

**CITY OF LINCOLN CITY**

**LINCOLN CITY COUNCIL**

**WORK SESSION MEETING AGENDA**

**DECEMBER 13, 2021 3:00 PM**

**3:00 PM - The Lincoln City Council of City of Lincoln City will hold a Work Session Lincoln City Council in the Council Chambers, 801 SW Highway 101 - 3rd Floor, Lincoln City, OR 97367.**

**The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing-impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to the City Recorder, 541-996-1203.**

**This meeting is a work session only and generally does not include public comment.**

**1. CALL TO ORDER**

**2. DISCUSSION ITEMS**

- A. MANAGER REPORTS
- B. UPDATE ON LOGAN CREEK DRAINAGE
- C. LONG TERM WATER COMMITMENT REQUEST
- D. SUSTAINABILITY COMMITTEE
- E. WATER OUTSIDE URBAN GROWTH BOUNDARY CHANGE IN ORDINANCE
- F. COMMENTS CONCERNS FROM NOVEMBER 8, 2021
- G. COUNCIL QUESTIONS ON AGENDA ITEMS FOR REGULAR MEETING
- H. OTHER QUESTIONS FROM COUNCIL

**3. ADJOURNMENT**

# Council Communication

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## Response to Public Comment

Meeting Date: December 13, 2021      Primary Staff Contact: Richard Appicello  
Department: City Attorney              E-Mail: RAppicello@lincolncity.org  
Secondary Dept:                              Secondary Contacts:  
Approval: Lila Bradley                      Estimated Time: 10 minutes

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### Question(s):

Should the City Council take action, if any, based on Citizen comment items?

**Staff Recommendation:** No

### Authority:

N/A

### Background:

At the request of Council staff reviewed the comments made by a speaker at the November 8, 2021 Council meeting.

### Financial Impact:

Depends on action taken, if any.

### Council Options:

No action.  
Motion(s) to direct staff to ...

### Potential Motions:

None suggested.

### Attachments:

Responses to Citizen Comments from 11.8.21 Council Meeting      (DOCX)  
Don't\_Feed\_Deer\_and\_elk      (PDF)  
Raccoons-July2012      (PDF)

## Council Communication

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**SUBJECT:** COMMENTS ON NOVEMBER 8, 2021  
**MEETING DATE:** December 13, 2021 – work session  
**TO:** City Council  
**FROM:** Richard Appicello, City Attorney  
**APPROVAL:** Lila Bradley, Interim City Manager

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**A speaker on November 8, 2021 raised the issue of Adopting ODFW practices and procedures for feeding large nuisance animals and birds.**

Staff was not able to identify the document referenced; however, in the past staff has used the attached publications (Don't Feed Deer and Elk) & (Raccoons) to let the public know about the dangers of feeding wildlife.

State law provides:

POTENTIALLY HABITUATED WILDLIFE

**496.730 Legislative intent.** It is the intent of the Legislative Assembly to protect wildlife from becoming habituated to humans and to protect the public against the serious health and safety risk posed by wildlife that are drawn into contact with humans and infrastructure by individuals who knowingly feed wildlife. [2011 c.284 §2]

**496.731 Written notification requiring removal of attractant for potentially habituated wildlife; exceptions.**

(1) As used in this section:

(a) "Officer" means any person authorized to enforce the wildlife laws pursuant to ORS 496.605, 496.610 or 496.615.

(b) "Potentially habituated wildlife" means bear, cougar, coyote and wolf.

(2) A person who places, deposits, distributes, stores or scatters food, garbage or any other attractant so as to knowingly constitute a lure, attraction or enticement for potentially habituated wildlife may be issued a written notification by an officer requiring the person to remove the food, garbage or other attractant within two days of notification.

(3) A person who receives a written notification under subsection (2) of this section shall remove the food, garbage or other attractant as directed.

(4) This section does not apply to:

(a) Activities related to an agricultural, forestry or ranching operation.

