

8.31.16

CO Parks & Wildlife /DougCo Sheriff's Office Franktown Neighborhood meeting

The evening was moderated by Sgt. Derek Castellano.

Participants adhered to the requests to keep the discussion civil, refrain from derogatory language, and to stay on topic. This was not a forum to air specific grievances with a neighbor, nor to discuss neighborhood-specific HOA laws.

Additional information on specific statutes referenced, which were handed out at the meeting, are included at the end of this document.

Agenda:

1. Matt Martinez, District Wildlife Manager, Colorado Parks and Wildlife

Cell 303-325-4185, office 303-291-7227; state patrol on call 24/7

a. Nuisance wildlife laws

- i. Not just deer and rabbits; can include bears, coyotes, mountain lions and bobcats, etc.
- ii. Can take action against certain animals (see list) when they are a direct threat to crops, livestock, or human life without obtaining a permit
- iii. You cannot shoot a predator (black bears, mountain lions) attacking a pet or personal property (furniture, merchandise), but you can shoot a predator attacking livestock* (animals raised and kept for profit), human life, real property (anything tied to the land, like a building), or a motor vehicle if you can successfully articulate the threat to CPW and then report to the state within 5 days
- iv. Trapping (live traps) and shooting allowed, per above, but check with local authorities first
- v. Without a permit, residents can relocate certain animals (see wildlife doc)
- vi. CPW doesn't manage domestic wildlife (e.g. peafowl)

b. Feeding wildlife

- i. It is illegal to feed any big game species (i.e. deer, elk), but you can feed birds (hummingbirds, etc) in a manner that does not also feed big game

(don't scatter chicken scratch on the ground, for example, where deer can also eat it)

- ii. If you are feeding birds and a bear is present in the neighborhood, best practice would involve discontinuing this process until the bear has left the neighborhood as it encourages the bear's presence, teaches them that bird feeders are easy sources of calories, and lessens their inherent fear of humans; feed the birds Nov-Mar, when bears are hibernating
 - iii. Many people inadvertently feed the bears via their trash; best practice involves putting out trash the morning of pickup, not overnight, so that bears do not learn that trash cans are easy sources of food
 - iv. Bringing animals together artificially, via feeding wild game, disrupts their natural patterns, spreads disease, and doesn't meet their specific nutritional needs (which may result in a "well fed" deer who fills up on something like bird seed dying of starvation)
 - v. Open access salt licks are illegal in a 5-acre setting
 - vi. Contact CPW for assistance if deer are tearing open haystacks in a field
- c. Depredating animal regulations
- i. See handout; livestock may or may not be defined here to cover backyard chickens*; it is most likely a judgement call by the officer on duty
- d. Preventing predation on livestock
- i. When a predator is present, walk the property and address any issues that *can* be altered (e.g. not letting animal feed sit outside, better protection for free-ranging chickens such as lighting sensors and fencing, stronger fencing for livestock in general including electric fencing, "unwelcome mats" with nails poking through around open doors and windows)
- e. Living with wildlife
- i. Nuisance bears are ideally relocated in the Pike Forest, but may ultimately be destroyed

- ii. Adhering to the advice of CPW above should lessen negative encounters with wildlife
- 2. Sgt. Derek Castellano, Douglas County Sheriff's, Office Community Resources
Direct 303-814-7083, dcastell@dcsheriff.com, but call 911 for an emergency
Non-emergency line 303-660-7500
 - a. Wildlife ordinances and the sheriff's office
 - i. Sheriff is often first on scene (often via 911) for wildlife calls
 - ii. Sheriff does relay these calls to CPW as well
 - b. Gun safety, including revised Colorado statutes
 - i. Reckless behavior is not considered lawful target practice (e.g. shooting into the air on New Year's Eve)
 - ii. If a bullet leaves your property/gun range and goes into a neighbor's home it is a felony by definition (most likely to occur in cases of rapid fire shooting, so use extreme caution)
 - c. County ordinances
 - i. Noise complaints / disorderly conduct are not necessarily regulated per the state government; it is therefore an officer's judgement call on what is or isn't reasonable (the old statute was ruled unconstitutional)
 - 1. "Reasonable" can be hearing the neighbor's car, or music in the afternoon, or safe target practice in the afternoon
 - 2. "Unreasonable" would entail target practice at 3 am; unreasonable is harder to articulate/prove
 - ii. There are no ordinances on the books for DougCo concerning the general firing of a weapon or noise ordinances; there are no zoning rules
 - d. Tips for working with your neighbors
 - i. We want to avoid neighbors calling the sheriff on each other when unnecessary, and protection orders coming in to play that wouldn't allow certain neighbors to even walk a dog in front of each other's homes
 - ii. Get to know your neighbors and open up a line of communication

