

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

SALLY DANIELS,

Plaintiff,

Case No.: 16-
Hon.

-CE

vs.

CITY OF ANN ARBOR,

Defendant.

Aaron O. Matthews (P64744)
Jason R. Canvasser (P69814)
CLARK HILLPLC
212 E. Grand River Avenue
Lansing, MI 48906
(517) 318-3100
Attorneys for Plaintiff

VERIFIED COMPLAINT FOR DECLARATORY AND EQUITABLE RELIEF

Plaintiff, Sally Daniels, by and through her attorneys, Clark Hill PLC, and for her complaint for declaratory and equitable relief for the protection of natural resources against Defendant, the City of Ann Arbor, states as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, Sally Daniels, is an individual residing in Ann Arbor, Michigan.
2. Defendant, City of Ann Arbor (the "City"), is a Michigan municipal corporation located within Washtenaw County, Michigan.
3. This Court has jurisdiction of this matter under MCL §324.1701 and MCR 2.605.
4. Venue is proper in Washtenaw County.

GENERAL ALLEGATIONS

5. Pursuant to state law, all animals found within the State of Michigan are the property of the people of this State. MCL §324.40105.

6. Such animals, including deer, are natural resources that are the property of the people of the State of Michigan, held in public trust.

7. The unlawful killing of deer impairs and destroys the natural resources of this State.

8. Section 1701 of the Natural Resources and Environmental Protection Act, Act 451 of 1994 (“NREPA”), codified at MCL §324.101 *et seq.*, provides that any person may maintain an action in the circuit court having jurisdiction where an alleged violation has or is likely to occur for declaratory and equitable relief against any person for the protection of natural resources and the public trust in the resource from impairment or destruction. MCL §324.1701.¹

9. The Michigan Department of Natural Resources (“DNR”) regulates the taking of animals, including deer, pursuant and subject to the NREPA. *See* MCL §324.40105.

10. Pursuant and subject to the NREPA, the DNR is to manage animals in this State and may issue orders to, among other things: (i) determine the kinds of animals that may be taken; (ii) establish open seasons for taking or possessing game; (iii) establish lawful methods of taking game; and (iv) determine conditions under which permits may be issued. MCL §324.40107(1).

11. Pursuant to the authority granted to it by Section 40107 of the NREPA, the DNR issued, and has amended from time to time, the Wildlife Conservation Order (“WCO”).²

¹ Part 17 of the NREPA, MCL §324.1701 to §MCL 324.1706, is also known and referred to as the Michigan Environmental Protection Act (“MEPA”).

² The sections of the WCO cited herein are attached hereto as Exhibit 1.

12. Pursuant to Section 3.101 of the WCO, the open firearm season for deer is from November 15 to November 30.

13. Pursuant to Section 2.5 of the WCO, lawful hunting hours are one-half hour before sunrise to one-half hour after sunset.

14. Pursuant to Section 3.100(3) of the WCO, the following acts and activities, among others, are prohibited: (i) the taking of deer other than during the open season; (ii) the taking of deer outside of lawful hunting hours; (iii) the possession or use of an apparatus known as a silencer on a gun while hunting deer; and (iv) the baiting of deer other than during the period of September 15 to January 1.

15. Section 40111 of the NREPA prohibits the taking of an animal from, in, or upon a vehicle. MCL §324.40111.

16. The City is currently engaged in a “deer cull” consisting of the harvesting or taking of up to one hundred (100) deer from public parks and nature areas within the City by marksman from the United States Department of Agriculture’s Animal and Plant Health Inspection Service, pursuant to a contract with the City (the “Deer Cull”).

17. The Deer Cull is scheduled for the period of January 2, 2016, to March 1, 2016, which is outside of the open firearm season for deer.

18. The Deer Cull is being conducted between the hours of 4:00 pm and 7:00 am, including times outside of lawful hunting hours.

19. The Deer Cull further includes (i) the use of firearms equipped with silencers; (ii) the baiting of deer; and (iii) shooting of deer from vehicles, all of which are prohibited under the NREPA and/or the WCO.

20. The City's Deer Cull is impairing and destroying the natural resources of this State and will continue to do so unless enjoined by this Court.

21. Upon information and belief, the City claims to have legal authority to conduct the Deer Cull pursuant to a Damage and Nuisance Animal Control Permit issued by the DNR on December 23, 2015 (the "Permit"), a copy of which is attached hereto as Exhibit 2.

22. The Permit was issued following the submission by the City of an application in letter form submitted on December 14, 2015 (the "Application"), a copy of which is attached hereto as Exhibit 3.³

23. The City was informed by the DNR that the Application would be granted by a letter dated December 21, 2015 (the "Approval Letter"), a copy of which is attached hereto as Exhibit 4.

24. Damage and Nuisance Animal Control Permits are authorized and governed by Section 40114(4)(b) of the NREPA, which provides that the DNR may issue such permits subject to the limitations and conditions set forth therein. MCL §324.40114(4)(b).

25. Section 5.51 of the WCO sets forth further requirements and limitations governing Damage and Nuisance Animal Control Permits, as well as the procedures for requesting and issuing such permits.

26. With respect to deer, Section 40114(4)(b)(i) of the NREPA provides that, "[e]xcept for during an open season for deer, deer may be taken under this subdivision if the [DNR] determines that deer have caused damage to emerging, standing, or harvested crops or to feed properly stored in accordance with normal agricultural practices." MCL §324.40114(4)(b)(i).

³ The Application is mistakenly dated December 14, 2016.

27. With respect to deer, Section 5.51(4) of the WCO provides that a Damage and Nuisance Animal Control Permit may be issued by the DNR’s investigator under Section 5.41 of the WCO, which in turn provides that “[d]eer damage shooting permits may be issued statewide to owners of specific lands with significant agricultural or horticultural crop damage documented by the [DNR].”

28. The Application does not even allege that any deer are causing “damage to emerging, standing, or harvested crops or to feed properly stored in accordance with normal agricultural practices,” nor does it even reference any purported “significant agricultural or horticultural crop damage”; instead, in the Application the City states that the goals and objective of the Deer Cull are to “decrease the deer population in Ann Arbor in order to reduce deer-human negative interactions and support biological diversity in natural areas.”

29. The Approval Letter identifies the basis for the Application to be “an effort to reduce human-deer conflicts and negative impacts of deer activity on biological diversity in natural areas.”

30. The Permit describes the “Type and Extent of Damage or Safety Issue” for which the Permit was issued as “[d]amage to horticulture, biological diversity in natural areas, [and] resident concerns about deer/vehicle collisions.”

COUNT I

DECLARATORY AND EQUITABLE RELIEF FOR THE PROTECTION OF NATURAL RESOURCES

31. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 30 above.

32. The DNR did not, and cannot, make the necessary determination under Section 40114(4)(b)(i) of the NREPA that the deer being targeted and taken by the City through the Deer

Cull have caused damage to emerging, standing, or harvested crops or to feed properly stored in accordance with normal agricultural practices, nor did the DNR document “significant agricultural or horticultural crop damage” as required by Section 5.41 of the WCO.

33. The Permit is therefore invalid and void *ab initio*.

34. The City’s Deer Cull is therefore violative of the NREPA and the WCO.

35. As such, declaratory and equitable relief are necessary to avoid any further destruction of a natural resource and the public trust in said resource.

36. Should an injunction issue, there will be no harm to the City.

37. Any potential harm to the City will be outweighed by the significant harm to a natural resource and the public trust in said resource if an injunction is not granted.