(b) Feeding potentially habituated wildlife with the State Fish and Wildlife Director's authorization. The director may authorize the feeding:

(A) In order to prevent damage to private property;

- (B) In order to mitigate the population loss anticipated by a predicted winter mortality; or
- (C) As a part of a research or management program.
- (c) Waste disposal facilities operating in accordance with applicable federal, state and local laws.
- (d) Zoos, wildlife refuges and persons that have a permit to keep wildlife in captivity for rehabilitation or other purposes pursuant to ORS 497.228, 497.298 or 497.308.
- (5) Nothing in this section affects any provision of ORS 498.164. [2011 c.284 §3]

This appears to be a Class D violation under ORS 496.992(2).

On February 13, 2017, the Council Agenda included a proposed ordinance prohibiting the feeding of wildlife. At the last minute, and without discussion, the discussion item was withdrawn, apparently at the request of the Manager. That proposed ordinance would essentially create a city ordinance offense for feeding wildlife (not just potentially habituated wildlife).

In sum, the ordinance, with some updating, provides as follows:

#### **8.12.065 Feeding of Wildlife Prohibited**

##### **A. As used in this section:**

- 1. "City enforcement officer" means any person authorized to enforce city codes under LCMC 1.16.**
- 2. "Potentially habituated wildlife," as defined by ORS 496.731 (b), means bear, cougar, coyote and wolf.**
- 3. "Songbird" means any of a large number of bird species in which the vocal organ is developed in such a way as to provide various sound notes commonly known as bird song.**
- 4. "Waterfowl" means any bird that frequents the water or lives around rivers, lakes, etc., including but not limited to, ducks, geese, swans, and herons.**
- 5. "Wildlife" shall include any animal which is not normally domesticated including, but not limited to, bobcats, deer, feral cats, foxes, groundhogs, opossums, raccoons, skunks, turkeys, waterfowl and potentially habituated wildlife.**

**B. A person, who knowingly places, deposits, distributes, stores or scatters food, garbage or any other attractant so as to constitute a lure, attraction or enticement for wildlife may be issued a written notification by a City enforcement officer requiring the person to remove the food, garbage or other attractant within forty-eight (48) hours of notification. Nothing contained in this chapter shall prohibit the feeding of songbirds; provided that bird seed shall be contained in receptacles which are reasonably designed to avoid access by wildlife.**

**C. A person who receives a written notification under subsection (B) of this section shall remove the food, garbage or other attractant, or modify bird feeders to be inaccessible by wildlife, as directed. Failure to comply with such written notification in the time required shall be unlawful and an offense against the City.**

**D. Violation – Penalty. Any violation of this Section may be subject to violation citation in accordance with LCMC Chapter 1.16. Any such violation is punishable as a Class D violation and each day the noncompliance or violation is maintained shall constitute a separate offense. The City may also use any other available remedy including nuisance abatement procedures as set forth in Chapter 8.12.**

**A speaker on November 8, 2021 raised the issue of funding a RF radio directional reader, printable, and emailable, to track parameters for low base noise to be able to track and find noise and make people fix problem noise**

Chapter 9.10 of the Lincoln City Municipal Code concerns noise violations. The Police have a noise meter to facilitate enforcement. The speaker has made numerous complaints to the police department about a piece of equipment she claims can be heard across town. There does not appear to be a violation of the city ordinance.

**9.10.030 Prohibitions.**

***A. No person may produce or permit to be produced, with a sound-producing source, sound that:***

***1. When measured at or within the boundary of property on which a noise-sensitive unit which is not the source of the sound is located:***

***a. Exceeds 50 dBA at any time between 9:00 p.m. and 7:00 a.m. the following day, or***

***b. Exceeds 60 dBA at any time between 7:00 a.m. and 9:00 p.m. the same day;***

***2. Is plainly audible at any time between 7:00 a.m. and 9:00 p.m. the same day at a distance of at least 100 feet from the source of the sound;***

**3. Is plainly audible at any time between 9:00 p.m. and 7:00 a.m. the following day:**

- a. Within a noise-sensitive unit that is not the source of the sound, or**
- b. On a public right-of-way at a distance of at least 50 feet from the source of the sound.**

**B. A violation of any provision of this chapter is a Class B violation.**

**A speaker on November 8, 2021 raised the issue of placement of electronic speed signs / speed bumps on NE Oar and 14th Street.**

Traffic control authority is vested in the City Council, with some delegation to the City Manager. 10.08.020 provides:

- A. The city manager shall direct the implementation of the ordinances, resolutions and motions of the council by having traffic-control devices installed, maintained, removed and altered. The installation shall be based on the standards contained in the state manual specified under ORS 810.200**