- iii. Let your neighbors know (via neighborhood websites, a direct call, or alerting the sheriff's office) when you are target shooting to avoid unnecessary angst
- iv. Try to work issues out directly to deflate miscommunications
- v. When you are not able to reach an agreement with neighbors and it becomes a quality of life issue, the sheriff's department offers a free mediation program

*See state statutes on livestock, may further define for "profit to" include "personal consumption" (basically anything you can eat, consume, or wear); the room did not reach a consensus on the working definition of livestock, specifically concerning backyard (non-commercial) chickens and further investigation would be required

3. Open Q&A

- Statue 33-03-104: includes personal property used in agricultural endeavors (e.g. bee yards in the pursuit of raising bees) when making a claim against wildlife
- Coyotes can be shot at will; for bears and mountain lions (in a non-emergency situation) contact CPW
- Are there trash ordinances for 3-4 days of sitting garbage? No county ordinance, but sheriff can look into if it is impeding traffic; creating an ordinance is difficult but not impossible through local officials
 - There is a law on the books (33-06-131) for "knowingly luring bears" that may apply once bears have been known to be drawn to open food or waste; there is a growing fine in this instance that starts with a warning, which would account for the "knowingly" clause
 - Also an HOA possibility, as HOA statutes can be more restrictive than state/county statutes and hold up in court
- Can residents mercy kill a deer with, say, a broken leg? You should call the CPW first for permission, even on "ag" designated property.
- Is there a policy or plan to cull the deer? The short answer is no, but there are increased special doe licenses in designated areas in Franktown and Parker; Elizabeth also has a CPW-endorsed special deer hunt yearly to control population, as well as a potential bill to help private citizens get licensed for personal population control plans on their property.
- Whose responsibility to haul deer off the road? County will remove carcasses off county roads (call non-emergency #), on state highways call the CDOT non-emergency # and they will dispatch Animal Disposal; it is the homeowner's responsibility to dispose of carcasses on private property.

- Bow and arrow / rifle / cross bow hunting on private property? Hunters need to have a tag specific to that area and that animal. Safety guidelines must be followed, and there is no acreage limit in DougCo for hunting. If the arrow or bullet leaves private property, there is a problem. If the wounded animal leaves the property, the hunter needs to have permission to track the animal onto someone else's property; call the sheriff or CPW for assistance if permission is not granted.
 - Certain HOAs in the area prohibit any hunting, and hunters should research their neighborhoods. HOA covenants trump county laws in court, but are not enforceable by the sheriff.
- A rifle license covers bows, but a bow license does not cover rifle; it can trickle down in terms of firearm strength but not up.
- HOA can take residents to court for violations (e.g. not paying dues or fines), which can result in a "sheriff sale" of their property
- HOA bylaws lay down the rules for covenants, statutes, fines, and course of action; when you sign your closing documents when buying a house, it binds you to the covenants in place in that neighborhood and that contract is binding in a court of law
- When the HOA does not have the money to enforce a covenant, the weight and cost fall to resident homeowners but the covenants still apply
- How can we discourage mountain lions? First, make it unwelcome for the deer. In general, the lions follow the deer. Harass lions, bears and coyotes when you see them – make noise, throw things, reinforce the fear of humans. Do your part to be vigilant, but know that we live in lion country, which will not change.
- You can use blanks to scare off deer and predators; check out "bear thunder" product for 12-gauge as it is LOUD with no projectile; let your neighbors and the sheriff know via the non-emergency line and neighborhood websites before you set these off
- CPW will also give out rubber buckshot (very effective for bears); just call and ask
- When walking the dog, and you see the bear, make some noise (i.e. whistle); when outside in general in peak bear season make some normal people noise
- CPW's take on bears: They have big teeth and claws, and are very curious, but they are not interested in harming people; make some noise and scare them off.
- When approaching neighbors about a conflict, do what is comfortable for you; you can call the sheriff for assistance
- What does CPW want reported in terms of wildlife? Don't call on every sighting, but call when you sense an issue and options will be discussed. You can also call with general inquiries. "When in doubt, call it out."
- Predator populations rises with the rise of deer and rabbits; this is often cyclical; there is also increased development in the area that pushes animals into neighborhoods like ours with a greater concentration of open spaces
- Increase in rabies in wildlife? Not really, but we are getting some positive tests (like for skunk), when we used to not.



