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Extra! Extra! New Housing Developments Lead Coyotes to Homelessness and Violence with Humans

Joseph Simpson

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ARTICLES

EXTRA! EXTRA! NEW HOUSING DEVELOPMENTS LEAD COYOTES TO HOMELESSNESS AND VIOLENCE WITH HUMANS

By
Joseph Simpson*

As city sprawl spreads into less-developed rural regions, these new residents enjoy living close to nature but also put their pets and children at risk of encountering dangerous wildlife, such as coyotes. Cities have a variety of options, legal and otherwise, to regulate human and coyote behavior in order to reduce conflict. This Article analyzes the situation in the cities of Chino Hills and Yorba Linda, two southern California communities on the edge of Chino Hills State Park that have received local media attention for human-coyote interactions. Growing cities can use zoning to separate coyotes from humans and avoid drawing coyotes into cities, but land-use planners will be limited due to existing uses and possible takings claims from landowners. Cities can regulate the human behavior that draws coyotes into a city, or they can regulate the coyotes themselves through relocation, hazing, or hunting. This Article concludes by encouraging municipalities to use their police power to take early action, therefore preventing coyotes from habituating to humans by regulating human behavior and city development and also adopting coyote management plans that educate their citizens.

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* © Joseph Simpson 2016. Joseph Simpson, J.D., is a 2016 graduate of Vermont Law School where he was the Editor-in-Chief of the Vermont Journal of Environmental Law. He went to Iowa State University for his undergraduate studies, where he majored in history and political science and minored in philosophy and sociology. He would like to thank Janet Milne for her guidance and wisdom in shaping this article. He would also like to thank his family for their endless love and support.

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I. INTRODUCTION

Think back to when you were a child. Imagine that you had a friend whose house you wanted to go to every day in the summer because your friend's family had a swimming pool. Every time you went over, however, you and your friend bickered. One day, when your mom came to pick you up, your friend's mom told your mom about the bickering and she was afraid it might escalate to yelling or hitting. On the ride home, your mom told you that she might not let you go over to your friend's house anymore. You cry, beg, and barter so you can keep going over for the rest of the summer. In this situation, three things may happen: first, your mom can keep you home for the rest of the summer; second, you can stop picking the fights; or third, your friend can give up the bickering.

Now come back to your adult life. You have a family and you are searching for a home. One thing that is important to you is to be close to wildlands because you enjoy the view and the ability to go hiking. You find a house that meets your wants and needs and move in, but one day you see a coyote in your backyard trying to get into your dog's pen. You run out and scare it away, and then you immediately call the city to report the coyote. In this situation, the coyote is your friend, you moved into the coyote's house, and the city is your mom. The city has three options: first, it could try to separate you from coyotes entirely; second, it could regulate your behavior to keep you from attracting coyotes; or third, it can try to manage the coyotes' behavior.

This Article will look at how cities can use zoning and other ordinances to reduce the risk of violent encounters between humans and coyotes. People want to live with the convenience of cities but at the

same time want to live in rural areas away from the stress of urban life. Communities develop adjacent to undeveloped areas to provide their residents with a natural, less-trafficked neighborhood, but living so close to nature puts pets and children at risk of encountering dangerous wildlife, especially coyotes.¹ Local governments may find that regulating coyotes is the easiest option. Unfortunately for coyotes, this usually means hunting and trapping.²

As cities spread into less developed rural regions, those cities must use zoning ordinances, within constitutional limits, complemented by other laws to either discourage families from moving into coyote habitats or punish behaviors that attract coyotes to neighborhoods.³ This Article will analyze the cities of Chino Hills and Yorba Linda—two southern California communities next to Chino Hills State Park—and their approaches to regulating interactions between residents and coyotes. This Article looks at these specific cities because of their proximity to an easily identifiable wildland location and because their issues with coyotes have drawn a fair amount of local media attention.

Part I of this Article offers the historical foundation of interactions between humans and wild animals in North America. Part II provides background information on the development of Yorba Linda and Chino Hills. This part focuses on the encounters between humans and coyotes in the two cities and how each city has responded. Part III proposes a zoning solution that developing cities may consider, and it addresses concerns regarding substantive due process and takings law. It offers this proposal to developing cities because their lack of entrenched development and sprawl allows them to set up preemptive zoning ordinances without being as susceptible to due process and takings claims as a developed municipality would be. Part IV proposes other solutions, both legal and non-legal, that target human behaviors that may attract coyotes to neighborhoods. Part V addresses regulations aimed at coyotes, most of which have not worked. Part VI gathers ideas from Parts III, IV, and V to outline the best solutions available for mitigating violent encounters between humans and coyotes in both developing and developed cities. This Article concludes by emphasizing that municipal governments need to use the tools available to them because only municipal governments can effectively regulate human-coyote interactions.

¹ Robert M. Timm, *Coyotes Nipping at Our Heels: A New Suburban Dilemma*, 11TH TRIENNIAL NAT'L WILDLIFE & FISHERIES EXTENSION SPECIALISTS CONF. 139, 142-44 (2006).

² *Id.* at 144.

³ See discussion *infra* Section III-IV.

II. MOVING TO A NEW NEIGHBORHOOD: MAKING THE WILD LESS WILD

A. *Making a New Friend: Post-Colonial Interactions with Wild Predators*

Violence permeates the relationship between wild canines, such as wolves and coyotes, and humans in modern American history. From the time Europeans first began colonizing North America, people have killed wolves for reasons ranging from retribution for lost livestock to irrational fears gleaned from myths.⁴ Even the famous naturalist John James Audubon enjoyed watching a farmer's dogs torture helpless wolves because a pack of wolves took most of the farmer's sheep and a colt.⁵ From the nineteenth century perspective, wolves "deserved to be punished for living."⁶ Americans have a splintered perception of wolves today,⁷ but even with warmer hearts, the Forest Service killed over 83,000 members of the canine family in 2010 alone.⁸

As Euro-Americans moved from the plains into the Great Basin, pioneers slowly transitioned from protecting their resources from wolves to coyotes.⁹ Mormon settlers in what is now Utah faced persecution, raids, locusts, and wolves as they journeyed through the plains, only for more mountain wolves and smaller "prairie wolves" to welcome them with other hardships in the Great Basin.¹⁰ The State of Deseret General Assembly placed a \$3 bounty on mountain wolves and a \$1 bounty on prairie wolves in 1850.¹¹ The higher bounty on the larger animals incentivized Mormon settlers to kill mountain wolves while allowing prairie wolves to slowly gain territory.¹² Although the statewide bounty only lasted for a year due to high costs, Governor Brigham Young allowed counties to continue bounty programs.¹³ Because the Mormons defined canines based on size, the Latter-Day Saints did not refer to "prairie wolves" as "coyotes" until the late-nineteenth century.¹⁴ Coyotes did not live east of the Mississippi River prior to 1900, but they soon filled the vacuum that Euro-Americans created by decimating wolf populations.¹⁵ Coyotes now make homes in Alaska, most of Canada, the lower forty-eight states, and much of Cen-

⁴ JON T. COLEMAN, *VICIOUS: WOLVES AND MEN IN AMERICA* 2–3 (2004).

⁵ *Id.* at 1–2.

⁶ *Id.*

⁷ *Id.* at 2.

⁸ Tiffany Bacon, *The Implementation of the Animal Damage Control Act: A Comment on Wildlife Services's Methods of Predatory Animal Control*, 32 J. NAT'L ASS'N ADMIN. L. JUDICIARY 362, 379 (2012).

⁹ COLEMAN, *supra* note 4, at 175.

¹⁰ *Id.* at 176.

¹¹ *Id.* at 183.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 183–84.

¹⁵ COLEMAN, *supra* note 4, at 184.

tral America.¹⁶ Coyotes have even found themselves in dense cities such as Chicago¹⁷ and New York.¹⁸

Coyotes historically shied away from humans but began habituating to humans in a noticeable way around the 1940s.¹⁹ By about 1970, coyotes began attacking people and pets in southern California.²⁰ The first known coyote-caused fatality occurred in Glendale, California in 1981.²¹ Coyote attacks have spread beyond California's borders, too.²² From 1988 through 2006, sixteen other states and four Canadian provinces recorded coyote attacks.²³ The suburbanized characteristics of southern California may explain why it had attacks long before the rest of the country and why it also has more attacks.²⁴ If suburbanization is indeed a factor, then other parts of the country that are developing may have to worry more about coyote attacks as cities expand.

Urban expansion in the West causes encounters with wildlife beyond just canines. While sightings are out of the ordinary, mountain lions,²⁵ bobcats,²⁶ and bears occasionally find themselves in the suburbs.²⁷ Predatory animals are normally the targets of controlled killing because of their effects on livestock,²⁸ but these animals rarely pose a direct threat to humans.²⁹ On average, mountain lions, bears,

¹⁶ Timm, *supra* note 1, at 139.

¹⁷ See Dawn Rhodes, *Coyotes Finding New Home in Downtown Chicago*, CHI. TRIB., <http://www.chicagotribune.com/news/ct-downtown-coyotes-met-0117-20150116-story.html> [https://perma.cc/H3HV-CUTF] (Jan. 16, 2015) (accessed Feb. 12, 2016) (discussing how coyotes that may have lived in the suburbs came to the city in search of food and shelter, and now thousands of coyotes may be living in downtown Chicago).