38. The public interest in enforcing the NREPA and the WCO and requiring the City to stop the Deer Cull unless and until it obtains a properly issued permit is best served by issuing injunctive relief.

WHEREFORE, Plaintiff respectfully requests that the Court enter a judgment: (i) declaring that the Permit is void and of no further force or effect; (ii) permanently enjoining the City from conducting the Deer Cull unless and until the City has valid legal authority for the Deer Cull under the NREPA; and (iii) awarding Plaintiff her costs and attorneys’ fees and such other relief as the Court deems just and proper.

VERIFICATION

I, Sally Daniels, being duly sworn, state that I have read the foregoing Verified Complaint for Declaratory and Equitable Relief and the allegations thereof are true and correct to the best of my knowledge, information, and belief.

Signed this 24 day of January, 2016.

Sally Daniels
Sally Daniels

Subscribed and sworn to before me
this 24th day of January, 2016.

[Signature]

Notary Public for _____ County, Michigan

Acting in _____ County, Michigan

My Commission expires: _____

AARON O. MATTHEWS
NOTARY PUBLIC, STATE OF MI
COUNTY OF CLINTON
MY COMMISSION EXPIRES Feb 28, 2016
ACTING IN COUNTY OF Washtenaw

Respectfully submitted,

CLARK HILL PLC

By:

[Signature]

Aaron O. Matthews (P64744)

Jason R. Canvasser (P69814)

CLARK HILL PLC

212 E. Grand River Ave.

Lansing, MI 48906

(517) 318-3100

Attorneys for Plaintiff

Date: January 25, 2016

Exhibit 1

THE WILDLIFE CONSERVATION ORDER

Chapter I

Title and Definitions

1.1 Short title.

Sec. 1.1 This order shall be known and may be cited as "the wildlife conservation order."

History: Eff. Mar 31, 1989; Am. 1, 1994, Eff. Sep 1, 1994; Am. 9, 1995, Eff. Jan 1, 1996.

1.2 Definitions.

Sec. 1.2 (1) Definitions in part 3 of 1994 PA 451, as amended, MCL 324.301; part 401, wildlife conservation, 1994 PA 451, as amended, MCL 324.40101 to 324.40119; and part 435, hunting and fishing licenses, 1994 PA 451, as amended, MCL 324.43501 to 324.43561, and in this order shall have the same meanings in this order. Additional definitions for terms used in this order are as defined in this section.

(2) "Advanced illness" means a medical or surgical condition with significant functional impairment that is not reversible by curative therapies and that is anticipated to progress toward death despite attempts at curative therapies or modulation, the time course of which may or may not be determinable through medical prognostication.

(3) "Antlered deer" means a deer having at least 1 antler that extends 3 inches or more above the skull. For the purposes of determining if an antler extends 3 or more inches above the skull, the measurement shall be taken on the longest antler beginning at the line where the antler and pedicel join, along the back of the antler, following the curve, if any, to the tip of the longest antler point. For the purposes of this section, "pedicel" means the bone of the skull to which the antler is attached.

(4) "Antlerless deer" means a deer without antlers or a deer with antlers where the longest antler extends less than 3 inches above the skull.

(5) "CWD management zone" means an area defined in chapter XII of this order subject to Michigan's surveillance and response plan for chronic wasting disease.

(6) "Core CWD area" means an area defined in chapter XII for the control and surveillance of chronic wasting disease.

(7) "Deer and elk feeding" shall have the same meaning as defined by section 40102 of 1994 PA 451, MCL 324.40102.

(8) "Feed" shall have the same meaning as defined by section 40102 of 1994 PA 451, MCL 324.40102.

(9) "Game" means any animal designated as game under the authority of section 40110 of 1994 PA 451, as amended, MCL 324.40110, and any of the following animals: badger, bear, beaver, bobcat, brant, coot, coyote, crow, deer, duck, elk, fisher, Florida gallinule, fox, geese, hare, Hungarian partridge, marten, mink, moose, muskrat, opossum, otter, pheasant, quail, rabbit, raccoon, ruffed grouse, sharptailed grouse, skunk, snipe, sora rail, squirrel, Virginia rail, weasel, wild turkey, wolf, woodchuck, and woodcock. "Game" does not include privately owned cervidae species located on a cervidae livestock facility registered under 2000 PA 190, MCL 287.951 to 287.969.

(10) "Migratory game bird" means a bird as defined by 50 C.F.R. §20.11 (1988).

(11) "Modified bow" means a bow, other than a crossbow, that has been physically altered so that the bow may be held, aimed, and shot with one arm.

(12) "New world camelids" means animals belonging to the genus llama and vicuna of the family camelidae of the order artiodactyla including, but not limited to, the llama, alpaca, vicuna, and guanaco.

(13) "Physical therapist" means the same as defined in article 15 of the public health code, 1978 PA 368, MCL 333.17801.

(2) The carrying and using of a rimfire firearm .22 caliber or smaller to kill raccoon while hunting with dogs between the hours of 7 p.m. and 6 a.m. during the firearm deer season

(3) The carrying and using of a rimfire firearm .22 caliber or smaller to kill legally trapped furbearers, as permitted in section 3.600 (1), during the firearm deer season if the firearm is loaded only at the point of kill.

(4) The enjoyment by American Indians living on a reservation of the privileges bestowed upon them by federal law or treaties.

History: Eff. Mar 31, 1989; Am. 2, 2003, Eff. Apr 12, 2003; Am. 11, 2011, Eff. Jun 10, 2011.

2.4 Permissible use of artificial lights.

Sec. 2.4 (1) Artificial lights, similar to the type ordinarily held in the hand or on the person, may be used from September 15 to March 31 by a person traveling afoot with a bow and arrow, crossbow, a rimfire firearm .22 caliber or smaller or shotgun with loads other than buckshot, slug or cut shell, however, subject to MCL 324.43510, (2) and (3), the person shall not possess a loaded firearm, a cocked crossbow, or bow with a nocked arrow, except as provided in section 2.1a of this order or when one or more of the following conditions apply:

(a) The person is following dogs and is at the point of kill for taking a treed raccoon during the open season for taking raccoon by hunting.

(b) The person is following dogs and is at the point of kill for taking opossum during the open season for taking opossum by hunting.

(c) The person is taking opossum, coyote, or fox with the aid of a game or predator call during the open season for taking fox by hunting.

(d) The person is taking raccoon, with the aid of a game or predator call during the open season for taking raccoon by hunting.

(2) Persons not possessing a bow, crossbow, or firearm while traveling afoot may use lights as defined in subsection (1) during dog training or field dog trials to follow dogs chasing raccoon, opossum, or fox.

History: Eff. Mar 31, 1989; Am. 20, 1989, Eff. Sep 1, 1989; Am. 2, 1990, Eff. Feb 19, 1990; Am. 12, 2000, Eff. Sep 1, 2000; Am. 2, 2003, Eff. Apr 12, 2003; Am. 2, 2005, Eff. Mar 11, 2005; Am. 2, 2009, Eff. Mar 6, 2009, with a sunset provision regarding the use of the crossbow effective Mar 6, 2012; Am. 2, 2010, Eff. Feb 5, 2010; Am. 17, 2010, Eff. Aug 13, 2010; Am. 11, 2011, Eff. Jun 10, 2011.

2.4a Permissible use of a crossbow and laser sighting device by blind person during lawful hunting hours, conditions for use.