Traffic and Parking controls are based on Engineering and Safety concerns, not on citizen requests. LCMC 10.08.010 C. provides:

- C. Engineering basis for decisions.**

**In exercising its municipal traffic authority pursuant to this Chapter, the City Council or its designee, shall be guided by adopted street design and constructions standards, including but not limited to the 2015 Lincoln City Transportation Plan. Where appropriate, variations or alternatives to standard design and constructions standards may be approved in the discretion of the City Engineer. Traffic control and parking measures are imposed based on the engineering considerations and public safety such as the adequacy of the right-of-way width and suitable shoulder base, and not on any other basis.**

**A speaker on November 8, 2021 raised the issue of removing all window tinting from city vehicles for accountability visibility and safety.**

Staff is not aware of any city vehicle violating the provisions of ORS 815.221:

**815.221 Tinting; authorized and prohibited materials; certificate. (1) Notwithstanding any other provision of law, a person may apply tinting material to the windows of a motor vehicle in compliance with this section.**

**(2) Tinting material may be applied to the side and rear windows of a motor vehicle if:**

**(a) The tinting material has a light transmittance of 50 percent or more;**  
**(b) The tinting material has a light reflectance of 13 percent or less; and**  
**(c) The total light transmittance through the window with the tinting material applied is 35 percent or more.**

**(3) Tinting material that has a lower light transmittance or produces a lower total light transmittance than permitted in subsection (2)(a) and (c) of this section may be applied to the top six inches of a windshield. Tinting material may not be applied to any other portion of the windshield.**

**(4) Tinting material that has a lower light transmittance or produces a lower total light transmittance than permitted in subsection (2)(a) and (c) of this section may be applied to all windows of a multipurpose passenger vehicle that are behind the driver. This subsection applies only to vehicles that are equipped with rearview mirrors on each side of the vehicle. The windows as tinted shall meet the requirements for AS-3 glazing material established by federal regulation. For purposes of this subsection, a "multipurpose passenger vehicle" is a motor vehicle with motive power that is designed to carry 10 or fewer persons and is constructed either on a truck chassis or with special features for occasional off-road operation.**

**(5) Tinting material that has a lower light transmittance or produces a lower total light transmittance than permitted in subsection (2)(a) and (c) of this section may be applied to the side and rear windows of a vehicle registered in the name of a person, or the person's legal guardian, if the person has any of the following documents signed by a validly licensed physician or optometrist stating that the person or another person in the person's household has a physical condition requiring window tinting that produces a lower light transmittance than allowed by this section:**

- (a) An affidavit.**
- (b) A prescription.**
- (c) A letter on the practitioner's letterhead.**

**(6) The document required by subsection (5) of this section shall be kept in the vehicle and shall be shown to a police officer who inquires about the tint.**

**(7) There are no light transmittance requirements for glazing materials applied to AS-3 type windows.**

**(8) The following types of tinting material are not permitted:**

- (a) Mirror finish products.**
- (b) Red, gold, yellow, amber or black material.**
- (c) Tinting material that is in liquid preapplication form and is brushed or sprayed on.**

**(9) Each person who installs window tinting material in compliance with this section shall give the person who requested the installation a certificate stating:**

- (a) The name and address of the person who installed the tint;**
- (b) The light transmittance of the tinting material;**
- (c) The light reflectance of the tinting material; and**
- (d) That the total light transmittance through each window with the tinting material applied is not less than 35 percent.**

***(10) The certificate issued under subsection (9) of this section shall be kept in the motor vehicle and shall be shown to a police officer who inquires about the tint.***

***(11) Prohibitions and penalties related to the standards established under this section are provided under ORS 815.222. [1995 c.263 §2; 2003 c.158 §8; 2015 c.579 §1]***

**A speaker on November 8, 2021 raised the issue of the cost of false alarms, and requested if VRDs and businesses could have their own 2 or 3 person squad to check their alarms.**

The City code already provides for specified financial penalties for false alarms, permit revocation as well as citation. As the code specified fees that have not been adjusted since 1984, it may be time to study the actual cost and increase the fees (following a public hearing).