¹⁸ See Lisa W. Foderaro, *That Howling? Just New York's Neighborhood Coyotes*, N.Y. TIMES, <http://www.nytimes.com/2015/03/08/nyregion/that-howling-just-new-yorks-neighborhood-coyotes.html> [https://perma.cc/82QJ-HFDE] (Mar. 6, 2015) (accessed Feb. 12, 2016) (discussing how coyotes, as apex predators, have slowly entered New York city limits in recent years).

¹⁹ Timm, *supra* note 1, at 139.

²⁰ *Id.* at 140.

²¹ Robert G. Howell, *The Urban Coyote Problem in Los Angeles County*, 10 PROC. OF THE VERTEBRATE PEST CONF. 21, 21–22 (1982).

²² Timm, *supra* note 1, at 142.

²³ *Id.*

²⁴ *Id.*

²⁵ See Tom Stienstra, *When Animals, People Cross Paths*, S.F. GATE, <http://www.sfgate.com/sports/article/Tom-Stienstra-When-animals-people-cross-paths-5753782.php> [https://perma.cc/DN2P-ZP9X] (Sept. 13, 2014) (accessed Feb. 12, 2016) (reporting on a woman in Mendocino County, California, who saw a mountain lion outside of her window).

²⁶ See *id.* (reporting on a bobcat that wandered into a man's yard in Orinda, California).

²⁷ See William Avila & Kate Larsen, *Bear, Cub Spotted in Monrovia Neighborhood*, NBC L.A., <http://www.nbclosangeles.com/news/local/Bear-Cub-Spotted-in-Monrovia-274690821.html> [https://perma.cc/7QM8-XW9W] (Sept. 11, 2014) (accessed Feb. 12, 2016) (reporting that a mother bear and her cub climbed a tree in a yard in the city of Monrovia, two miles south of the mountains).

²⁸ Bacon, *supra* note 8, at 363.

²⁹ See Jay Sharp, *Mountain Lion–Cougar: Attacks*, DESERT USA, <http://www.desertusa.com/animals/mountain-lion-attacks.html> [https://perma.cc/8C8T-FAPA]

and wolves each kill less than one person per year in the United States.³⁰ Conversely, about 1.23 million vehicle collisions with deer occurred in the United States in a one-year span between 2011 and 2012 that caused over \$4 billion in damage.³¹ Annually, these collisions cause about 200 deaths.³² Regardless of whether an animal is predatory, the fact is that humans and wildlife will cross paths.

B. Playing with Your Friend's Toys: A Pocket of Wilderness in Suburbia

California is especially prone to urban-wildlife encounters because large cities encroach on wildlands, and California has many large and expanding cities.³³ A prime example of this is the Chino Hills State Park region in southern California.³⁴ The Gabrielino Tribe, commonly known as the San Gabriel Band of Mission Indians,³⁵ used the land for temporary camps and gathering seeds and berries before the land became a state park.³⁶ From 1771, when the Spanish founded Mission San Gabriel, the land's primary purpose was grazing for cattle.³⁷ The land opened to private acquisition between the 1870s and 1890s, and was subject to exploratory oil and mining operations around that time.³⁸

(accessed Feb. 12, 2016) (explaining that in the 100 years leading to 2008, cougar attacks only caused sixteen human fatalities in all of North America); *Ask A Bear: How Many Bear Attacks, Really?*, BACKPACKER, <http://www.backpacker.com/news-and-events/news/trail-news/ask-a-bear-how-many-bear-attacks-really-2/> [https://perma.cc/AC7M-ZR8U] (accessed Feb. 12, 2016) (explaining that North America averages less than three bear-attack fatalities per year, with most of them coming from Canada); J.D.C. LINNELL ET AL., NORSK INSTITUTT FOR NATURFORSKNING, THE FEAR OF WOLVES: A REVIEW OF WOLF ATTACKS ON HUMANS 6 (2002), <http://www.nina.no/archive/nina/ppp-basepdf/oppdragsmelding/731.pdf> [https://perma.cc/ZJ6U-EGNH] (accessed Feb. 12, 2016) (“The fact that individual aggressive encounters with wolves . . . are considered worthy of publication in the scientific literature is an indication of the rarity of such events.”).

³⁰ Sharp, *supra* note 29; BACKPACKER, *supra* note 29; LINNELL ET AL., *supra* note 29, at 6.

³¹ *Car and Deer Collisions Cause 200 Deaths, Cost \$4 Billion a Year*, INSURANCE J., <http://www.insurancejournal.com/news/national/2012/10/24/267786.htm> [https://perma.cc/EEV8-5386] (Oct. 24, 2012) (accessed Feb. 12, 2016).

³² *Id.*

³³ Enrique Arroyo, *Urban Edge Effects and Their Relationship with the Natural Environment*, CAL. STATE PARKS, <http://www.parks.ca.gov/pages/21280/files/urbanedge.pdf> [https://perma.cc/9JCW-SYNA] (Sept. 2000) (accessed Feb. 12, 2016).

³⁴ *The Puente-Chino Hills Wildlife Corridor: Saving Urban Open Space in the Los Angeles Basin*, PUENTE HILLS HABITAT PRES. AUTH., <http://www.habitatauthority.org/newsite/wp-content/uploads/2012/04/pg1-12v2b.pdf> [https://perma.cc/6BC8-XPMD] (accessed Feb 16, 2016).

³⁵ Gabrielino-Tongva Tribe, <http://www.gabrielinotribe.org> [https://perma.cc/8B9R-83QS] (accessed Feb. 12, 2016).

³⁶ *Park History*, CAL. DEP'T OF PARKS & RECREATION, http://www.parks.ca.gov/?page_id=21967 [https://perma.cc/8E3V-C9YC] (2016) (accessed Feb. 12, 2016).

³⁷ *Id.*

³⁸ *Id.*

In 1977 the California Legislature directed the California Department of Parks and Recreation to conduct a feasibility study to determine the need for a state park in the Chino Hills.³⁹ Hills For Everyone (HFE), a local nonprofit group, formed in 1978 to protect the landscape and gather funds to acquire parkland.⁴⁰ HFE also managed the park before the state could afford to and opened it to the public on the weekends in 1984.⁴¹ California State Parks declared the area as part of the State Park system in 1984⁴² and made it an official State Park in 1986.⁴³ The park now encompasses parts of Orange, Riverside, and San Bernardino Counties⁴⁴ and has bordered part of Los Angeles County since 1996.⁴⁵ The City of Chino Hills rests to the northeast of the park, and Yorba Linda is to the southwest.⁴⁶ The park also serves as part of the Puente-Chino Hills Wildlife Corridor.⁴⁷

The Chino Hills State Park region is an ecologically important region. The Puente-Chino Hills Wildlife Corridor is within one of the twenty biodiversity “hot spots” in the world.⁴⁸ Chino Hills State Park is home to thousands of animal species, including some endangered species.⁴⁹ Larger, charismatic animals such as red-tail hawks, coyotes, deer, and bobcats all reside in the park.⁵⁰ The park contains diverse plant life, including willows, walnut trees, sagebrush, and grass-

³⁹ *History*, CHINO HILLS STATE PARK INTERPRETIVE ASS'N, <http://www.chinohillsstatepark.org/about-chino-hills-sp/history> [<https://perma.cc/CU9T-M5SH>] (accessed Feb. 12, 2016).

⁴⁰ *Organizational History*, HILLS FOR EVERYONE, <http://www.hillsforeveryone.org/about-us/organizational-history> [<https://perma.cc/3QQH-E9QQ>] (accessed Feb. 12, 2016).

⁴¹ *Id.*

⁴² Park History, *supra* note 36.

⁴³ *Achievements*, HILLS FOR EVERYONE, <http://www.hillsforeveryone.org/about-us/achievements/> [<https://perma.cc/AKP7-VQJX>] (accessed Feb. 12, 2016).

⁴⁴ BARRY R. TRUTE, CAL. STATE PARK SYS., STATISTICAL REPORT: 2009/10 FISCAL YEAR 22 (Philomene C. Smith & Alexandra Stehl eds., 2010), <http://www.parks.ca.gov/pages/795/files/09-10%20statistical%20report%20final%20online.pdf> [<https://perma.cc/87EX-B2XD>] (accessed Feb. 12, 2016).

⁴⁵ *Achievements*, *supra* note 43.

⁴⁶ *Maps*, CHINO HILLS STATE PARK INTERPRETIVE ASS'N, <http://www.chinohillsstatepark.org/about-chino-hills-sp/maps> [<https://perma.cc/LYN4-SKMW>] (accessed Feb. 12, 2016).

⁴⁷ See *Natural Lands in the Puente-Chino Hills Wildlife Corridor*, HILLS FOR EVERYONE, <http://www.hillsforeveryone.org/wp-content/uploads/2015/02/HFE-Base-Map-2015.pdf> [<https://perma.cc/53WH-Z8CJ>] (updated Feb. 2015) (accessed Feb. 12, 2016) (mapping the wildlife corridor).

⁴⁸ *FAQs*, HILLS FOR EVERYONE, <http://www.hillsforeveryone.org/the-corridor/faqs/#q4> [<https://perma.cc/N4ZS-VPT4>] (accessed Feb. 12, 2016) (describing biodiversity hot spots as “places rich in species diversity, yet threatened by imminent development”); see Alan Lee, *What Is a Biodiversity Hotspot?*, RAINFOREST EXPEDITIONS, www.perunature.com/biodiversity-hotspot.html (accessed Feb. 12, 2016) (providing the criteria an area must meet to be considered a biodiversity hot spot).