Nuisance Wildlife Laws in Colorado

Following are summaries of the most common regulations and statutes pertaining to nuisance wildlife. Again, these are *summaries* ... you can receive full copies of individual statutes and regulations upon request. State laws are also available on the web at www.Colorado.gov/ by following the link to "government." Keep in mind that these laws note what is restricted by state statutes and permitted by Colorado Parks and Wildlife (CPW) regulations; however, local laws and ordinances may be more specific about what is allowed at a certain location. It is your responsibility to determine whether it is legal to use a particular method of take in your city or county. *CPW does not require nor request the removal of wildlife deemed a nuisance; the determination that a species has become a nuisance and should be removed is the prerogative of the landowner. There are many non-lethal methods for discouraging the presence of wildlife. For information about co-existing with wildlife, please call CPW at 303/291-7227.*

1.) WHAT CAN I DO IF WILDLIFE IS CAUSING DAMAGE ON MY PROPERTY?

Statute 33-6-107 (9) and Wildlife Commission Regulations (WCR) 306(A), WCR 1000(A), WCR 313(C) and WCR 327
If wildlife is causing damage to crops, real or personal property, or livestock - a person (or any employee or agent of the landowner) may hunt, trap, or take the following wildlife on lands owned or leased by the person without securing a license to do so:

- Black-billed magpies, common crows, starlings, English or house sparrows, common pigeons, coyotes, bobcats, red foxes, raccoons, jackrabbits, badgers, marmots, prairie dogs, pocket gophers, Richardson's ground squirrels, rock squirrels, thirteen-lined ground squirrel, porcupines, crayfish, tiger salamanders, muskrats, beavers, exotic wildlife, and common snapping turtles.
- Additional species include: tree squirrels, cottontail rabbits, marmots, porcupines, bats, mice (except Preble's meadow jumping mouse), opossums, skunks, voles, rats, and ground squirrels.
- Any person may kill rattlesnakes when necessary to protect life or property.
- The pelts or hides of any mammal taken under these provisions may be transferred, possessed, traded, bartered, or sold by any person who holds an appropriate small game or furbearer license. (For information on the possession and/or disposal of pelts and hides of animals NOT listed above, including bear and lion, please contact CPW for permission.)

2.) WHAT METHODS CAN I USE TO TAKE WILDLIFE WHEN THEY ARE CAUSING DAMAGE ON MY PROPERTY?

WCR 303(A)(3), WCR 303(B) and WCR 304(E)

Trapping and or shooting are the most common methods.

- If using firearms, check with your local authorities on the laws that apply to discharging a firearm.
- If trapping, the ONLY types of traps that may be used are LIVE (cage or box traps). (See #5 for exceptions.)
- Small game and furbearers captured in live traps cannot be moved from the capture site and must be killed or released on site when the trap is checked. (See #3 and #4 following for exceptions.)

3.) WHICH WILDLIFE SPECIES CAN I RELOCATE WITHOUT A PERMIT?

WCR 303(A)(3)

Tree squirrels, cottontail rabbits and raccoons can be relocated without a permit, provided that:

- CPW has been notified in advance.
- The relocation site is appropriate habitat for the species.
- Permission has been obtained from the landowner or managing agency where the animal will be released.
- The relocation must occur within 10 miles of the capture site for squirrels and rabbits and within 2 miles for raccoons.

4.) WHAT IF I WANT TO RELOCATE AN ANIMAL OTHER THAN TREE SQUIRRELS, COTTONTAIL RABBITS OR RACCOONS? WCR 303(A)(3), WCR 304(E)

If you want to relocate any other species, you must first obtain a Relocation Permit from CPW.

5.) WHEN CAN I USE BODY-GRIPPING/DEATH TRAPS?

Amend.14, Statute 33-6-203, Statute 33-6-204, Statute 33-6-207, Statute 33-6-208 and WCR 303(A)(2)

In November 1996, Amendment 14 was passed by ballot initiative. "This banned use of traps such as snares, Conibears, leghold traps, etc. for the recreational take of wildlife".