Sec. 2.4a A blind person, as defined by section 1 of 1978 PA 260 MCL 393.351, may use a laser sighting device in conjunction with a crossbow or a firearm to take an animal during the lawful hunting hours for that animal if all of the following conditions are met while the person is taking an animal:

(1) The person is accompanied and assisted by a sighted person. The sighted person must be at least 18 years of age and be in possession of a hunting license other than an apprentice license issued by this state, another state, a province of Canada, or another country or a certificate of completion of training in hunter safety issued by this state, another state, a province of Canada, or another country, and shall furnish such proof upon the request of a peace officer.

(2) The person possesses proof of blindness in the form of an identification card issued under the authority of section 1 of 1972 PA 222, MCL 28.292, and furnishes the proof of blindness upon the request of a peace officer.

(3) The department may issue a permit to a person who is permanently or temporarily disabled to use a laser sighting device in conjunction with a crossbow, modified bow, or a firearm to take an animal during lawful hunting hours for that animal if the permittee is accompanied by another person at least 18 years of age who is licensed to hunt that game under a license other than an apprentice license.

History: Am. 3, 1997, Eff. Jun 1, 1997; Am. 5, 2003, Eff. May 10, 2003; Am. 10, 2007, Eff. May 11, 2007; Am. 17, 2010, Eff. Aug 13, 2010.

2.5 Hunting hours, exceptions; prohibited activities.

Sec. 2.5 (1) Except for the trapping of animals and as otherwise specified in this section, the hunting hours shall substantially conform to one-half hour before sunrise to one-half hour after sunset and shall be those starting times and ending times published in the Michigan hunting and trapping guide or in the respective state hunting guide for that animal.

(2) In addition to the daylight hunting hours specified in subsection (1) and during those dates specified for the



use of artificial lights in sections 2.4 and 3.605, a person traveling afoot at night and in possession of only a bow and arrow, a crossbow, a rimfire firearm .22 caliber or smaller or shotgun with loads other than buckshot, slug or cut shell may take within their specified open seasons raccoon, opossum, coyote, and fox with the aid of dogs; and fox and coyote, during the season open to the taking of fox, with the aid of a game or predator call. Subject to MCL 324.43510, (2) and (3), a person hunting these species during the nighttime hunting hours shall not possess a loaded firearm, a cocked crossbow, or bow with a nocked arrow except when one or more of the following conditions apply:

(a) The person is following dogs and is at the point of kill for taking a treed raccoon during the open season for taking raccoon by hunting.

(b) The person is following dogs and is at the point of kill for taking opossum during the open season for taking opossum by hunting.

(c) The person is taking opossum, coyote, or fox with the aid of a game or predator call during the open season for taking fox by hunting.

(d) The person is taking raccoon with the aid of a game or predator call during the open season for taking raccoon by hunting.

(3) Except for woodcock and crow, the hunting and hawking hours for all waterfowl and migratory birds shall be as listed in the state waterfowl hunting guide. The hunting hours for woodcock shall substantially conform to sunrise to sunset and shall be as published in the Michigan hunting and trapping guide. The hunting hours for crow shall be as specified in subsection (1).

(4) The hunting hours for wild turkey during the spring season shall substantially conform to one-half hour before sunrise to one-half hour before sunset, and shall be those starting times and ending times published in the state hunting guide for wild turkey.

(5) The hunting hours for teal during the early season shall substantially conform to sunrise to sunset, and shall be those starting times and ending times as published in the waterfowl hunting digest.

(6) Subject to MCL 324.43510, (2) and (3), except during the hunting hours specified in this section and as otherwise provided by subsection (2), a person shall not possess afield a firearm unless it is unloaded in the barrel, or crossbow or a bow and arrow unless all arrows and bolts are placed in a quiver. A person may, to comply with section 4.1(2), kill a down and mortally wounded deer, bear, or elk using an otherwise legal means and may possess a loaded firearm, a cocked crossbow, or bow with nocked arrow only at the time and at the point of kill. Notwithstanding any other provision of this subsection, a person hunting under the authority of a wild turkey license during the spring wild turkey season may load and carry a loaded firearm afield while going to their hunting stand up to one hour prior to the spring wild turkey hunting hours.

History: Am. 13, 1993, Eff. Sep 1, 1993; Am. 9, 1995, Eff. Jan 1, 1996; Am. 1, 1998, Eff. May 15, 1998; Am. 10, 1998, Eff. Jun 15, 1998; Am. 19, 2004, Eff. Dec 10, 2004; Am. 2, 2005, Eff. Mar 11, 2005; Am. 4, 2008, Eff. Apr 11, 2008; Am. 2, 2009, Eff. Mar 6, 2009, with a sunset provision regarding the use of the crossbow effective Mar 6, 2012; Am. 17, 2010, Eff. Aug 13, 2010; Am. 11, 2011, Eff. Jun 10, 2011; Am. 7, 2013, Eff. June 14, 2013; Am. 8, 2014, Eff. Jul 11, 2014.

2.6 Repealed. Am. 11, 1996, Eff. Sep 1, 1996.

Publisher's Note: The repealed section pertained to Hunter access leases on private lands; fees, special situations; additional fees for certain lands, exceptions.

2.7 Permissible use of dogs.

Sec. 2.7 A person may hunt with dogs, or break, train, or practice a dog upon, or permit a dog to chase or take an animal only as provided in chapter VI, chapter XIV, chapter XV, or as otherwise permitted by law.

History Note: Am. 2, 1990, Eff. Feb 19, 1990.

2.8 Hunt with bow and arrow from scaffold, raised platform, or tree allowed; taking certain species with a firearm from scaffold, raised platform or tree allowed; use of scaffold, platform, ladder, steps or certain other devices in taking an animal on publicly owned lands, exception.

Sec. 2.8 An individual may hunt with a crossbow or a bow and arrow from a scaffold, raised platform, or tree. An individual taking deer, elk, or bear with a firearm may use a scaffold, raised platform, or tree pursuant to all other hunting regulations. An individual taking fox or coyote with a firearm one-half hour before sunrise to one-half hour after sunset may use a scaffold, raised platform, or tree, pursuant to all other hunting regulations. An individual taking small game that are not migratory game birds with a shotgun may use a scaffold, raised platform, or tree pursuant to all other hunting regulations. In taking an animal, an individual shall not do any of the following on publicly owned lands:

(1) Permanently construct or affix to a tree or other natural feature a scaffold, platform, ladder, steps or any other

Sec. 3.8. (1) The license quotas for elk hunt period 1, as specified in Section 3.1(1), shall be elk management unit L, 15 any elk licenses and 35 antlerless elk licenses.

(2) The license quotas for elk hunt period 2, as specified in section, 3.1(1) shall be:

(a) Elk management unit F, 5 any elk licenses and 15 antlerless elk licenses.

(b) Elk management unit G, 10 any elk licenses and 20 antlerless elk licenses.

(3) The license quota for elk hunt period 3, as specified in section 3.1(1), shall be no more than 40. The director, in consultation with and concurrence of the chair or vice chair of the natural resources commission, may determine the number and type of license available and the elk management units, as described in chapter XII, open during this season.

(4) An elk hunter shall hunt in their assigned season and elk management unit except elk hunters assigned to hunt in elk management units F or G may hunt in elk management unit X.