⁴⁹ *Wildlife*, CAL. DEP'T OF PARKS & RECREATION, http://parks.ca.gov/?page_id=21970 [<https://perma.cc/R946-YRZ2>] (2016) (accessed Feb. 12, 2016).

⁵⁰ *Id.*

lands.⁵¹ Seasonal and year-round creeks provide food and shelter for wildlife, including migratory birds.⁵²

III. CHANGING THE NEIGHBORHOOD: THE EFFECTS OF DEVELOPING NEAR A WILDLAND

A. *Your House Is Nice: Development of Chino Hills and Yorba Linda*

1. *Chino Hills*

Chino Hills did not become a city until 1991.⁵³ The area housed mostly ranches and homesteads before attracting residents from nearby Los Angeles to the comparatively rural atmosphere.⁵⁴ San Bernardino County initiated the development of the Chino Hills Specific Plan in 1979 to plan for the area's development.⁵⁵ In order to preserve the qualities that drew residents to Chino Hills in the first place, the Specific Plan sought to protect open space by clustering development into village cores with dense development in the center and sparse development near the edges.⁵⁶ When San Bernardino County approved the Specific Plan in 1982, Chino Hills had about 4,000 homes with about 12,000 residents.⁵⁷

The county still governed Chino Hills while Chino Hills was unincorporated.⁵⁸ The city had one representative on the County Board of Supervisors.⁵⁹ The city also set up the Chino Hills Municipal Advisory Council to seek residents' input to give to the County Supervisor.⁶⁰ Whenever residents had any business with the county, however, they would have to make the forty-five minute trip to San Bernardino.⁶¹ Citizens sought more local control in the late 1980s and pushed the idea of cityhood.⁶² Chino Hills became a self-governing city in 1991⁶³ and has a current estimated population around 76,000.⁶⁴

⁵¹ *Plant Communities*, CAL. DEPT OF PARKS & RECREATION, http://www.parks.ca.gov/?page_id=21972 [<https://perma.cc/J7CX-BLB4>] (2016) (accessed Feb. 12, 2016).

⁵² *Id.*

⁵³ *Chino Hills, California*, CITYTOWNINFO.COM, <http://www.citytowninfo.com/places/california/chino-hills> [<https://perma.cc/8NQ6-B682>] (accessed Feb. 13, 2016).

⁵⁴ *History*, CHINO HILLS CAL., <http://www.chinohills.org/index.aspx?nid=95> [<https://perma.cc/5WBU-LSWP>] (accessed Feb. 12, 2016).

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *History*, *supra* note 54.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Chino Hills*, *supra* note 53.

⁶⁴ *State and County QuickFacts: Chino Hills (city), California*, U.S. CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/06/0613214.html> [<https://perma.cc/37SW-EFKK>] (updated Dec. 2, 2015) (accessed Feb. 13, 2016).

2. Yorba Linda

Yorba Linda officially became a city in 1967,⁶⁵ one year before its most famous resident, Richard Nixon, won the 1968 presidential election.⁶⁶ The area's modern history reaches back to 1834 when the Mexican government granted Bernardo Yorba 13,328 acres of land known as "Rancho Cañon de Santa Ana."⁶⁷ Fullerton resident Jacob Stern's partnership bought the land from Yorba's descendants in 1907 and sold the land to Janss Investment Company in 1908.⁶⁸ Janss Investment Company then named the area "Yorba Linda" and began selling individual parcels of land in 1909.⁶⁹ By 1911, Yorba Linda's population was thirty-five residents.⁷⁰

Early residents operated small farms and citrus groves.⁷¹ The Pacific Electric Railroad line connected Yorba Linda to Los Angeles, thus strengthening Yorba Linda's agricultural economy.⁷² Yorba Linda faced three annexation attempts, one each from Brea, Anaheim, and Placentia, with the latter two both coming in 1963.⁷³ By 1967, Yorba Linda incorporated into its own city.⁷⁴ Its current population is about 67,000.⁷⁵

B. Persistent Fighting: Recent Surge in Coyote Attacks in Chino Hills and Yorba Linda

The years 2008 and 2009 saw a dramatic rise in coyote attacks on people and pets in southern California.⁷⁶ In a five-day period in May of

⁶⁵ *History of Yorba Linda*, YORBA LINDA HISTORY, <http://www.yorbalindahistory.org/gsd/cgi-bin/library?e=D-000-00--0tescol--00-0-0--0prompt-10---4-----0-11--1-en-50--20-home--00031-001-1-0utfZz-8-00&a=d&c=tescol&cl=CL1&d=HASH69dbbd4ada0bf0e93b3f5e#start> [<https://perma.cc/G3H2-79MW>] (accessed Feb. 13, 2016).

⁶⁶ NIXON PRES. LIBRARY & MUSEUM, BIOGRAPHY OF RICHARD MILHOUS NIXON 1-4, <https://www.nixonlibrary.gov/thelife/nixonbio.pdf> [<https://perma.cc/8EYU-3SJM>] (accessed Feb. 13, 2016).

⁶⁷ *Timeline*, YORBA LINDA HISTORY, <http://www.yorbalindahistory.org/timeline.html> [<https://perma.cc/4AGH-98DZ>] (accessed Feb. 13, 2016).

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *History of Yorba Linda: A Brief History of Yorba Linda*, CITY OF YORBA LINDA, <http://www.ci.yorba-linda.ca.us/index.php/information/city-facts?id=127:history-of-yorba-linda&catid=1> [<https://perma.cc/8UKH-CJC5>] (2016) (Feb. 13, 2016).

⁷² *Id.*

⁷³ *Timeline*, *supra* note 67.

⁷⁴ *Id.*

⁷⁵ *State and County QuickFacts: Chino Hills (city), California*, U.S. CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/06/0686832.html> [<https://perma.cc/QG26-8HHL>] (updated Dec. 2, 2015) (accessed Feb. 13, 2016).

⁷⁶ See Deborah Sullivan Brennan, *Are Urban Coyotes More Aggressive Now?*, SAN DIEGO UNION TRIB., <http://www.sandiegouniontribune.com/news/2015/feb/01/san-diego-urban-coyote-bite/> [<https://perma.cc/6CKS-WM2W>] (Feb. 1, 2015) (accessed Feb. 13, 2016) (discussing an increase in coyote aggression in southern California around 2008); C.J. Lin, *Coyotes Causing Concern in Calabasas*, L.A. DAILY NEWS, <http://www.dailynews.com/article/ZZ/20111016/NEWS/111019696> [<https://perma.cc/T7NL->

2008, coyotes approached or attacked three toddlers, two of those children in a park in Chino Hills.⁷⁷ The encounters in Chino Hills occurred at Alterra Park, which is near Chino Hills State Park, and those encounters happened within two days of each other.⁷⁸ In November of 2008, the Freeway Complex Fire burned 30,000 acres around the San Bernardino, Riverside, Orange, and Los Angeles county borders, including parts of Yorba Linda and the Chino Hills State Park.⁷⁹ The fire and drought were likely reasons for even more coyote encounters in Yorba Linda in 2009.⁸⁰ So many residents complained to the city that it set up a coyote hotline that received about four calls per day regarding coyote sightings or attacks on pets.⁸¹

Coyote attacks continued through 2010, and coyote sightings became more common throughout Orange County.⁸² In the spring of that year, residents from the East Lake Village community in Yorba Linda reported a coyote stalking a child, a coyote that entered a garage through a side door to attack a large dog, and a coyote that entered a house and killed a dog.⁸³ In March of 2014, a man in Yorba Linda took his Yorkshire terrier out for a walk around midnight.⁸⁴ Two coyotes pushed the man down and proceeded to snatch the dog.⁸⁵ That incident occurred in a rather urban part of the city.⁸⁶

Coyotes have shown their eagerness to get a quick snack in Chino Hills too.⁸⁷ In the spring of 2012, two coyotes attempted to take a fourteen-week-old puppy after the owner let it out.⁸⁸ In August of the same year, a coyote was able to jump over a six-foot-tall brick wall and

M4XN] (Oct. 16, 2011) (accessed Feb. 13, 2016) (discussing the rise in coyote interactions resulting from the 2009 Station Fire).

⁷⁷ *SoCal Toddler's Coyote Attack 3rd in 5 Days*, ABC NEWS, <http://abcnews.go.com/US/story?id=4811654> [<https://perma.cc/PX4N-P2EQ>] (May 8, 2008) (accessed Feb. 14, 2016).

⁷⁸ *Id.*

⁷⁹ ORANGE CTY. FIRE AUTH., *AFTER ACTION REPORT: FREEWAY COMPLEX FIRE 7*, 13 (Nov. 15, 2008), http://www.ocfamedia.org/_uploads/PDF/fcfaar.pdf (accessed Feb. 13, 2016).

⁸⁰ Tony Barboza, *Hungry Coyotes are Hunting near Homes*, L.A. TIMES, <http://articles.latimes.com/2009/sep/09/local/me-coyotes9> [<https://perma.cc/8RF2-LK9A>] (Sept. 9, 2009) (accessed Feb. 13, 2016).

⁸¹ *Id.*

⁸² Jessica Terrell, *Coyote Attacks Prompt Yorba Linda Council to OK Snares*, ORANGE CTY. REG., May 21, 2010, at B.