- You can use body-gripping/ death traps for mice and rats without a permit (as listed in #1).
- Landowners, and others authorized by statute, may be eligible for a 30-day trapping permit where certain

- body-gripping/death traps can be used in order to protect commercial livestock and/or commercial crop production.
- Specifications on traps are found under WCR 303(E).

6.) WHAT HOURS CAN I TRAP AND WHEN MUST I INSPECT THE TRAPS?

WCR 302(B), Department of Agriculture (DOA) Statutes Title 35 and DOA Regulations

The following information below applies to anyone who is trapping (whether they are permitted to use body-gripping traps or live traps):

- Small game (except game birds), game reptiles and furbearers may be trapped day or night.
- All traps and snares **MUST** be visually checked **AT LEAST ONCE EVERY DAY**.
- Under 30 day exemption-regulations could vary. Persons can consult DOA statutes and regulations.

7.) CAN I KEEP ANY OF THE WILDLIFE THAT I CAPTURE?

WCR 009(A), WCR 020(B), WCR 107(A) (1)(m) & (o) and WCR 1000(A)

Up to four individuals of each of the following species and/or subspecies of reptiles and amphibians may be taken annually and held in captivity, provided that no more than twelve in the aggregate may be possessed at any time:

- Woodhouse's toad, plains spadefoot, western chorus frog, painted turtle, western box turtle, sagebrush lizard, tree lizard, side-blotched lizard, prairie & plateau lizards, bullsnake, western terrestrial garter snake, lesser earless lizard, western whiptail, racer and western hognose snake.
- Snapping turtles may also be taken. Bullfrogs and aquatic salamanders (less than 5 inches) may be taken year round if the person possesses a valid fishing license. Bullfrogs may not be released back into the wild.
- If these species have not been in contact with species from other geographic areas, they may be returned to the wild but shall not be returned in a distance over 10 miles from where they were captured.
- No other live wildlife may be held in captivity unless you are authorized/licensed by CPW to do so.

8.) CAN I EVER USE TOXICANTS/POISONS ON WILDLIFE?

Statute 33-6-130, Statute 33-6-209, WCR 303(B)

Some toxicants are legal for Richardson's ground squirrel, rock squirrel, thirteen-lined ground squirrel, pocket gopher, marmots, black-tailed, white-tailed, and Gunnison prairie dogs when causing damage on private property. Most rats and mice also fall under this category. **Some poisons are available over the counter. You must follow label instructions. Poisons may only be used for species indicated on the box, and application directions must be followed in order for poison to be lawful. Regardless of whether a poison or toxicant is legal by statute, it is your responsibility to check with local authorities about restrictions on specific poisons and toxicants at your location.**

9.) CAN I SHOOT A BLACK BEAR OR MOUNTAIN LION IF IT IS ATTACKING MY DOG OR MY LIVESTOCK? Statute 33-3-106

- Black bears and mountain lions **CAN NOT** be destroyed when they are causing damage to **personal property**, including pets.
- Black bears and mountain lions **CAN be killed** when it is **NECESSARY** to prevent them from inflicting death or injury to **LIVESTOCK, HUMAN LIFE**, real property, or a motor vehicle. Any wildlife killed shall remain the property of the state, and such killing shall be reported to the division within five days. "Real property" means land and generally whatever is erected or growing upon or affixed to land. (Note: "Personal Property" means everything that is subject to ownership, other than real estate. Personal property includes moveable and tangible things, such as animals, furniture and merchandise.)

10.) DOES CPW MANAGE DOMESTIC "WILDLIFE?"

Statute 33-1-102 (51), WCR 1103(A)

CPW does not manage domestic species of ducks, geese, rats, mice, European ferrets, pigeons, guinea fowl or peafowl. Check with your county or city's municipal code for restrictions on domestic "wildlife."

For more information on Colorado's wildlife, contact Colorado Parks and Wildlife at (303) 297-1192 or on the web at www.wildlife.state.co.us.

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Colorado Revised Statutes:

18-3-208 Reckless Endangerment

A person who recklessly engages in conduct which creates a substantial risk of Serious Bodily Injury to another person commits reckless endangerment

18-9-106 Disorderly Conduct

Makes unreasonable noise in a public place or near a private residence that he has no right to occupy

18-12-106 Prohibited use of Weapons

Recklessly or with criminal negligence he discharges a firearm or shoots a bow and arrow

18-12-107.5 Illegal Discharge of a Firearm

Any person who knowingly or recklessly discharges a firearm into any dwelling or any other building or occupied structure

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