History: Eff. Mar 31, 1989; Am. 17, 1989, Eff. Sep 1, 1989; Am. 7, 1990, Eff. Sep 1, 1990; Am. 4, 1991, Eff. Sep 1, 1991; Am. 5, 1992, Eff. Jul 1, 1992; Am. 7, 1993, Eff. Sep 1, 1993; Am. 1, 1994, Eff. Sep 1, 1994; Am. 2, 1995, Eff. Sep 1, 1995; Am. 7, 1996, Eff. Sep 1, 1996; Am. 4, 1997, Eff. Jun 1, 1997; Am. 5, 1998, Eff. Jul 1, 1998; Am. 14, 1998, Eff. Sep 10, 1998; Am. 17, 1999, Eff. Dec 9, 1999; Am. 6, 2000, Eff. Aug 1, 2000; Am. 15, 2005, Eff. Jul 8, 2005; Am. 11, 2006, Eff. Jul 7, 2006; Am. 14, 2007, Eff. Jul 13, 2007; Am. 4, 2008, Eff. Apr 11, 2008; Am. 4, 2009, Eff. Apr 3, 2009; Am. 6, 2010, Eff. Apr 8, 2010; Am. 5, 2011, Eff. Apr 8, 2011; Am. 3, 2012, Eff. Apr 6, 2012; Am. 1, 2013, Eff. April 12, 2013; Am. 5, 2014, Eff. Apr 11, 2014.

3.9 Taking of elk marked with visible ear tag identification.

(1) A department or federal employee may kill an elk that bears visible ear tag identification, if the animal is confirmed by a department or federal employee to have been outside of the perimeter of a registered cervidae livestock operation for more than 48 hours.

(2) Elk of either sex that bear visible ear tag identification may be taken by hunting statewide by a person with a valid hunting license, with the exception of an apprentice license, except for elk with radio collars, in compliance with all other laws and rules for the taking of game.

(3) Any animal taken under this section must be submitted for registration and disease testing in a manner specified by the department.

History: Am. 9, May 11, 2007, Eff. May 11, 2007.

3.100 Take of deer; prohibited firearms, legal weapons, "bait" and "baiting" defined, conditions for baiting established in certain area(s); unlawful acts.

Sec. 3.100 (1) "Take" means the same as defined in section 40104, 1994 PA 451, MCL 324.40104.

(2) An individual must possess while hunting deer the unused kill tag issued with the deer license, pursuant to section 3.103, and provide it to a conservation officer upon request.

(3) Unless otherwise specified in this order, an individual shall not do any of the following:

(a) Take a deer without possessing a valid license with kill tag.

(b) Take a deer other than during the open seasons established in this order.

(c) Take a deer outside of lawful hunting hours.

(d) Take a deer by any method other than by firearm, bow and arrow, or crossbow.

(e) Take a deer with a rimfire firearm .22 caliber or smaller.

THIS SECTION IS RESCINDED BY AMENDMENT NO. 6 OF 2014 EFFECTIVE MAY 12, 2017 3.100(3)(F)

(f) Take a deer during any firearm deer season in the "limited firearms deer zone," with a firearm other than a shotgun with a smooth or rifled barrel, a .35 caliber or larger pistol capable of holding no more than nine shells at one time in the barrel and magazine combined and loaded with straight-walled cartridges, a .35 caliber or larger rifle loaded with straight-walled cartridges with a minimum case length of 1.16 inches and a maximum case length of 1.80 inches,

a .35 caliber or larger air rifle or pistol charged only from an external high-compression power source, or a muzzle-loading rifle or black-powder pistol loaded with black-powder or a commercially manufactured black-powder substitute.

(g) Take a deer, or have in possession while hunting deer, a semiautomatic shotgun or rifle, capable of holding more than six shells in the magazine and barrel combined, or use a cartridge containing a tracer or explosive bullet, or a firearm capable of firing more than one shot with a single pull or activation of the trigger.

(h) Possess or use an apparatus known as a silencer on a gun while hunting deer.

(i) Take a deer using an arrow, bolt, or quarrel with a broadhead hunting type of point less than 7/8 of an inch wide and/or a length less than 14 inches.

(j) Take a deer with a crossbow or a modified bow in zone 1 from December 1 to March 31 unless issued a disability crossbow permit by the department.

(k) Take a deer while the deer is swimming in a pond, lake, stream, or other body of water.

(l) Make use of a dog in hunting a deer, except as noted in section 2.1a of this order.

(m) Use aircraft to aid in the taking of a deer.

(n) Set afire or assist in setting afire any land for the purpose of driving out a deer, or take or attempt to take a deer so driven out of any land.

(o) Purchase a deer license unless the individual holds a current base license.

(p) Subsection (f) shall be rescinded on May 12, 2017.

(4) For the purposes of this section and sections 3.100a, and 3.205, "bait" means a substance composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured, which may lure, entice or attract deer. "Bait" does not include the establishment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural planting or harvesting practices, foods available to deer through normal agricultural practices of livestock feeding if the area is occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices. For the purposes of this section, "baiting" means to place, deposit, tend, distribute, or scatter bait to aid in the taking of a deer.

(5) It shall be unlawful for a person to make use of bait to aid in the taking of a deer within the core CWD area and CWD management zone as defined in chapter XII of this order, and within Alcona, Alpena, Montmorency, and Oscoda counties.

(6) In remaining portions of Michigan not described in subsection (5), a person may engage in baiting only if all of the following conditions apply:

(a) The baiting occurs only from September 15 to January 1.

(b) The bait material may be of any food type.

(c) The bait is scattered directly on the ground by any means, including mechanical spin-cast feeders, provided that the spin-cast feeder does not distribute on the ground more than the maximum volume allowed as described in subdivision (d) of this subsection. "Scattered" means that the bait is dispersed or thrown over a minimum of a 10-foot by 10-foot or equivalent area so that individual pieces of bait are separated and not placed in piles. The purpose of scattering is to mimic natural feeding conditions.

(d) The volume of bait used at any 1 point in time shall not exceed 2 gallons at any 1 hunting site.

(e) Subsection (6) is subject to Section 3.100a (2) of this order.

(7) It shall be unlawful for a person to make use of bait to aid in the taking of a deer if the bait and baiting does not meet all of the conditions specified in subsection (6) unless specifically authorized.

History: Eff. Mar 31, 1989; Am. 23, 1989, Eff. Sep 1, 1990; Am. 4, 1990, Eff. Sep 1, 1990; Am. 2, 1993, Eff. Sep 1, 1993; Am. 19, 1993, Eff. Sep 10, 1993; Am. 3, 1994, Eff. Sep 1, 1994; Am. 2, 1998, Eff. May 15, 1998; Am. 15, 1998, Eff. Sep 10, 1998; Am. 1, 1999, Eff. Apr 1, 1999; Am. 3, 1999, Eff. May 1, 1999; Am. 11, 1999, Eff. Jul 8, 1999; Am. 9, 2000, Eff. Jun 9, 2000; Interim Order 3, 2001, Eff. Oct 1, 2001; Am. 8, 2002, Eff. Jun 8, 2002; Am. 2, 2003, Eff. Apr 12, 2003; Am. 8,

(2) Subject to subsection (1), a person shall not remove the carcass or parts of the carcass of a free-ranging deer from the core CWD area (DMU 333), except the carcass or parts of the carcass of a free-ranging deer from the core CWD area (DMU 333) may be taken to a licensed processor or taxidermist or to the hunter's home for storage and processing after it is presented for mandatory deer check and the hunter retains at least a portion of the department-issued CWD survey tag.