⁸³ *Id.*

⁸⁴ *Yorba Linda Man, His Yorkie Attacked by 2 Coyotes*, CBS L.A., <http://losangeles.cbslocal.com/2014/03/08/yorba-linda-man-his-yorkie-attacked-by-2-coyotes/> [<https://perma.cc/Q8BZ-6U6T>] (Mar. 8, 2014) (accessed Feb. 13, 2016).

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Here & There*, CHINO CHAMPION, Apr. 14, 2012, at B4.

⁸⁸ *Id.*

snatch a resident's small dog.⁸⁹ Later that same fall, another coyote attacked a dog that was in a six-foot-tall chain-link enclosure.⁹⁰

The Chino Hills State Park region is not the only place in southern California where strings of coyote attacks occur: Irvine, California, a larger city in Orange County, saw a surge in coyote attacks on children in the late spring and early summer of 2015.⁹¹ The first attack occurred in May at Silverado Park, which rests in the foothills of the Santa Ana Mountains, directly south of Chino Hills.⁹² In that attack, a coyote attacked a three-year-old girl and left her with a minor cut on her neck.⁹³ The fourth attack, which occurred in July, involved a two-year-old child.⁹⁴ That coyote entered a garage after the door opened and left the child with cuts on the child's neck and cheek.⁹⁵ After those attacks, trappers captured and euthanized five coyotes, one of which they linked to the attacks after inspecting the coyotes' DNA.⁹⁶

C. *Effective Parenting?: How Chino Hills and Yorba Linda Responded to Coyote Attacks*

Knowing the cause of a problem is the first thing one must know in order to solve it. In the case of Yorba Linda and Chino Hills, the cause of the problem had to do with the proximity of neighborhoods to wildland.⁹⁷ Thus, understanding the legal land-use structure used in those cities is a prerequisite to addressing the coyote problem. The California Government Code provides enabling legislation for cities and counties to designate land-use functions.⁹⁸ The law requires that all cities and counties have a planning agency, but allows the local legislative body to act as the planning agency.⁹⁹ Additionally, California law requires that all cities and counties adopt a general plan.¹⁰⁰ The plan is a statement of policies for the adopting planning agency to use.¹⁰¹ The general plan must be both internally consistent and consistent with local zoning ordinances.¹⁰²

⁸⁹ Marianne Napoles, *Coyote Activity Takes Leap*, CHINO CHAMPION, Sept. 22, 2012, at A1.

⁹⁰ Heather Rose, *Beware of Coyotes*, CHINO CHAMPION, Oct. 6, 2012, at B4.

⁹¹ Eileen Frere, *Irvine Child's Coyote Attack 4th in Last Two Months*, ABC 7, <http://abc7.com/pets/irvine-childs-coyote-attack-4th-in-last-two-months/839307/> (July 9, 2015) (accessed Feb. 13, 2016).

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ See Dennis L. Orthmeyer et al., *Operational Challenges of Solving Urban Coyote Problems in Southern California*, 12 WILDLIFE DAMAGE MGMT. CONF. PROC. 344, 354 (2007) (discussing the increasing interface between coyotes and humans caused by human expansion).

⁹⁸ CAL. GOV'T CODE § 65100 (2014).

⁹⁹ *Id.*

¹⁰⁰ CAL. GOV'T CODE § 65300 (2014).

¹⁰¹ CAL. GOV'T CODE § 65300.5 (2014).

¹⁰² *Id.*; CAL. GOV'T CODE § 65860 (2014).

In Chino Hills, the Development Code (the city's land use ordinance) is "[i]ntended to provide the legislative framework to enhance and implement the goals, policies, plans, principles, and standards of the Chino Hills General Plan."¹⁰³ The city approved an updated General Plan in 2015, well after coyotes became a common problem, but the Plan does not make any references to coyotes.¹⁰⁴ The Plan does, however, state that one of the city's goals is to "Preserve Chino Hills' Rural Character by Limiting Intrusion of Development into Natural Open Spaces."¹⁰⁵ The city plans to achieve these goals by minimizing development and roadway intrusion in and near Chino Hills State Park, and requiring "substantial open space buffers between the proposed development and the Park."¹⁰⁶ The latter option was a new addition to the General Plan.¹⁰⁷ According to the city's most recent zoning map, however, Chino Hills has already allowed housing developments along Chino Hills State Park, and has more developments planned for the future.¹⁰⁸

Unlike Chino Hills, Yorba Linda has not revised its General Plan since 1993.¹⁰⁹ This Plan does include, however, a large section titled "Conservation/Open Space for the Preservation of Natural Resources."¹¹⁰ This section discusses the effects that urbanization has on the city's open space and ways to remedy these effects.¹¹¹ This section emphasizes the importance of the open space adjacent to the Chino Hills State Park and the city's plans to annex the unincorporated land for further control.¹¹² Yorba Linda's zoning map shows that residential estates, residential suburbs, and planned developments all border parts of the Chino Hills State Park.¹¹³ Unincorporated regions buffer some of the planned development regions in the northern part of the city from the park.¹¹⁴

The park has faced urban encroachment since about 1981, which has put Chino Hills and Yorba Linda residents in the wildland-urban

¹⁰³ CHINO HILLS, CAL., CODE OF ORDINANCES § 16.02.040 (2014).

¹⁰⁴ CITY OF CHINO HILLS, GENERAL PLAN (Feb. 24, 2015), <http://www.chinohills.org/DocumentCenter/View/11275> [<https://perma.cc/5QDD-HR5B>] (accessed Feb. 13, 2016) [hereinafter CHINO HILLS GENERAL PLAN].

¹⁰⁵ *Id.* at 1-18.

¹⁰⁶ *Id.* at 1-19.

¹⁰⁷ CITY OF CHINO HILLS, FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT GENERAL PLAN UPDATE 4-7 (Feb. 24, 2015), <http://www.chinohills.org/DocumentCenter/View/11274> [<https://perma.cc/3PZW-ND8B>] (accessed Feb. 2, 2016).

¹⁰⁸ CITY OF CHINO HILLS, ZONING MAP (Jan. 14, 2013), <http://www.chinohills.org/DocumentCenter/Home/View/42> [<https://perma.cc/68SH-T8N9>] (accessed Feb. 2, 2016).

¹⁰⁹ THE PLANNING CENTER, CITY OF YORBA LINDA GENERAL PLAN UPDATE (Dec. 6, 1993) [hereinafter YORBA LINDA GENERAL PLAN].

¹¹⁰ *Id.* at RR-51.

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ CITY OF YORBA LINDA OFFICIAL ZONING MAP, CITY OF YORBA LINDA, http://ci.yorbalinda.ca.us/images/stories/pdf/planning/ZoningMap_2012.pdf [<https://perma.cc/WKW4-Q2N2>] (Nov. 5, 2012) (accessed Feb. 13, 2016).

¹¹⁴ *Id.*

interface.¹¹⁵ A wildland–urban interface is “[t]he boundary between developed regions and the natural wildland areas.”¹¹⁶ While humans have voluntarily extended themselves farther into natural settings, wildfires have forced coyotes into the urban setting.¹¹⁷ Urban encroachment has increased fire activity three-fold,¹¹⁸ and urban development pressures still exist around the park.¹¹⁹

Chino Hills did not specifically address the coyote problem when it revised its General Plan, but it did respond to the issue in two other ways unrelated to land-use planning.¹²⁰ The first way the city responded, predictably, was to indiscriminately trap and kill coyotes in the area.¹²¹ Five months before the May 2008 attacks, the California Fish and Game Commission hired trappers who killed fourteen coyotes.¹²² After the May 2008 attacks, the city again hired trappers who caught and killed three more coyotes in Chino Hills State Park two days after the second Chino Hills incident.¹²³ The trappers continued to work and eventually killed a total of fifteen coyotes.¹²⁴ Chino Hills’ most creative reaction came in 2013, when it passed an ordinance that made it illegal for anyone to “wil[li]fully feed or in any manner provide for one or more coyotes”¹²⁵ If enforced, this ordinance places blame on human behavior, unlike trapping and killing, which blames animals.

Although Yorba Linda has not used its General Plan or zoning regulations to address the coyote problem, it initiated a diverse response to the 2008 and 2009 coyote encounters. In July of 2009, the city hired a trapper to humanely euthanize all caught coyotes.¹²⁶ Over a ten-day period, the hunter used scent-baited snares to trap nine coyotes, which the hunter then euthanized.¹²⁷ The city also posted flyers to inform residents of what they should do to avoid coyote encounters.¹²⁸ A year later, “[t]he City Council approved a comprehensive coyote management plan,” and floated the idea of creat-

¹¹⁵ CLAIRE SCHLOTTERBECK & MELANIE SCHLOTTERBECK, *A 100 YEAR HISTORY OF WILDFIRES NEAR CHINO HILLS STATE PARK 9* (2012), <http://www.hillsforeveryone.org/PDFs/news/research/A-100-Year-History-of-Wildfires-Near-CHSP.pdf> [<https://perma.cc/A4DA-GXZ4>] (accessed Feb. 2, 2016).

¹¹⁶ *Id.* at 7.

¹¹⁷ Barboza, *supra* note 80.

¹¹⁸ SCHLOTTERBECK & SCHLOTTERBECK, *supra* note 115.

¹¹⁹ YORBA LINDA GENERAL PLAN, *supra* note 109, at RR-51.

¹²⁰ Barboza, *supra* note 80.

¹²¹ *Id.*

¹²² *Coyote Attacks Toddler at California Park* (NBC News television broadcast May 3, 2008) (transcript on file with Animal Law Review).