***8.04.110 False Alarm penalties.***

***As a condition of any alarm system permit issued under the provisions of this chapter, the permittee shall pay to the city, upon and within 10 days of invoice, fees for false alarms generated by the permittee's alarm system, according to the following schedule:***

***A. First four false alarms during each calendar year, no charge;***

***B. For each false alarm thereafter, to and including the sixth, \$20.00 per false alarm;***

***C. For each false alarm thereafter, to and including the tenth, \$40.00 per false alarm;***

***D. For each false alarm thereafter, to and including the twelfth, \$80.00 per false alarm;***

***E. For each false alarm beyond the twelfth the permittee shall pay \$150.00 per false alarm, and becomes subject to review for possible revocation of the permit. (Ord. 84-9 § 8)***

LCMC 8.04.150 (Violations) provides:

8.04.150 (Violations)

Violation of any provision of this chapter shall be a Class D violation. Any violation forfeiture or other remedy shall be in addition to the monetary late payment penalty, the false alarm penalties, and the permit revocation remedies established by this chapter. (Ord. 2015-10 § 5; Ord. 2003-20 § 3)

# DON'T FEED DEER AND ELK



Well-intentioned people often feed deer, elk and other wildlife without realizing the problems feeding can create:

- Artificial feeding concentrates wildlife, which leads to the easier spread of disease and parasites and easier take by predators.
- Feeding deer and elk attracts their natural predators like cougars and coyotes to areas of human activity.
- Once wildlife associate people with giving them food, they come to expect it. Feeding will invite more deer and elk to your property and encourage them to stay.
- Artificial feeding can cause deer and elk to become habituated to humans and aggressive towards them.
- Concentrating deer and elk in human-settled areas can lead to an increase in vehicle collisions and conflicts between wildlife and pets.
- Concentrating deer and elk can hurt habitat by encouraging excessive grazing.

Every year, ODFW also sees seemingly healthy deer and elk die because they have been fed the wrong food by well-intentioned people. Their diet requirements actually change with the seasons and are best met by native forage. Deliberately feeding deer or elk may inhibit digestion and lead to death by starvation or infection.

ODFW does feed deer and elk at several wildlife areas during the winter, to keep them off adjacent agricultural lands where they damage crops. These feeding programs are long-term commitments that require significant financial and staffing resources. Feeding starts early in the season so deer and elk's digestive systems do not have to quickly readjust to new food types, and continues every day, no matter what, until forage conditions improve. Feeding areas are located away from human-populated areas to decrease conflicts. ODFW also conducts disease testing at some feeding sites.

For more information, visit ODFW's web page at [www.dfw.state.or.us](http://www.dfw.state.or.us) or call your local ODFW field office or ODFW Headquarters at **800-720-ODFW (6339)**

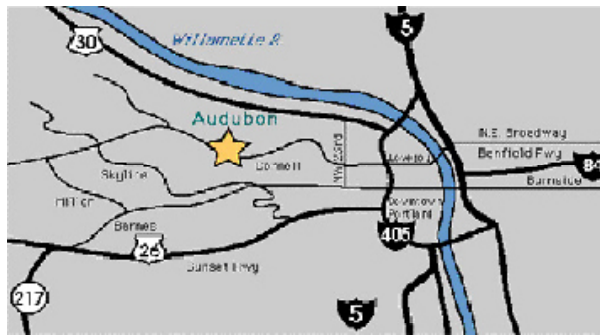


Raccoons are digging up my garden and lawn. Raccoons have a varied diet and sometimes find food sources in our gardens and lawn. Commercial or natural repellants can be applied around the perimeter of affected areas of lawn or garden. Repellants are not species-specific and should be used with caution with outdoor pets. Scare tactics such as bright, blinking lights or a loud radio can be used in gardens to deter raccoons. Another option is the commercially available Scarecrow, a motion triggered device that directs a powerful stream of water at unwanted visitors.

Raccoons are fighting with my cat or dog! Most conflicts with pets occur because of competition over outdoor food bowls. The best way to prevent these types of conflicts is to feed pets indoors. Raccoons will also protect their dens from dogs. If you know you have a denning raccoon in the area, keep dogs under control and house them indoors at night when raccoons are most active. Make sure pets are current on their vaccinations.