(3) Subject to subsection (1), the carcass or parts thereof of a free-ranging deer originating from within the core CWD area (DMU 333), other than deboned meat, antlers, antlers attached to a skull cap cleaned of brain and muscle tissue, and hides, shall not be possessed outside the core CWD area (DMU 333) except the carcass or parts of the carcass of a free-ranging deer from the core CWD area (DMU 333) may be possessed by the hunter or a licensed processor or taxidermist after it is presented for mandatory deer check and the hunter retains at least a portion of the department-issued CWD survey tag.

History: Am. 12, 2003, Eff. Jul 12, 2003; Am. Interim Order 2, 2008, Eff. Aug 29, 2008; Am. Interim Order 5 of 2008, Eff. Sep 15, 2008; Am. 16, 2008, Eff. Oct 10, 2008; Am. 13, 2012, Eff. Aug 9, 2012; Am. Interim Order 1, 2015, Eff. May 26, 2015; Am. 9, 2015, Eff. Aug. 14, 2015.

3.100c Repealed. Am. 3, 2006, Eff. Jul 7, 2006.

Compiler's Note: This repealed section has been incorporated into 3.100a and pertained to supplemental deer feeding in the Upper Peninsula.

3.101 Deer hunting open seasons; type of deer that may be taken; carrying of firearms, season limit.

Sec. 3.101. (1) The open firearm deer season shall be from November 15 to November 30.

(2) The open muzzle-loading and black-powder firearms deer season in zone 1 and zone 2 shall be a total of 10 days from the first Friday in December to nine days thereafter. The open muzzle-loading and black-powder firearms deer season in zone 3 shall be a total of 17 days from the first Friday in December to 16 days thereafter.

(3) Subject to section 43510(2) and (3), 1994 PA 451 MCL 324.43510, an individual hunting deer with a muzzle-loading firearm during the muzzle-loading and black-powder firearms season shall only possess or carry afield, or take a deer with a muzzle-loading rifle, muzzle-loading g shotgun, or black-powder pistol, loaded with black-powder or a commercially manufactured black-powder substitute, or a crossbow.

(4) The open bow and arrow season shall be from October 1 through November 14 and from December 1 through January 1.

(5) Subject to section 43510(2) and (3), 1994 PA 451 MCL 324.43510, during the open bow and arrow season, an individual hunting deer with a bow and arrow or a crossbow shall not possess or carry afield a pistol, revolver, or any other firearm unless the individual is properly licensed to hunt deer with a firearm and is hunting in an area open to firearm deer hunting.

(6) The early antlerless firearm deer season shall be a 2-day hunt starting the Saturday following September 15 upon privately owned lands within Alcona, Alpena, Antrim, Arenac, Bay, Benzie, Clinton, Genesee, Grand Traverse, Hillsdale, Huron, Ingham, Iosco, Isabella, Jackson, Lapeer, Leelanau, Lenawee, Livingston, Macomb, Manistee, Midland, Monroe, Montmorency, Oakland, Oscoda, Presque Isle, St. Clair, Saginaw, Sanilac, Shiawassee, Tuscola, Washtenaw, and Wayne counties and upon privately owned lands within that portion of Charlevoix county within deer management unit 015. Only an individual possessing a valid private land antlerless deer license issued for the deer management unit in which they are hunting or a mentored youth hunting license may take a deer during this season.

(7) The late antlerless firearm deer season shall be from the first Monday following the third Saturday in December through January 1 upon privately owned lands within Alcona, Allegan, Antrim, Alpena, Arenac, Barry, Bay, Benzie, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Genesee, Grand Traverse, Gratiot, Hillsdale, Huron, Ingham, Ionia, Iosco, Isabella, Jackson, Kalamazoo, Kent, Lapeer, Leelanau, Lenawee, Livingston, Macomb, Manistee, Mecosta, Midland, Monroe, Montcalm, Montmorency, Muskegon, Newaygo, Oakland, Oceana, Oscoda, Ottawa, Presque Isle, St. Clair, St. Joseph, Saginaw, Sanilac, Shiawassee, Tuscola, Van Buren, Washtenaw, and Wayne counties, and upon privately-owned lands within that portion of Charlevoix county within deer management unit 015. Only an individual possessing a valid antlerless deer license issued for the deer management unit in which they are hunting may take a deer during this season.

(8) The deer management assistance firearm hunt period shall be from the first Monday following the third Saturday in December through January 1 upon lands owned by federal, state, county, or local units of government, non-profit organizations, and other urban or suburban properties in zone 3. Only those areas with a wildlife division approved deer population management plan will be considered for issuance of these special deer management assistance permits. Only an individual possessing a valid deer management assistance permit issued for this hunt period may take a deer with a firearm or a crossbow during this season.

(9) The season limit shall be 1 deer per deer license.

(10) Except as provided by sections 3.101a, 3.101c and 3.101d, the kind of deer which may be taken during the respective open seasons for each combination of season and deer license, except antlerless deer license, shall be as shown in table 2:

TABLE 2

License, Season, Deer to be Taken

Type of license	Season in which used	Kind of deer that may be taken
Deer license, deer combination regular license	Bow and arrow only seasons (zone 1)	Antlered deer.
Deer license, deer combination regular license	Bow and arrow only seasons (zones 2 and 3)	Antlerless or an antlered deer. Antler point restrictions apply for individuals not hunting in DMU 333.
Deer license, deer combination regular license	Firearm deer season, muzzleloading and black-powder firearms only season	Antlered deer or antlerless deer in deer management units 333 and 487. Antler point restrictions apply for individuals not hunting in DMU 333.
	Liberty hunt and independence hunt	Antlerless or antlered deer.
Deer combination restricted license	Bow and arrow only (zone 1)	A deer which has at least 1 antler with 4 or more antler points 1 or more inches in length.
Deer combination restricted license	Bow and arrow only (zones 2 and 3)	Antlerless deer or a deer which has at least 1 antler with 4 or more antler points 1 or more inches in length, except antler point restrictions do not apply to DMU 333.
Deer combination restricted license	Firearm deer season or muzzleloading and black-powder firearms only season	Antlerless deer in DMUs 333 and 487. A deer which has at least 1 antler with 4 or more antler points 1 or more inches in length, except antler point restrictions do not apply to DMU 333.
	Liberty hunt and independence hunt	Antlerless or antlered deer.
Mentored youth deer license	Bow and arrow only seasons, firearm deer season, muzzleloading and black-powder firearms only season, or liberty hunt	Antlerless or antlered deer. Antler point restrictions do not apply.

- (i) Dispose of all animal waste products in a manner that ensures disposal to a type II landfill.
- (ii) Not provide animal parts from deer, elk, or moose for use as bait for the purpose of attracting animals for hunting, trapping, or other recreational pursuits.
- (iii) Not provide animal parts from deer, elk, or moose for use as food for other animals, other than deboned meat.
History: Eff. Mar 31, 1989; Am. 14, 1990, Eff. Aug 1, 1990; Am. 1, 2009, Eff. Apr 3, 2009.

5.32 Repealed. Am. 14, 1990, Eff. Aug 1, 1990.

Publisher's note: The repealed section pertained to the suspension of taxidermy permits.

5.40 Deer damage shooting permit, definitions.

Sec. 5.40 For the purposes of sections 5.41 to 5.43 of this order, the terms in this section shall have the meaning ascribed to them in this section.