¹²³ *SoCal Toddler’s Coyote Attack 3rd in 5 Days*, *supra* note 77.

¹²⁴ Barboza, *supra* note 80.

¹²⁵ CHINO HILLS, CAL., CODE OF ORDINANCES § 6.16.080 (2014).

¹²⁶ Heather McRea, *Yorba Linda Dealing with Growing Coyote Presence*, ORANGE CTY. REG., July 30, 2009, at L.

¹²⁷ Barboza, *supra* note 80.

¹²⁸ McRea, *supra* note 126.

ing a “wildlife watch group.”¹²⁹ This group would function like a neighborhood watch group and look for behaviors amongst neighbors that could attract coyotes and other unwanted animals to the neighborhood.¹³⁰ The management plan educated residents about coyote lifestyles and informed them about what actions to take and who to contact if they come across a coyote.¹³¹ The city also used its land planning authority to have a golf course built between the state park and neighborhoods primarily to buffer the neighborhoods from wildfires.¹³² As an added bonus, the city planted cacti along the golf course to prevent coyotes from going through while also providing a habitat for the endangered cactus wren.¹³³

IV. STOP THE FIGHTING: USING ZONING TO SEPARATE HUMANS FROM COYOTES

Both Chino Hills and Yorba Linda used unique approaches to address their coyote problems, but many options remain that may be more preventative or effective for other developing cities throughout the country. One way a local government can address coyote attacks is by separating humans from coyotes. While a city cannot draw a line and tell the coyotes not to go beyond it, cities do have some authority to tell that to humans through zoning ordinances.¹³⁴

Because harm to pets and children is the greatest concern with coyote encounters,¹³⁵ it makes the most sense for developing cities to zone families away from open spaces that house coyotes. This does not mean merely building homes closer to a city’s center, because that just draws the wildland–urban interface closer to the center of the city.¹³⁶ Rather, the city should encourage businesses that do not serve food and other industries to build near the wildland–urban interface because coyotes are less likely to wander into an area where food and water are not readily available to them.¹³⁷ Coyotes have habituated to humans, so dense residential populations at the wildland–urban inter-

¹²⁹ Jessica Terrell, *Wildlife Watch Groups Could Tackle Coyotes*, ORANGE CTY. REG., Aug. 11, 2010, at B.

¹³⁰ *Id.*

¹³¹ CITY OF YORBA LINDA, COYOTE MANAGEMENT PLAN 5–6, 12, 17 (2010) [hereinafter YORBA LINDA COYOTE PLAN].

¹³² Napoles, *supra* note 89.

¹³³ *Id.*

¹³⁴ *See* Vill. of Euclid v. Ambler Realty Co., 272 U.S. 365, 388–89 (1926) (explaining that if zoning regulations are reasonable and not arbitrary then they are valid, even if some inoffensive industries are barred in the zone).

¹³⁵ Timm, *supra* note 1, at 142.

¹³⁶ *See id.* at 139–40 (explaining that coyotes have opportunistic food habits and behavior so they will habituate to the presence of humans and human-associated food resources when those are accessible).

¹³⁷ *See id.* at 139. A city may choose to allow food-service business near open spaces, but will want to be strict about how the businesses throw away their food waste.

face likely would not scare them away, but rather invite them in.¹³⁸ One problem with this proposal alongside a state park or other significant wildland is that it would leave ‘bland’ businesses and industries at the edge of the wildland, which may be aesthetically unappealing to visitors of the wildland. This plan also might not work for cities like Chino Hills and Yorba Linda because they have already developed along wildlands, although cities like these may rezone remaining undeveloped areas in accordance with this plan to at least create piecemeal buffers in parts of their respective municipalities. A piecemeal approach will probably not work nearly as effectively as the full buffer that developing cities will have the luxury of implementing, because holes (residential neighborhoods) may still act as a gateway for coyotes to roam about a city.¹³⁹

Landowners would likely challenge an ordinance that prevented them from selling their property to buyers who want to live in a natural setting. One way that a landowner may challenge a zoning ordinance is by arguing that the ordinance violated the landowner’s substantive due process rights, and therefore the city abused its police powers.¹⁴⁰ Any citizen who challenges the zoning will have the burden of proving that the zoning approach described above is an arbitrary and unreasonable attempt to diminish the risk of harm to children and pets, and the method does not substantially relate to the promotion of public health, safety, and welfare.¹⁴¹

Even though courts are deferential to cities’ legislative actions,¹⁴² cities situated like Chino Hills and Yorba Linda may have even more incentive to zone residences away from wildlife areas. A compelling reason to zone cities so that neighborhoods and wildlife regions have a buffer between them is to protect residents from wildfires.¹⁴³ Protecting residents from wildfires is consistent with *Euclid’s* requirement that zoning regulations be consistent with the health, safety, and welfare of the community.¹⁴⁴ If a city has to choose between placing fami-

¹³⁸ Although not yet a common sight, coyotes have begun living in downtown Chicago and the outskirts of New York City. See Rhodes, *supra* note 17 (discussing how thousands of coyotes have adapted to living in downtown Chicago); Foderaro, *supra* note 18 (discussing how coyotes have begun living in the Bronx in northwest New York City and have occasionally found their way into Manhattan, probably by following train tracks). See generally Timm, *supra* note 1 (detailing the increasing comfort coyotes have with humans).

¹³⁹ Timm, *supra* note 1, at 142–43.

¹⁴⁰ *Vill. of Euclid*, 272 U.S. at 379, 384, 397.

¹⁴¹ See *id.* at 395 (holding that because the Court objects to using a heightened level of scrutiny, the burden is on the complainant to show that the government acted unreasonably).

¹⁴² See *id.* at 388 (“If the validity of the legislative classification for zoning purposes be fairly debatable, the legislative judgment must be allowed to control.”).

¹⁴³ See SCHLOTTERBECK & SCHLOTTERBECK, *supra* note 115, at 18 (stating that cities should plan their neighborhoods not to be dense near the wildland–urban interface to make evacuation during fires easier).

¹⁴⁴ See *Vill. of Euclid*, 272 U.S. at 395 (stating that ordinances must be substantially related to the advancement of the public health, safety, and welfare).

lies or daytime businesses in the potential path of fires, opting to place daytime businesses there is the lesser of two evils. Hills For Everyone recently conducted a study that found the Chino Hills State Park region has suffered more than 100 fires over the last 100 years.¹⁴⁵ The vast majority of the fires were human-caused, with lightning identified as the source of only two fires.¹⁴⁶ Power lines and automobiles caused a large sum of the fires that had a known cause and have also burned the most acres among those fires with an identified cause.¹⁴⁷ The 2008 Freeway Complex Fire alone destroyed 187 homes in the area surrounding the park.¹⁴⁸ As previously discussed, temporary habitat destruction can push coyotes into neighborhoods in search of food and water.¹⁴⁹ While rezoning alone will not stop human-caused wildfires, creating a buffer between neighborhoods and wildlife regions may protect residents from wildfires themselves and also coyotes in search of food and water after the fire.

The second challenge that landowners could make to this restrictive zoning proposal is that the ordinance effects a “taking” of the owner’s land. To “take” land means that a “regulation goes too far” in regulating a piece of land.¹⁵⁰ A clear definition of “too far” does not exist,¹⁵¹ but a court may find a per se taking when the government strips a parcel of land of all of its economically viable use.¹⁵² When a per se taking does not exist, a court will consider the regulation’s economic impact, particularly its impact on investment-backed expectations for the property, and the character of the regulation itself.¹⁵³ All preexisting nonconforming uses tend to be legally valid and therefore residents with homes already built in rezoned areas likely would not bring takings claims.¹⁵⁴ Developers who have held land adjacent to the

¹⁴⁵ SCHLOTTERBECK & SCHLOTTERBECK, *supra* note 115, at 3.

¹⁴⁶ *Id.* at 8.

¹⁴⁷ *Id.* at 11–12.

¹⁴⁸ *Id.* at 2.

¹⁴⁹ Timm, *supra* note 1, at 142–43.

¹⁵⁰ *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922).

¹⁵¹ *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 538 (2005).

¹⁵² *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1016 (1992).

¹⁵³ *Penn Central Transportation Co. v. City of New York*, 438 U.S. 104, 124 (1978).

¹⁵⁴ See *MATTHEW BENDER & CO., INC., 7-41 ZONING AND LAND USE CONTROLS* § 41.03 (2015), Lexis Nexis (explaining that the right to continue a nonconforming use is a valid property right, but government may impose some restrictions in the interest of the public health, comfort, safety or welfare). In California, however, cities may use amortization periods, which put an expiration date on nonconforming uses. As a legitimate use of the police power, a landowner will not be able to prevail on a takings argument in that instance. See *City of Los Angeles v. Gage*, 274 P.2d 34, 44 (Cal. Ct. App. 1954) (holding that using an amortization period satisfies the conflict between the government’s interest in performing a valid rezoning and a landowner’s interest in continuing a nonconforming use).

park in preparation to develop, however, will likely argue that they lost all economically viable use of the land.¹⁵⁵

Whether a parcel of land lost all of its economically viable use depends on what options remain to the landowner for the parcel.¹⁵⁶ A city may argue that the new zoning regulations still allow commercial and manufacturing uses on the parcel. A landowner will have the burden to show that starting any commercial or manufacturing activities on the land will not be economically viable;¹⁵⁷ if housing was the only economically viable use of the land, then the government may have effected a taking. Geography may also influence the economically viable uses remaining to the landowner.¹⁵⁸ If a city is flat and encroaching on other communities, then retail stores or other commercial uses may still have a demand even though they are on the outskirts of the city.¹⁵⁹ However, if a city like Chino Hills or Yorba Linda adopts this proposal, then a landowner may have a valid argument that consumers are less likely to drive into a hilly region to conduct business.