Won't the raccoons starve if we stop feeding them? No. Raccoons are capable of traveling great distances to find food and territory. If you stop feeding, raccoon populations will slowly adjust to the level that can be accommodated by the available natural habitat. Although it is well intended, intentional feeding of raccoons is highly destructive to the animals. Raccoons that become habituated to human handouts are likely to become pests. Unnaturally large congregations of raccoons lead to territorial conflicts and disease outbreaks. If you care about raccoons, please don't feed them!

Audubon Society of Portland  
Wildlife Care Center  
5151 NW Cornell Road  
Portland, OR 97210  
Phone: 503-292-0304  
9 a.m.-5 p.m. - 7 days a week 365 days a year



Administration Offices  
Phone: 503-292-6855  
Fax: 503-292-1021  
Hours: 9 a.m. to 5 p.m., Mon-Fri

Nature Store  
Phone: 503-292-9493  
Hours: 10 a.m. to 6 p.m., Mon-Sat  
10 a.m. to 5 p.m., Sun

Sanctuaries  
Every day, dawn to dusk

Rare Bird Alert  
Phone: 503-292-6855

[www.audubonportland.org](http://www.audubonportland.org)

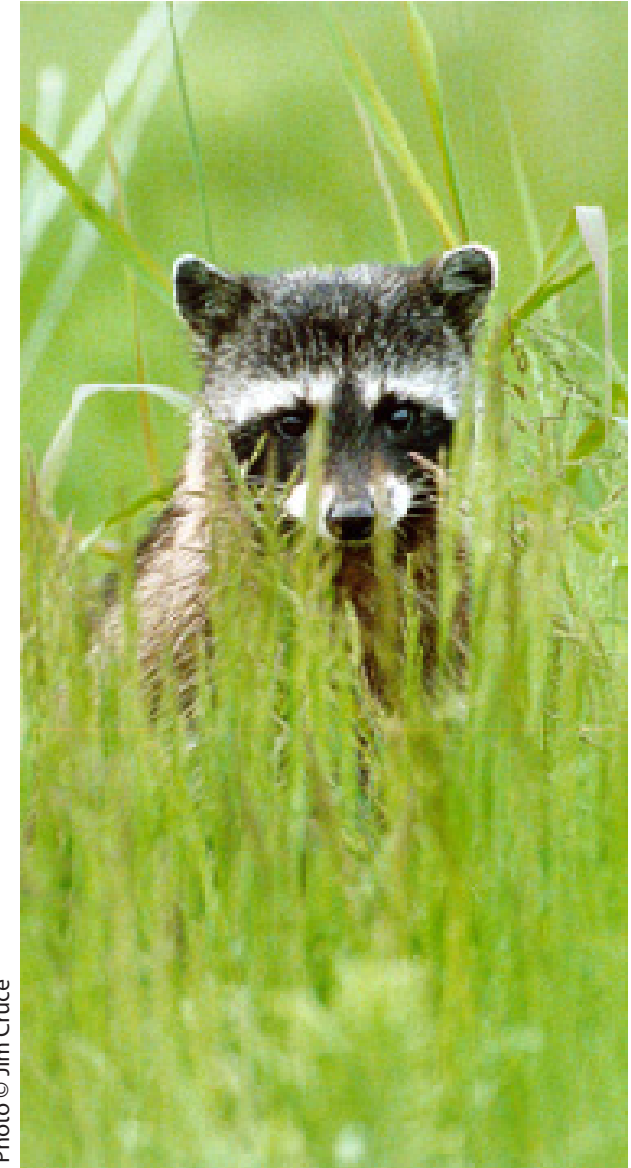


Photo © Jim Cruce

# Raccoons

# Living with Raccoons

## NATURAL HISTORY

Raccoons (*Procyon lotor*) are opportunistic, intelligent creatures that have adapted well to our urban and suburban landscapes. A general lack of predators combined with easily accessed food sources such as garbage cans, compost bins, gardens and outdoor pet food bowls have allowed raccoons to proliferate even in the most developed of areas. Raccoons often occur in urban habitats at much higher densities than they do under more natural circumstances.