- (1) "Permit" means a deer damage shooting permit.
- (2) "Permittee" means a person who has applied for and been issued a deer damage shooting permit by the department.
- (3) "Authorized designee" means a person who has been designated, in writing, by a permittee to implement the provisions of a deer damage shooting permit. The department reserves the right to deny a person, including the permittee, the authority to personally implement the provisions of a permit if such authority would conflict with a court order, administrative rule, or law.
History: Eff. Mar 31, 1989; Am. 6, 1990, Eff. Jun 18, 1990.

5.41 Deer damage shooting permit; standards, conditions, records; unlawful acts.

Sec. 5.41 (1) Deer damage shooting permits may be issued statewide to owners of specific lands with significant agricultural or horticultural crop damage documented by the department.

- (2) A deer damage shooting permit shall not be valid:
 - (a) Except during the time period authorized by the permit.
 - (b) During an open season for deer.
- (3) The permittee shall keep records as may be required by the director and present them for inspection at the request of a conservation officer or wildlife biologist.
- (4) The permittee or authorized designee shall make a reasonable effort to retrieve all deer killed under the authority of a permit.
- (5) A person killing a deer shall immediately validate the deer damage permit tag as instructed on the tag and attach the tag to the gambrel or jaw of the deer. The postcard portion of the tag shall be mailed to the department by the person killing the deer within 24 hours after having killed that deer.
History: Eff. Mar 31, 1989; Am. 6, 1990, Eff. Jun 18, 1990; Am. 5, 1996 Eff. Sep 1, 1996; Am. 10, 2002, Eff. Jul 15, 2002; Am. 7, 2012, Eff. Jun 15, 2012.

5.42 Deer damage shooting permit, prohibited acts; failure to comply.

Sec. 5.42 (1) It shall be unlawful for a permittee to designate more than 15 authorized shooters to implement the provisions of the permit unless additional shooters are approved by the wildlife management unit supervisor and district law enforcement supervisor.

- (2) It shall be unlawful for a permittee or an authorized designee to:
 - (a) Kill more than the number of deer authorized by the permit.
 - (b) Possess a deer killed under the authority of a permit without having a validated deer damage permit tag attached to the deer.
 - (c) Take or attempt to take a deer within the permit boundaries unless in possession of a valid unused deer damage permit tag. The tag shall be presented upon demand to a representative of the director.

(2) "Permittee" means a person who has applied for and been issued a permit.

(3) "Pesticide" shall have the same meaning as that ascribed by the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, as amended, Part 83 pesticide control, being sections 324.8301 to 324.8336 of the Michigan Compiled Laws.

(4) "Restricted use pesticide" shall have the same meaning as that ascribed by the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, as amended, Part 83 pesticide control, being sections 324.8301 to 324.8336 of the Michigan Compiled Laws.

History: Eff. Mar 31, 1989; Am. 21, 1990, Eff. Dec 15, 1990; Am. 3, 2008, Eff. Apr 11, 2008.



5.51 Damage and nuisance animal control permit, issuance, release requirements, reporting; exceptions.

Sec. 5.51 (1) Except as provided by subsections (4) and (8), a damage and nuisance animal control permit shall be required by anyone to prevent or control, by shooting, trapping or otherwise, the depredations of animals at a time or in a manner not otherwise permitted by law or order.

(2) A department conservation officer or wildlife biologist shall make an investigation upon complaint of any person allegedly suffering damage caused by wild birds or wild mammals and may issue a damage and nuisance animal control permit, unless the following conditions apply:

(a) The permit is issued under sections 5.51b, 5.52, 5.52b, and 5.53 of this order.

(b) A public safety issue exists as determined by a department wildlife management regional supervisor or district law enforcement supervisor or their designee and requires immediate permit issuance.

(3) At the time of such investigation, the complainant shall furnish the department investigator with a written statement, on forms provided for this purpose by the department, indicating the location, extent, kind, and approximate value of the property allegedly damaged, destroyed, or in danger of being damaged or destroyed, the kind and number of animals believed to be doing the damage and such other information as may be required.

(4) If results of the department's investigation warrants control of the animal(s) involved, the department investigator may, except for horticultural or agricultural damage caused by deer, issue a permit to authorize control of the animal(s) by shooting, trapping, or other means as specified on the permit.

(a) A permit to control horticultural or agricultural damage caused by deer may be issued by the department's investigator per section 5.41 of this order.

(b) A permit to control deer or other wildlife at an airport may be issued by a department wildlife management regional supervisor or district law enforcement supervisor or their designee without an investigation to address a public safety issue.

(5) A permit shall be issued only to bona fide landowners or lessees, or their designated agents, and shall not be transferable.

(6) Except for animals protected by part 365, endangered species protection, 1994 PA 451, nonlethal means of harassment to deter or prevent damage to private property, such as noise makers or scare devices; exclusion devices, such as fences or screening; and other recognized and recommended means of preventing damage which do not kill, harm, capture, trap, or collect animals shall not require a permit.

(7) All animals taken under the authority of a permit shall be reported to the department in the manner specified on the permit.

(8) All animals taken under the authority of a permit shall be properly cared for and disposed of as directed by the permit or this order.

(9) A live raccoon captured under a damage and nuisance animal control permit shall be possessed and released only as follows:

(a) A raccoon, if released, shall be released only in the same county where captured and, if held in captivity, shall be isolated in a manner to prevent physical contact with any animal not originating from the same county. Each cage

shall be tagged by the permittee with the county of origin and date of capture.

(b) A cage and area used to hold raccoon(s) for release shall be constructed of materials that can be effectively disinfected.

(c) If a raccoon has come into physical contact with a raccoon originating from another or unknown county of origin, both raccoons shall be isolated from physical contact with other raccoons and humanely euthanized within 24 hours of exposure.

(10) Department employees shall be exempt from the requirement of obtaining a permit to take animals, nests, or eggs for damage and nuisance control in the course of performing official job responsibilities.

(11) An individual ineligible to secure or possess a hunting, trapping or fur dealer license by state law, court order, or administrative ruling shall not be issued a permit during the period of ineligibility.

(12) For failure to comply with this section or other requirements of the damage and nuisance animal control program, the department shall deny a permittee to be eligible to participate in the next calendar year.

History: Eff. Mar 31, 1989; Am. 21, 1990, Eff. Dec 15, 1990; Am. 2, 1996, Eff. Apr 1, 1996; Am. 1, 2000, Eff. Feb 1, 2000; Am. 1, 2010, Eff. Jan 7, 2010; Am. 18, 2013, Eff. Oct 11, 2013.

5.51a Damage and nuisance animal control permit, Canada goose site permit issuance; definitions.

(1) For the purposes of sections 5.51a and 5.51b of this order, the terms in this section shall have the meaning ascribed to them in this section.

(a) "Permit" means a site permit for Canada geese issued under the authority of the department's federal special Canada goose permit.

(b) "Permittee" means a person who has applied for and been issued a site permit by the department.

History: Am. 1, 2010, Eff. Jan 7, 2010.

5.51b Damage and nuisance animal control permit; Canada goose, eggs, nests, site permit, requirement, issuance, reporting.

(1) To capture and hold Canada geese, destroy Canada goose eggs and nests under the authority granted to the state of Michigan by the federal special Canada goose permit a permittee must:

(a) Possess written certification of the successful completion of a department sponsored training to handle and/or destroy Canada goose eggs and nests.

(b) Provide the department with one of the following:

(i) A petition requesting transport of geese signed by a minimum of 70 percent of the riparian owners on the involved water body.