Municipalities must be cautious when regulating uses near publicly owned open spaces. Chino Hills and Yorba Linda have the unique feature of bordering a state park. Where a city borders a government-designated open space, and one of the goals of that open space is to retain its aesthetic appeal, then the city might not allow commercial or industrial uses in the area because of their lack of aesthetic appeal.¹⁶⁰ In fact, the Chino Hills General Plan requires property owners to design buildings with colors and materials that blend into the natural setting in hillside areas.¹⁶¹ Industrial and commercial facilities may struggle to blend into their surroundings, and therefore a city with aesthetic restrictions is less likely to approve their development.¹⁶² If a city zones out residences and also does not allow commercial and industrial uses for individual properties as a result of aesthetic requirements, then a landowner who intended to develop the property before the ordinance was effective will more likely have a successful takings claim.¹⁶³ If cities value aesthetic appeal to the point that they

¹⁵⁵ *Lucas*, 505 U.S. at 1071 (Stevens, J., dissenting) (stating that government interference with an investment-backed expectation can constitute a taking, but also that a court must consider the economic effect on the property).

¹⁵⁶ *Id.* at 1064–65; *see also* *Penn Central Transportation Co.*, 438 U.S. at 136 (stating that when an ordinance takes away one method of making a profit on land but allows, and possibly even promotes, another method to profit, then the government has not taken the property).

¹⁵⁷ *Keystone Bituminous Coal Ass'n v. DeBenedictis*, 480 U.S. 470, 485 (1987).

¹⁵⁸ *See* CHINO HILLS GENERAL PLAN, *supra* note 104, at 1-2 (pointing out that much of the remaining vacant land in the city consists of hillside properties).

¹⁵⁹ *Id.* at 7.

¹⁶⁰ *Id.* at 1–20.

¹⁶¹ *Id.* at 1–19.

¹⁶² *Id.* at 1–20, 8–4.

¹⁶³ Whether a landowner owned a property before the city enacted the ordinance matters. So, too, does the content of the ordinance. If at purchase a landowner has notice of government background principles that prohibit certain kinds of development on a property, then the landowner should know not to seek that sort of development. *See*

do not want any commercial or industrial development near a government-designated open space, then this zoning method will fail for two reasons. First, it will likely result in a taking of properties if no compensation is provided. Second, it will leave the land bordering the government-designated open space as more open space, which only brings the wildland–urban interface closer to the center of the city—defeating the purpose of separating humans from coyotes.¹⁶⁴

Cities also have the option of using zoning ordinances to construct wildlife corridors through communities,¹⁶⁵ but as discussed below, this approach fails to separate humans from coyotes. A wildlife corridor is a strip of open-space land that connects two larger open space wildlands.¹⁶⁶ The purpose of wildlife corridors is to provide animals the ability to move freely between wildlands as they could have done had humans never developed the area.¹⁶⁷ Corridors provide animals the ability to search for food and water, and also ensure genetic diversity within a species.¹⁶⁸ This option suggests using small wildlife corridors *through* parts of a city, as opposed to the Puente-Chino Hills Wildlife Corridor, which spans mostly the *outskirts* of cities.

The corridor option, however, only addresses part of the problem. One of the reasons coyotes travel into neighborhoods is because they have less space available due to urban encroachment, and therefore fewer available food and water resources.¹⁶⁹ Giving coyotes more access to land with the use of wildlife corridors gives them more mobility to seek out the resources they need to survive.¹⁷⁰ However, in arid, fire-prone regions such as southern California, a wildlife corridor

Palazzolo v. Rhode Island, 533 U.S. 606, 626 (2001) (holding that a purchaser cannot claim that an earlier-enacted regulation effects a taking because the purchaser had notice of the regulation before purchase). If a city enacts the restriction after purchase, then the city may have effected a taking. Aesthetic preservation principles in a general plan might be background principles, but an ordinance that allows commercial and industrial uses clearly indicates to a landowner that the landowner has the right to seek those sorts of developments. If, under those circumstances, a city does not permit a landowner to develop commercial or industrial uses when it reviews the landowner's development application, then the city may have stripped the property of its economic viability. Even more so, if a city's ordinance does not allow any development, and the landowner owned the property prior to the ordinance's enactment, then the city may have stripped the property of all economically beneficial uses, thereby effecting a taking. *Lucas*, 505 U.S. at 1027–31.

¹⁶⁴ See Timm, *supra* note 1, at 139 (explaining the expansion of coyote range, adaptability to new environments, and habituation to humans).

¹⁶⁵ Amy Lavine, *The Urban Wildlife We Don't Want: Coyote Management Planning and Regulatory Control Measures* 14–15 (June 11, 2011) (working paper), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1862801 [<https://perma.cc/7JSH-2QN2>] (accessed Feb. 16, 2016).

¹⁶⁶ Jennifer Schlotterbeck, *Preserving Biological Diversity with Wildlife Corridors: Amending the Guidelines to the California Environmental Quality Act*, 30 *ECOLOGY L.Q.* 955, 960 (2003).

¹⁶⁷ *Id.* at 961.

¹⁶⁸ *Id.* at 960.

¹⁶⁹ Timm, *supra* note 1, at 142–43.

¹⁷⁰ SCHLOTTERBECK & SCHLOTTERBECK, *supra* note 115.

might not ensure that a coyote finds the food it needs.¹⁷¹ In fact, a wildlife corridor through a city like Yorba Linda or Chino Hills would increase the overall wildland–urban interface and actually increase the chances that coyotes will end up in neighborhoods.

V. IT'S THEIR FAULT!: USING LAWS TO HOLD HUMANS RESPONSIBLE

If the government cannot effectively separate humans from coyote habitats, then the government may try to regulate human behavior—aside from land-use regulations—to reduce violent encounters. The most well-known law that regulates human behavior in the interest of protecting species is the Endangered Species Act (ESA).¹⁷² Luckily for coyotes, history is not repeating itself. Coyotes are currently human expansion's target because Euro-Americans nearly drove wolves, the original target of such animus in North America, to extinction.¹⁷³ Coyotes have adjusted much better to human encroachment, possibly because they reach sexual maturity faster, have “social malleability,” and have a more diverse diet than wolves.¹⁷⁴ Unfortunately for coyotes, the ESA does not protect thriving species.

Congress passed the ESA in 1973, and the U.S. Fish and Wildlife Service (FWS) promptly listed wolves in the lower forty-eight states as a protected species.¹⁷⁵ The ESA still does not prevent occasional encounters between wolves and humans, and those encounters usually end with dead wolves.¹⁷⁶ Without completely changing the ESA's reactive approach (reactive because the ESA does not protect a species until it has been threatened to a level at which it needs protection), the ESA cannot be used as a tool to reduce violent interactions between humans and coyotes.¹⁷⁷ Habitats that include endangered or threatened species may protect coyotes because humans face more development restrictions in these areas,¹⁷⁸ but coyotes cannot stay in

¹⁷¹ See RACHEL CLEETUS & KRANTI MULIK, UNION OF CONCERNED SCIENTISTS, PLAYING WITH FIRE 8 (July 2014), http://www.ucsusa.org/sites/default/files/legacy/assets/documents/global_warming/playing-with-fire-report.pdf [https://perma.cc/2CFL-9343] (accessed Feb. 16, 2016) (detailing how fire-prone southern California is).

¹⁷² 16 U.S.C. §§ 1531–1544 (2014).

¹⁷³ See COLEMAN, *supra* note 4, at 3 (discussing the possible reasons why humans may have hated wolves through much of history).

¹⁷⁴ *Id.* at 184.

¹⁷⁵ *Id.* at 13; 16 U.S.C. § 1531 (1973).

¹⁷⁶ Orlan Love, *Another Wolf Slain in Iowa*, THE GAZETTE, <http://www.thegazette.com/subject/environment/nature/endangered-species/another-wolf-slain-in-iowa-20140717> [https://perma.cc/8N4N-ESU9] (July 17, 2014) (accessed Feb. 24, 2016) (reporting on a farmer who sincerely thought he was shooting a coyote and did not know he was breaking the law, then went out of his way to cooperate with Department of Natural Resources, and therefore was not punished).

¹⁷⁷ See 16 U.S.C. § 1533(b) (2014) (stating that in order for a species to be listed as endangered, it must be near extinction).

