. Official Code § 8-2211) (2012 Repl. & 2015 Supp.), Section 6002 of the Fiscal Year 2017 Budget Support Act of 2016, (“Wildlife Protection Enforcement Amendment Act of 2016”) effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 8-2201 *et seq.* (2016 Supp.)), the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.01 *et seq.*) (2012 Repl. & 2015 Supp.), Mayor’s Order 2006-61, dated June 14, 2006, and Mayor’s Order 2014-123, dated May 27, 2014, hereby gives notice of the intent to adopt the following amendments to Chapter 40 (Department of Environment) of Title 16 (Consumers, Commercial Practices, & Civil Infractions) of the District of Columbia Municipal Regulations (DCMR).

Pursuant to § 104(a)(1) of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04(a)(1) (2013 Repl.)), the proposed rules were submitted to the Council of the District of Columbia for review and approval and published in the *D.C. Register* on April 20, 2018. No comments were received and no changes were made to the infractions. This rule will become effective upon Council approval, or thirty (30) days after submission, if the Council has not disapproved the proposed rulemaking, and publication of the final rules in the *D.C. Register*.

This rulemaking will schedule fines related to the Wildlife Protection Act in Title 19, Chapter 15 of the DCMR for violations of conditions for licensure and registration, restrictions on the capture, handling, and transport of wildlife, restrictions on euthanasia of wildlife, control requirements for specified species, and required records and annual reporting relating to the capture of wildlife by wildlife control operators and service providers.

Chapter 40, DEPARTMENT OF THE ENVIRONMENT (DDOE) INFRACTIONS, Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, is amended as follows:

A new Section 4016, WILDLIFE PROTECTION INFRACTIONS, is added to read as follows:

4016 WILDLIFE PROTECTION INFRACTIONS

4016.1 Violation of the following provision shall be a Class 1 infraction:

- (a) 19 DCMR § 1570.1 (engaging in the control of wildlife without a license);

- (b) 19 DCMR § 1570.13 (controlling wildlife species not designated by the license);
- (c) 19 DCMR § 1571.1 (failure to register as a wildlife control services provider with the Department prior to providing services);
- (d) 19 DCMR § 1571.2 (failure to register as a wildlife control services provider when working as a self-employed wildlife control operator);
- (e) 19 DCMR § 1574.1 (failure to employ non-lethal means as the preference in the control of problem wildlife);
- (f) 19 DCMR § 1574.3 (euthanizing, killing, relocating, distressing, displacing, or otherwise harming a Species of Greatest Conservation Need without written permission from the Department);
- (g) 19 DCMR § 1574.5(a) (Removing, altering, or destroying a Migratory Bird nest with eggs or the young without obtaining a federal permit);
- (h) 19 DCMR § 1574.9 (failure to obtain written permission from the Department to transport wildlife out of the District);
- (i) 19 DCMR § 1574.10 (failure to obtain written permission from the Department to transport wildlife into the District);
- (j) 19 DCMR § 1576.5 (failure obtain a federal permit prior to using a mist or rocket net to capture a bird or bat outdoors);
- (k) 19 DCMR § 1576.12(a) (failure to immediately release, at the site of capture, captured non-target wildlife that is healthy and does not pose an unreasonable risk to the health and safety of persons or domestic animals);
- (l) 19 DCMR § 1576.12(b) (relocating captured non-target wildlife to a property without obtaining prior permission from the property owner);
- (m) 19 DCMR § 1576.14(b) (relocating captured target wildlife to a property without the written permission of the property owner);
- (n) 19 DCMR § 1576.18 (failure to keep captured wildlife in a covered, secure safe container during transport);
- (o) 19 DCMR § 1576.20 (failure to use the quickest, least stressful, and least painful method of euthanasia on sick, injured, or orphaned wildlife);
- (p) 19 DCMR § 1576.21 (failure to use a method of euthanasia that conforms to the Report of the American Veterinary Medical Association (AVMA) Panel on Euthanasia: 2013 Edition for Free-Ranging Wildlife and Domestic Animals);
- (q) 19 DCMR § 1576.22 (failure to obtain prior approval from the Department to use a method of euthanasia not published in the Report of the American

Veterinary Medical Association (AVMA) Panel on Euthanasia: 2013 Edition for Free-Ranging Wildlife and Domestic Animals).

- (r) 19 DCMR § 1577.1 (use of a toxicant prohibited by the Department for use on wildlife);
- (s) 19 DCMR § 1577.2 (prohibited use of a toxicant to control pigeons, European starlings, or house sparrows); or
- (t) 19 DCMR § 1577.4 (prohibited use of a leg-hold and other body-gripping trap, body-crushing trap, snare, or harpoon-type trap to control wildlife).