Raccoons are primarily nocturnal animals but can be seen at any time of the day. Adult raccoons in the Pacific Northwest typically range in weight between 10 and 25 pounds but can get larger. They are omnivorous and consume a highly varied diet that includes fruit and vegetables, insects, small rodents, fish, and human handouts, pet food and garbage when available. Raccoons typically den above ground in tree cavities and under downed logs, but will substitute chimneys, attics and crawlspaces where available. Breeding season in the Pacific Northwest extends from early March through early fall. Litters can range from 1-7 kits. Young are weaned at 2 months of age but may remain with the mother through the first winter.

## TIPS ON LIVING WITH RACCOONS

- Do not feed raccoons: Deliberate feeding of raccoons makes them more likely to get into situations where they are unwanted or in danger. It also encourages unnaturally high population levels within a small geographic area. This creates a higher risk of disease transmission among the raccoons and increases the likelihood they will become pests. It is much better and more humane to allow

population levels to adjust to the food and habitat naturally available.

- Feed pets indoors: This will eliminate a raccoon attractant and will diminish the likelihood of an unwanted encounter between your pet and a wild animal.
- Tightly cover all garbage cans.
- Seal up all potential denning locations within your home: Placing caps on chimneys and blocking outside entryways to basements, attics, and under porches will reduce the likelihood that you will wind up sharing your home with a raccoon.
- Naturescape for wildlife: Plant native vegetation and leave snags standing. Making natural food and shelter available will reduce the likelihood of unwanted human-raccoon interactions.
- Raccoons are not pets! Raccoons do not make good pets. Like all wild animals, raccoons can carry diseases and parasites. When they reach sexual maturity, they can become territorial and aggressive. It is illegal in the state of Oregon to take a raccoon out of the wild to be kept as a pet.

## SITUATIONS AND SOLUTIONS

Identifying a "nuisance" raccoon. Raccoons are a fact of urban living. In many cases, tolerance and prevention (eliminating unnatural food sources, sealing up potential denning locations) is the best approach. If you do find yourself in conflict with your local raccoon population, the first thing to consider is identifying the source of the problem. What is attracting the raccoon to your property? Is there a way to eliminate the attractant? Do you need to speak with your neighbors about doing the same? The vast majority of urban raccoon conflicts occur because somebody in the neigh-

Photo © Michael Durham



borhood is either deliberately or inadvertently providing some sort of unnatural food source for the raccoons.

Raccoons are raiding my garbage cans! Raccoons will take advantage of any available food source and are well-known garbage raiders. Garbage cans should be secured tightly to prevent a raccoon's access. You can fasten the lid securely with rope, bungee cords or weight. Garbage cans can be secured to a wooden stake or wall to prevent being knocked over. Commercial repellants can also be sprayed directly onto garbage cans to deter raccoons.

A raccoon is denning under my porch, deck or house. Exclusion is the best way to prevent a raccoon from making its home under your porch, deck or house. If there is a raccoon, find out if it has young in the den. If there are young present, it is best to wait until the young are able to leave the den with their mother before trying any exclusion techniques. Close off all but one entrance or exit to the den. Wait until all raccoons have left before sealing up the final entrance. To urge a raccoon with young out of a den, place a small, battery-operated radio tuned to a talk station into the den. This disturbance will help convince the raccoon to relocate her young to a new location. Seal up the entrance to the den when you are sure all raccoons have vacated.

## Wildlife Relocation is Not a Solution

Relocation is ineffective. Relocated raccoons are quickly replaced by other raccoons. The best solution is to leave the raccoons alone and remove or modify whatever is attracting them specifically to your yard.

Relocation is inhumane: Although many people perceive relocation as a humane approach to resolving conflicts, it is in fact just the opposite. Relocated raccoons have to fight with already established raccoons for territory, food and shelter. Many raccoons do not survive relocation; and, those that do, disrupt already established populations. Relocated raccoon kits are almost always abandoned, as it is nearly impossible for a mother to carry and care for her young while also establishing herself in a new territory.

Relocation is ecologically destructive: Relocation of raccoons disrupts already established populations. Excessive “dumping” of raccoons into natural areas surrounding the Portland Metro area has resulted in ecological damage and has been implicated in the transmission of disease among otherwise unaffected populations.

Relocation is illegal in Oregon: Raccoons are protected under state law and relocation of these animals is illegal. Raccoons may be trapped with a permit from the Oregon Department of Fish and Wildlife, but they must be released at the same site or euthanized.

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