¹⁷⁸ CHINO HILLS, CAL., DEV. CODE § 16.28.020 (2014).

those places when fires or droughts force them toward the suburbs.¹⁷⁹ Unless FWS designates coyotes as an endangered species, which is highly unlikely, humans will continue to eradicate just enough coyotes to temporarily solve any aggression issues, while also temporarily providing rodents with a predator-free habitat.¹⁸⁰ The other option would be to hunt coyotes to the point of near-extinction like we did with wolves, but listing is a potentially long process that may not immediately help coyotes.¹⁸¹ Regardless, it seems contrary to the law's purpose to hunt animals to the brink of extinction simply for the law to protect them but not even solve the problem of safely separating the animals from humans.¹⁸²

If a city is unable to zone or rezone in a manner that separates families from coyotes, and because federal law does not offer coyotes any protection, the city's next best option is to regulate human behavior to keep citizens from attracting coyotes into neighborhoods. Regulating humans suggests that the violent encounters are humans' fault.¹⁸³ Citizens may argue that the government should be liable for such attacks because the government drew the lines that dictate where humans can live; the government is the human actor that caused the problem.¹⁸⁴ The government, however, is generally not liable for harm to humans from native animals other than what it willingly takes upon itself.¹⁸⁵

A plaintiff in 1995 tried to challenge this notion (the amount of responsibility the government has in managing native animals) when a mountain lion attacked his son while hiking in Gaviota State Park in California in 1992.¹⁸⁶ The plaintiff claimed that the state negligently allowed unassuming hikers to enter a state park under the belief that the park was safe when indeed it was not.¹⁸⁷ Because the state knew that the park was unsafe, but provided information that the plaintiff

¹⁷⁹ Barboza, *supra* note 80.

¹⁸⁰ Lavine, *supra* note 165, at 2, 13 (stating that coyotes tend to prey on rodents and rabbits, especially in suburban regions with gardens that attract even more prey).

¹⁸¹ D. NOAH GREENWALD & KIERAN F. SUCKLING, CENTER FOR BIOLOGICAL DIVERSITY, PROGRESS OR EXTINCTION? 3–4 (May 2005), <http://www.biologicaldiversity.org/publications/papers/esareport-revised.pdf> [<https://perma.cc/QY7U-3S23>] (accessed Feb. 11, 2016).

¹⁸² 16 U.S.C. § 1531(b) (2014).

¹⁸³ See Hope M. Babcock, *Should Lucas v. South Carolina Coastal Council Protect Where the Wild Things Are? Of Beavers, Bob-o-Links, and Other Things That Go Bump in the Night*, 85 IOWA L. REV. 849, 858, 896–97 (2000) (explaining how laws protecting wild animals restrict landowners' freedom and challenge the traditional notion of absolute dominion over private property).

¹⁸⁴ See Glave v. Michigan Terminix Co., 407 N.W.2d 36, 36–37 (1987) (holding that a landowner who sued her city for its pest control practices related to pigeons did not have a valid claim because the city never had dominion over the birds).

¹⁸⁵ See Nicolson v. Smith, 986 S.W.2d 54, 60 (1999) (explaining that the doctrine of *ferae naturae* provides that no unqualified property rights can be exerted over animals that remain wild, unconfined, and undomesticated).

¹⁸⁶ Arroyo v. California, 34 Cal. App. 4th 755, 759–60 (1995).

¹⁸⁷ *Id.* at 760.

assumed to ensure safety, the plaintiff claimed that the State had a duty to actually provide a safe environment.¹⁸⁸ The California Court of Appeals struck down the plaintiff's argument because section 831.2 of the California Government Code grants public entities complete immunity against any injury claim arising from natural conditions of unimproved public property.¹⁸⁹

The case from Gaviota State Park held that wild animals are a natural condition of *unimproved* public property.¹⁹⁰ A citizen might argue that cities are *improved* public property and therefore the government has a duty to take care of the wild animals that travel on public streets and cause damage to private property. Wild animals are the State's property,¹⁹¹ but section 831.2 only applies to public lands.¹⁹² A citizen may try to piece together statutory and common law principles to argue that the government has a duty to protect citizens from dangerous, wild animals on *improved* public lands, e.g., streets and municipal parks. But, the Montana Supreme Court may have already implicitly addressed this issue. In 2007, that court distinguished between *ferae naturae* (wild animals) and *domitae naturae* (domestic animals) and applied the common law principle that a landowner is only responsible for *domitae naturae*.¹⁹³ Following the Montana Supreme Court's approach, one could argue that the government is not liable for wild animals on its property regardless of how improved the property may be.¹⁹⁴

One remaining issue is whether the government is liable for its property (wild animals) when it enters onto private property. The Seventh Circuit, in a case from Illinois, stated that the government does not actually own, control, or possess *ferae naturae*, therefore one cannot hold the government responsible for trespass when *ferae naturae* enter private property.¹⁹⁵ Interestingly, the Tenth Circuit, in a case from Wyoming, has touched on this issue when analyzing a takings claim. The Rock Spring Grazing Association sued the Secretary of Interior because the Association's members' cattle competed with wild horse herds for grazing land.¹⁹⁶ The Association brought a takings claim to recover damages to private land where wild horses grazed.¹⁹⁷ In determining "whether the Secretary's failure to manage the wild

¹⁸⁸ *Id.*

¹⁸⁹ *Id.* at 761–62; CAL. GOV. CODE § 831.2 (West 2015) ("Neither a public entity nor a public employee is liable for an injury caused by a natural condition of any unimproved public property . . .").

¹⁹⁰ *Arroyo*, 34 Cal. App. 4th at 762.

¹⁹¹ *Id.*

¹⁹² CAL. GOV. CODE § 831.2 (West 2015).

¹⁹³ *Estate of Hilston v. Montana*, 160 P.3d 507, 510–11 (Mont. 2007).

¹⁹⁴ *See id.* at 510 (referring to public property without the adjective "unimproved" in its framing of the issue).

¹⁹⁵ *Sickman v. United States*, 184 F.2d 616, 618 (7th Cir. 1950).

¹⁹⁶ *Mountain States Legal Found. v. Hodel*, 799 F.2d 1423, 1424 (10th Cir. 1986) (en banc).

¹⁹⁷ *Id.*

horse herds, in accordance with the requirements of the Wild Free-Roaming Horses and Burros Act . . . gives rise to a claim for a taking of the Association's property under the Fifth Amendment," the court decided that it must perform an ad hoc inquiry to determine whether a taking occurred, and that the Association failed to meet its significant burden to show that the government deprived the property of all economically viable use.¹⁹⁸ The court also emphasized that the government does not have "technical 'ownership'" of wildlife.¹⁹⁹ Although the Tenth Circuit specifically analyzed government responsibility regarding protected wildlife,²⁰⁰ the rules from the Seventh and Tenth Circuits and the Montana Supreme Court taken together imply that citizens cannot hold government entities liable for wildlife-caused damages on any public or private property.

Because citizens will struggle to show that the government has a responsibility to control wild animals on any lands, the government will likely only effectively manage humans to control human-coyote interactions. Chino Hills' ordinance that prevents anyone from housing or caring for a wild coyote is an excellent example of a new law that can affect human behavior to reduce the risk of violent human-coyote encounters.²⁰¹ No enforcement action explicitly exists in the ordinance,²⁰² so Chapter 1.36 of the Chino Hills Code of Ordinances likely governs the ordinance's enforcement.²⁰³ Any citizen who violates municipal codes in Chino Hills faces misdemeanor charges and the accompanying punishment, unless the violated ordinance states otherwise.²⁰⁴ The city also reserves the right to seek civil remedies under public nuisance theory.²⁰⁵ Cities that adopt similar ordinances may consider imposing specific sanctions for violating the specific coyote ordinance if they want to emphasize the uniqueness and importance of their respective ordinances.

Because Chino Hills' ordinance does not provide specific enforcement and punishment guidelines, enforcing this unique ordinance poses new challenges, but two possible ways exist to find violations. The first way would be to use Yorba Linda's idea of creating a "wildlife watch group"²⁰⁶ that would look for instances of fellow residents "providing for" coyotes in "any manner", e.g., leaving a bowl of dog food outside; although the homeowner may not willfully be providing for a coyote, they would be "providing for" the coyote in "any manner".²⁰⁷ The second method involves interpreting the ordinance as codified neg-

¹⁹⁸ *Id.* at 1425, 1431.

¹⁹⁹ *Id.* at 1426.

²⁰⁰ *Id.*

²⁰¹ CHINO HILLS, CAL., CODE OF ORDINANCES § 6.16.080 (2014).

²⁰² *Id.*

²⁰³ CHINO HILLS, CAL., CODE OF ORDINANCES § 1.36 (2014).

²⁰⁴ CHINO HILLS, CAL., CODE OF ORDINANCES § 1.36.010 (2014).

²⁰⁵ CHINO HILLS, CAL., CODE OF ORDINANCES § 1.36.040 (2014).

²⁰⁶ Terrell, *supra* note 129.

²⁰⁷ CHINO HILLS, CAL., CODE OF ORDINANCES § 6.16.080.

ligence. If a coyote harms someone and that person can show that his or her neighbor had been leaving food or water outside that attracted coyotes, the victim may try to argue that the neighbor is liable for the injuries because that neighbor attracted coyotes by providing for them.²⁰⁸

Additionally, feeding coyotes is illegal under California law, but the state rarely enforces the law because of the difficulty in proving an infraction.²⁰⁹ Title 14 of the California Code of Regulations also does not provide any indication of punishment available for a person guilty of feeding a coyote.²¹⁰ If the state government fails to enforce its law, then local governments will be the only available option to regulate human behavior.

VI. BUT I DIDN'T DO ANYTHING WRONG!: REGULATING COYOTES

An option that regulates the coyotes is to relocate those individuals that stray too far into neighborhoods. On paper, this idea sounds good because coyotes get to live. In California, however, regulations call for immediate euthanasia of any captured wild animals.²¹¹ Although the law seems inhumane or unreasonable, valid reasons exist for why killing a captured problem animal may be the best option. A habituated coyote will likely be just as comfortable with people in a new neighborhood; therefore, relocated coyotes may pose a threat in their new area.²¹² If a coyote is simply relocated deeper into the same wilderness area from which it came, it could find its way back to a neighborhood it was already in.²¹³ The regulation that all captured animals must be euthanized is more practical than relocating problem animals and prevents potential violent encounters with a specific habituated animal in the future.