4016.2

Violation of the following provision shall be a Class 2 infraction:

- (a) 19 DCMR § 1576.3 (failure to check a mist net at least once every hour);
- (b) 19 DCMR § 1576.9 (failure to check a trap at least once every twenty-four (24) hours, or more frequently as environmental conditions deemed necessary);
- (c) 19 DCMR § 1576.11 (failure to check the trap if remote technology fails to report in twenty-four (24) hours);
- (d) 19 DCMR § 1576.15 (failure to make reasonable effort to keep dependent young wildlife with their parent);
- (e) 19 DCMR § 1576.16 (failure to obtain written authorization from the Department prior to holding wildlife for the purpose of reuniting dependent young);
- (f) 19 DCMR § 1576.19 (selling, bartering, trading, giving, or retaining wildlife or parts thereof);
- (g) 19 DCMR § 1577.3 (prohibited-use of sticky or glue trap to control wildlife); or
- (h) 19 DCMR § 1577.5 (failure to obtain written permission from the Department to keep wildlife in captivity for longer than thirty-six (36) hours).

4016.3

Violation of the following provisions shall be a Class 3 infraction:

- (a) 19 DCMR § 1573.4 (failure to report a potential outbreak or widespread occurrence of suspected disease in wildlife to the Department);
- (b) 19 DCMR § 1574.6 (failure to obtain written permission and guidance from the Department prior to controlling bats);
- (c) 19 DCMR § 1574.8 (wildlife control of an amphibian or a turtle);

- (d) 19 DCMR § 1574.11 (failure to notify the Department prior to performing wildlife control on black bears or coyotes);
- (e) 19 DCMR§ 1575.2 (wildlife control of a feral cat in violation of the District's policy of trap, spay or neuter, return, or adoption of feral cats);
- (f) 19 DCMR § 1576.8 (failure to set a trap to avoid capture or harm to a non-targeted wildlife);
- (g) 19 DCMR § 1576.13(a) (b) (failure to transfer to the District's Animal Care and Control Agency or a licensed wildlife rehabilitator in the District, captured non-target wildlife that is believed to be sick, injured, orphaned, or that poses an unreasonable risk to people or domestic animals, or that is otherwise unfit for release);
- (h) 19 DCMR § 1576.14(c) (failure to surrender captured target wildlife expressing symptoms of disease to the District's Animal Care and Control Agency for evaluation and assessment);
- (i) 19 DCMR § 1576.14(d) (failure to transfer sick, injured, or abandoned captured target wildlife to a licensed wildlife rehabilitator in the District);
or
- (j) 19 DCMR§ 1576.17 (failure to prevent or limit unnecessary discomfort, behavioral stress, or physical harm to captured wildlife during handling, or transport).

4016.4 Violation of the following provisions shall be a Class 4 infraction:

- (a) 19 DCMR § 1573.2 (failure of a wildlife control services provider to submit an accurate summary of wildlife control activities for the preceding year to the Department by January 15th).

4016.5 Violation of the following provisions shall be a Class 5 infraction:

- (a) 19 DCMR § 1570.6 (failure of a wildlife control operator to be in possession of their license while engaging in wildlife control activities);
- (b) 19 DCMR § 1572.1 (failure of the wildlife control operator to provide a written assessment of the problem and proposed wildlife control measures);
- (c) 19 DCMR§ 1573.1 (failure of a wildlife control operator to maintain required records of each wildlife control service call);
- (d) 19 DCMR § 1573.3 (failure of a wildlife control services provider to make required records available for inspection by the Department); or

- (e) 19 DCMR § 1576.7 (failure to label trap or exclusionary device with the name, address, and phone number of the wildlife control operator or wildlife control services provider).

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
KARL A. RACINE



Legal Counsel Division

MEMORANDUM

TO: Alana Intrieri
Director
Office of Policy and Legislation Affairs

FROM: Arthur J. Parker
Acting Deputy Attorney General
Legal Counsel Division

DATE: March 20, 2019

SUBJECT: Legal Sufficiency Review of Draft Resolution, the “Wildlife Protection
Infractions Approval Resolution of 2019
(AR-17-63B)

This to Certify that this Office has reviewed the above-referenced draft bills and draft resolution and found them to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5565.

A handwritten signature in cursive script, appearing to read "Arthur J. Parker".

Arthur J. Parker