(ii) A signed request for transport of geese from a governmental agency representative of the riparian owners.

(iii) Proof of sole ownership of the site.

(c) Make application for and be issued a Canada goose site permit by the wildlife permit specialist on a form provided by the department at the fees noted in section 5.110 (3).

(d) Submit an annual report as required by section 5.54 of this order.

(2) An annual Canada goose site permit shall be valid for the period from March 11 through August 31 per federal regulation 50 CFR 21.26. Failure of the permittee to comply with the permit provisions will make the permittee ineligible to receive a Canada goose control permit for a period of one year.

(3) The department shall not be liable for any damage suffered by a complainant as a result of the performance of the permittee operating under the authority of a permit.

(4) Permits shall be issued only to bona fide landowners or lessees, and shall not be transferable.

Exhibit 2



DNR USE ONLY
Permit for:
[X] Damage Concerns
[X] Safety Concerns

DAMAGE AND NUISANCE ANIMAL CONTROL PERMIT

Issued under the authority of Act 451, P.A. 1994, as amended.
Failure to comply with the provisions of this permit may result in criminal prosecution.

PERMITTEE INFORMATION

Name of Permittee: City of Ann Arbor - David Borneman
LED District: 9
WLD Region: SELP
Date: 12/23/2015
Address: 301 E. Huron, P.O. Box 8647
County: Washtenaw
Section-Town-Range:
City, State, ZIP Code: Ann Arbor, MI 48107
Telephone Number: 734-994-4834
E-mail Address:
Type and Extent of Damage or Safety Issue: Damage to horticulture, biological diversity in natural areas, resident concerns about deer/vehicle collisions
Estimated Number and Wildlife Species Causing Damage: This permit provides for actions outlined in the 2015 Ann Arbor Deer Management Plan. Unknown number of deer

CONTROL PERMIT

Under authority of Section 324.40114(4), Act 451, PA. 1994, and orders established thereunder, permission is hereby granted for following conditions:

Method Permitted: [X] Shooting [] Trapping [] Other: See Attachment 1
Species: [X] Deer [] Beaver [] Muskrat [] Birds (Verify USFWS Permit) [] Other:
Location: [X] Specific Location: City of Ann Arbor Wards 1 and 2 [] Above Location
Kill Tag #'s (deer only): 163900 - 163999
Disposal Instructions: Attachment 2

Duration of Permit

From: January 2, 2016

To: March 1, 2016

Signature (DNR Wildlife Division Supervisor Issuing Permit)

12-23-2015
Date

Signature (DNR Law Enforcement Division Supervisor Issuing Permit)
LT. ANDREW TURNER

12-23-15
Date

NOTICE TO PERMITTEE

The State of Michigan is not liable for damage caused by wildlife. The State of Michigan does not have the legal authority to enforce protection to landowners from damage caused by wildlife. Permits shall expire on or before December 31 of the year issued.

Control of damage caused by protected migratory birds requires acquisition of a federal permit, issued by the US Fish and Wildlife Service. If issued, the federal US Fish and Wildlife Service permit will become your state authorization.

Permittee hereby releases, waives, discharges, and covenants not to sue the State of Michigan, its departments, officers, employees, and agents, from any and all liability to Permittee, its officers, employees, and agents, for all losses, injury, death or damage, and any claims or demands thereto, on account of injury to person or property, or resulting in death of Permittee, its officers, employees or agents, in reference to the activities authorized by this permit.

By signing, I agree to the instructions and terms and conditions as stated.

David Borneman
Permittee Signature

12-23-15
Date



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



KEITH CREAUGH
DIRECTOR

Attachment 1

Addendum to City of Ann Arbor Wildlife Damage Control Permit

- Permittee is **David Borneman, Deputy Manager of Volunteerism and Natural Area Preservation**, representing **the City of Ann Arbor**.
- This sanction is valid only if a resolution is obtained to waive any local ordinances on firearm use within permit area.
- Authorized shooters:
As the City of Ann Arbor has indicated that they have contracted with the United States Department of Agriculture Animal and Plant Health Inspection Service, Wildlife Services (USDA-APHIS), authorized shooters must be employed by USDA-APHIS and meet all sharpshooter qualifications and safety requirements imposed by that federal agency.
- All shooters and staff on site during cull activities must have personal picture identification and a copy of the damage control permit on their persons at all times.
- Shooting may not be conducted within 150 yards of an occupied building, dwelling, house, residence, or cabin, without obtaining the written permission of the owner, renter, or occupant of the property.
- All vehicles used by authorized shooters and personnel on site during cull activities must be marked (visible identification on side of vehicle).
- Permittee is authorized to take up to **one hundred (100)** deer. The focus of this effort is to reduce the population by taking primarily antlerless deer. Antlered deer may be taken.
- Shooters must use centerfire rifles or shotguns with slugs.
- The use of sound suppression is allowed in accordance with a federally issued permit; evidence of that permit must be carried on the sharpshooters' persons at all times and must be provided upon request by DNR and law enforcement personnel.
- Shooting from a platform and/or a blind is allowed.
- Shooting from a vehicle is allowed.
- Shooting is allowed between the hours of **4:00 PM (1600 hours) to 7:00 AM (0700 hours)**; use of artificial lights and night vision optics is allowed during night hours (½ hour after sunset to ½ hour before sunrise).
- Local law enforcement (**Washtenaw County Central Dispatch**) and DNR Law Enforcement (via the Report All Poaching Hotline at 800-292-7800) must be notified of cull activity times and dates.
- The use of bait at designated shooting locations is permitted (bait material may be of any food type; the volume of bait at any shooting site cannot exceed two [2] gallons, bait must be spread across a 10' x 10' area). All bait must be removed when culling activities cease and bait shall not be present on site outside the permit period.
- All deer taken must be tagged using the provided DNR Deer Damage Permit Tags. Once the tag is attached to the deer, the postcard portion must be mailed to DNR Wildlife Biologist Kristin Bissell, Waterloo Wildlife Office, 13578 Seymour Road, Grass Lake, MI 49240. These postcard portions may be combined and mailed together in an envelope on a weekly basis, for convenience. See *Attachment 2* for instructions regarding these tags.
- **One hundred (100)** Deer Damage Permit Tags will be issued. Kill tag numbers issued are: **163900 - 163999**.

- Heads of all deer killed must be submitted to the DNR for Chronic Wasting Disease (CWD) testing. All deer heads must be tagged with a CWD tag. Instructions for tagging and making arrangements to drop off deer heads are specified in *Attachment 2*.
- All deer must be donated to a charitable organization and used for human consumption (consult with Kristin Bissell if there is question as to whether a whole deer carcass should be submitted for disease testing).
- Permittee will provide a weekly report of shooting activities to DNR Wildlife Biologist, Kristin Bissell, via fax, (517) 522-3315, or e-mail, bissellk@michigan.gov.
- Permittee will submit the Damage and Nuisance Animal Control Permit Final Report to DNR Wildlife Biologist, Kristin Bissell, within seven (7) business days of completion of shooting activities.
- Permittee will provide, within ten (10) business days of completion of shooting activities, all postcard portions of used Deer Damage Permit Tags and all leftover unused Deer Damage Permit Tags to DNR Wildlife Biologist, Kristin Bissell.

I have read this permit addendum and agree to the terms and conditions as stated.


Permittee Signature

12-23-15
Date

Exhibit 3



CITY OF ANN ARBOR, MICHIGAN
301 E. Huron, P.O. Box 8647, Ann Arbor, Michigan 48107

December 14, 2016

Kristin M. Bissell, Wildlife Biologist
Michigan Dept. of Natural Resources
Waterloo Wildlife Office
13578 Seymour Road
Grass Lake, MI 49240

Re: City of Ann Arbor MDNR Cull Permit Application

Dear Ms. Bissell:

The City of Ann Arbor is requesting a permit to cull up to 100 whitetail deer in the time period between January 1 and March 31, 2016.

Background

During the spring of 2014, City Council directed Ann Arbor's City Administrator to develop a deer management options report. The directive from Council arose as a result of many residents reporting deer damaging landscaping and concerns about vehicle/deer collisions and deer-borne diseases.

On Aug. 14, 2014, the Deer Management Options Report was provided to Council, which outlined the need to develop a community-endorsed deer management plan built upon community input and management options approved by the Michigan Department of Natural Resources Wildlife Division.

From November 2014 to August 2015, numerous deer management outreach methods were utilized by City staff, including an A2 Open City Hall online survey, three public meetings, numerous stakeholder interviews, Community Television Network cablecasts, media releases, social media posts, email notifications and public hearings.

These outreach methods helped city staff to learn more about the deer population and residents' experiences to develop a recommended deer management plan for City Council consideration in August 2015. The plan aimed to answer the following questions:

- What should be the goal of the deer management program?
- What would be the deer management area?
- What is the preferred deer management method(s)?

The May 2015, Ann Arbor Deer Management Plan recommended decreasing the deer population in Wards 1 and 2 to reduce deer-human negative interactions and support biological diversity in natural areas. The recommended methods identified in the report were options allowed by the Michigan Department of Natural Resources, the public agency responsible for managing Michigan's deer.

On August 17, 2015, City Council approved the establishment of a deer management program for the next four years, including culls on City of Ann Arbor property beginning in the winter of 2016. In addition, City Council directed city staff to continue to explore the viability of a deer fertility control program with the Humane Society of the United States.

Goals & Objectives

The goal of Ann Arbor's deer management program is to decrease the deer population in Ann Arbor in order to reduce deer-human negative interactions and support biological diversity in natural areas.

Proposed Methods

The culls will take place between January 1 and March 31, 2016, between the hours of 4 p.m. and 7 a.m. in the following 26 city parks and nature areas located within Wards 1 and 2. The identified locations will be noticed as being closed to the public during these dates and times.

Arbor Hills Nature Area
Argo Nature Area
Bandemer Nature Area
Barton Nature Area
Bird Hills Nature Area
Black Pond Woods Nature Area
Bluffs Nature Area
Braun Nature Area
Cedar Bend Nature Area
Dhu Varren Woods Nature Area
Foxfire South Nature Area
Foxfire West Nature Area
Furstenberg Nature Area
Huron Parkway Nature Area
Kuebler Langford Nature Area
Leslie Park Golf Course
Leslie Woods Nature Area
Narrow Gauge Nature Area
Oakridge Nature Area
Oakwoods Nature Area
Olson Park
Onder Nature Area

Ruthven Nature Area
South Pond Nature Area
Stapp Nature Area
Traver Creek Nature Area

Small bait piles consisting of corn and apples will be placed at some of these locations beginning January 1, 2016 and will continue until cull activities are completed.

The City has contracted with the United States Department of Agriculture - Animal, Plant Health Inspection Service - Wildlife Services Division (USDA APHIS Wildlife Services) to conduct the cull. All USDA APHIS Wildlife Services marksmen are employees who are professionally trained to remove nuisance wildlife. The cull will be conducted with firearms equipped with suppressors, night vision, and FLIR (Forward Looking Infrared). The ammunition used will be highly frangible bullets specifically designed to reduce pass-through.

The shooting will occur in one or both of the following scenarios:

1. From deer stands or deer blinds at bait piles within identified parks or nature areas.
2. From vehicles in parking lots or on trails within identified parks or nature areas, or in rights-of-way immediately adjacent to parks or nature areas.

The City is requesting a damage and nuisance animal control permit to shoot whitetail deer, a non-hunting purpose under MDNR regulations. It is the City's understanding that the safety zone requirements of MLC §324.4011(7) apply to hunting only (i.e. pursuit and kill for sport) and written permission from the owner/renter of any occupied dwelling within 150 yards is not required for issuance of the requested permit.

Such a shot would not be considered to be a regular activity for this cull, but may be desirable in certain instances where safety can be ensured. The City is requesting confirmation that MDNR classifies this permit as a non-hunting activity and that no safety zone is required as part of any permit conditions imposed by the MDNR if this permit application is granted

Deer Carcass Removal

Deer carcasses will be removed from cull locations by 7 a.m. Every effort will be made to remove visual evidence of the cull and return the site to its normal appearance. Carcasses will be field-dressed at a city facility, and then transported to a meat processing facility in Jackson County. Costs for the meat processing will be paid for by Michigan Sportsmen Against Hunger. Venison will be donated to Food Gatherers – a local food bank in Ann Arbor. The UM Kellogg Eye Center also would like to obtain the deer eyes for research purposes.

Monitoring

In winter 2015, two aerial surveys were conducted in order to help establish a baseline, and to determine areas of the City where deer were most numerous. That aerial survey will be repeated one or two times during the winter of 2016. If adequate snow cover exists, aerial surveys may be conducted prior to cull activities in order to help pinpoint the location and movement of deer within Wards 1 and 2.

In addition, in November 2015, the city contracted with an independent researcher to implement an oak tree seedling study in order to more quantitatively measure the extent of deer browse within City of Ann Arbor natural areas.

Sincerely,

David Borneman, Deputy Manager of Volunteerism and Natural Area Preservation
City of Ann Arbor, Parks and Recreation Services

Attachments:

1. Recommendations for Deer Management in Ann Arbor Report - May 2015
2. Resolution to Establish a Deer Management Program within the City of Ann Arbor - August 17, 2015

Exhibit 4



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



KEITH CREAGH
DIRECTOR

December 21, 2015

David Borneman, Deputy Manager of Volunteerism and Natural Area Preservation
City of Ann Arbor, Parks and Recreation Services
301 E. Huron Drive
P.O. Box 8647, Ann Arbor, MI 48107

RE: Recognition of a Request for a permit to cull Whitetail Deer

The Michigan Department of Natural Resources (DNR) Wildlife Division received the City of Ann Arbor request to harvest up to one hundred (100) white-tailed deer on December 14, 2015. The request is for a permit to conduct an out-of-season cull of urban white-tailed deer within Wards 1 and 2 in the City of Ann Arbor on various city parks and nature areas in an effort to reduce human-deer conflicts and negative impacts of deer activity on biological diversity in natural areas.

Based on information provided by the City of Ann Arbor, the DNR Wildlife Division and Law Enforcement Division have concluded that a permit for an out-of-season, mid-winter cull for white-tailed deer is justified.

A permit will be issued to the City of Ann Arbor to complete control activities in 2016. The permit will contain conditions, guidelines, and protocol for methods of culling, data collection, and reporting. Permit conditions are set on a case-by-case basis based on the specific issues identified and may differ from those requested.

Kristin M. Bissell, Wildlife Biologist
Michigan Department of Natural Resources
Waterloo Wildlife Office
13578 Seymour Road
Grass Lake, MI 49240
(517) 522-4097
Fax: (517) 522-3315