A second option to regulate coyotes is employing coyote hazing. Hazing is a method that attempts to make habituated coyotes scared of humans so they will avoid them in the future.²¹⁴ The Yorba Linda Coyote Management Plan provides examples of hazing. The plan defines hazing as “a process whereby a number of individuals encountering a

²⁰⁸ *Id.*

²⁰⁹ Orthmeyer et al., *supra* note 97, at 347; CAL. CODE REGS. tit. 14, § 251.1 (2014) (“Except as otherwise authorized in these regulations or in the Fish and Game Code, no person shall harass, herd or drive any game or nongame bird or mammal or furbearing mammal. For the purposes of this section, harass is defined as an intentional act which disrupts an animal’s normal behavior patterns, which includes, but is not limited to, breeding, feeding or sheltering.”).

²¹⁰ See CAL. CODE REGS. tit. 14, § 251.1 (2014) (providing no indication of a punishment).

²¹¹ Orthmeyer et al., *supra* note 97, at 347; CAL. CODE REGS. tit. 14, § 465.5(g)(1) (2014).

²¹² Lavine, *supra* note 165, at 10.

²¹³ *Id.*

²¹⁴ *Id.* at 9.

coyote respond in like manner to make a coyote uncomfortable and choose to leave a situation where their presence is unwanted.”²¹⁵ Coyote hazing methods should not be harmful, but should involve enough of an annoyance to the coyote so that it will know humans do not want it around.²¹⁶ The plan separates hazing methods between basic and aggressive methods. Basic methods require an individual to not turn his or her back on the coyote, and to yell or make other frightening and unpleasant noises until the coyote leaves.²¹⁷ Aggressive methods include using loud noisemakers such as whistles and air horns, aggressively approaching the coyote, throwing objects at the coyote, or spraying the coyote with water or pepper spray.²¹⁸

One last method to control coyotes is probably the most popular option: publicly-funded hunting and trapping. When hazing proves ineffective and coyotes continue to encounter humans, the most effective way to prevent human injuries is to destroy habituated coyotes.²¹⁹ Hunters may struggle to find a specific problem animal, however, and may indiscriminately use traps.²²⁰ Trapping methods draw more than just the problem animal, and sometimes fail to even draw the targeted individual.²²¹ Unfortunately for any trapped coyotes, California regulations require euthanasia for all trapped animals.²²² Therefore, hunts in response to an attack tend to be inequitable from the coyotes’ perspective.²²³ The most important thing to remember about trying to regulate coyotes, however, is that they do not speak our language nor do they understand our laws.

VII. MENDING FRIENDSHIPS: LESSONS APPLICABLE TO ALL COMMUNITIES

Coyote encounters are now national occurrences that pose a risk to pets and small children,²²⁴ but managing these encounters is a task that the federal government and state governments cannot handle.

²¹⁵ YORBA LINDA GENERAL PLAN, *supra* note 109, at 10.

²¹⁶ *Id.* at 10–11.

²¹⁷ *Id.* at 10.

²¹⁸ *Id.*

²¹⁹ Timm, *supra* note 1, at 144.

²²⁰ Bacon, *supra* note 8, at 378.

²²¹ *Id.*

²²² CAL. CODE REGS. tit. 14, § 465.5(g)(1) (2014).

²²³ See, e.g., *SoCal Toddler’s Coyote Attack 3rd in 5 Days*, *supra* note 77 (describing how three coyotes were killed after two children were attacked by likely the same coyotes); Willian Avila & Vikki Vargas, *Coyote Bites, Drags 2-Year-Old Girl at Orange County Cemetery*, NBC NEWS SOUTHERN CAL., <http://www.nbclosangeles.com/news/local/Coyote-Bites-Drags-Toddler-at-OC-Cemetery-216600781.html> [<https://perma.cc/B9LZ-HFZ7>] (July 23, 2013) (accessed Feb. 1, 2016) (describing how three coyotes were killed after one child was attacked).

²²⁴ See Timm, *supra* note 1, at 139 (describing how coyotes have spread through almost all of North America); see also *SoCal Toddler’s Coyote Attack 3rd in 5 Days*, *supra* note 77 (discussing coyote attacks on three children in two cities in southern California in a five-day period).

Federal laws do not offer coyotes any protection, but rather unnecessarily harm thousands of coyotes.²²⁵ State governments may enact laws that mitigate human–coyote interactions, but the states must properly and consistently enforce those laws to have an effect. Because coyote encounters tend to occur in suburban communities that encroach on traditional wildland,²²⁶ those municipal governments must take charge of regulating human–coyote encounters. An individual community will know if coyotes are a problem for them, and that community should seek to protect the safety and welfare of its citizens.

Developing communities have the most tools available to control human–coyote interactions. Most importantly, developing communities have the ability to enact zoning ordinances before preexisting structures can conflict with any attempts at regulation.²²⁷ When planning a city’s growth, city planners should designate at what point the city will end and wildland will begin.²²⁸ Cities adjacent to government-designated open spaces will have a clear boundary. City planners do not want to restrict all development adjacent to the boundary because that brings the wildland–urban interface closer to the center of the city and also risks takings claims.²²⁹ Rather, city planners should allow certain commercial and industrial uses at these boundaries to create a buffer of human uses that do not attract coyotes inward. Planners should be wary of any aesthetic restrictions in the city plan; if, in the future a city denies development permits for permitted uses, then landowners may bring takings claims.²³⁰

Developing cities should follow Chino Hills’ example before any coyote encounters occur. Regulating human behavior before humans have a chance to attract coyotes into neighborhoods may prevent future harm to pets and small children and also to coyotes.²³¹ If coyotes in a certain region never lose their fear of humans, then they will

²²⁵ See discussion *supra* Section IV (discussing how the Endangered Species Act’s reactive approach does not offer thriving species any protection); see also Bacon, *supra* note 8, at 379 (providing statistics of how many predatory animals the Wildlife Service killed—or authorized the killing of—in recent years, including tens of thousands of coyotes in 2010 alone under the authority of the Animal Damage Control Act).

²²⁶ Timm, *supra* note 1, at 140 (explaining that most coyote attacks through 2003 occurred near the suburban–wildlife interface).

²²⁷ See *supra* note 154 and accompanying text; *Vill. of Euclid*, 272 U.S. at 388–89 (explaining that if zoning regulations are reasonable and not arbitrary, then they are valid, even if some inoffensive industries are barred in the zone).

²²⁸ Such planning is essentially using urban growth boundaries (“UGBs”). UGBs are borders around a municipality that designate where development may occur (inside the UGB) and where development may not occur (outside the UGB). Oregon has pioneered the use of UGBs for decades, and other states are adopting similar models. UGBs are effective at allowing urban growth while also restricting urban sprawl. Ethan Seltzer & Richard Whitman, *Land Use Planning in Oregon*, in *PLANNING FOR STATES AND NATION/STATES*, 14–15 (2012).

²²⁹ See discussion *supra* Section III.

²³⁰ *Id.*

²³¹ Timm, *supra* note 1, at 144.

likely stay out of human neighborhoods and not be a problem.²³² Cities should also take it upon themselves to educate the public about the dangers of letting coyotes habituate and teach citizens proper ways to haze coyotes to reinforce their fear of humans.²³³ Cities can proactively adopt coyote management plans that give citizens information about what to do and who to contact if someone encounters a coyote.²³⁴ Should human–coyote encounters become an issue, cities should sponsor a coyote watch group like the one proposed in Yorba Linda.²³⁵

Developed communities have the obvious disadvantage of already being developed. Zoning for a commercial–industrial buffer along wildland will likely prove ineffective because preexisting, nonconforming uses likely can continue.²³⁶ A city may zone undeveloped areas that border a wildland to develop some buffer, but the effectiveness of piecemeal buffers is questionable.²³⁷ A city may also loosen any aesthetic restrictions to allow more commercial and industrial uses near a wildland; this may slowly allow a city to create a buffer but it will not help if coyotes have already habituated to the community. The easiest thing that developed cities can do is follow Chino Hills' and Yorba Linda's lead. If a city foresees human–coyote interactions as a potential problem, then the city should enact an ordinance like the one in Chino Hills to prevent the problem from starting. Developed cities should also take it upon themselves to educate the public, adopt a coyote management plan, and develop a coyote watch group. All cities, regardless of how developed they are, have the legal power to regulate interactions between humans and coyotes.²³⁸ If coyote encounters are already a problem, then cities should use their power to mitigate the problem before more people, pets, and coyotes get hurt. If coyote encounters are not yet a problem, then cities should use their power to prevent the problem from starting to potentially save pet, coyotes, and human lives.

²³² See *id.* (explaining that careful shooting and trapping may re-instill fear in remaining coyotes and cause those coyotes to disperse); *but see* Bacon, *supra* note 8, at 378–79 (explaining that indiscriminate methods of hunting and trapping do not guarantee the removal of a problem animal and pose a risk to other animals).

²³³ Timm, *supra* note 1, at 144.

²³⁴ See Foderaro, *supra* note 18 (describing New York City's strategy for dealing with coyote sightings).

²³⁵ Although Yorba Linda's plans did not directly influence New York City, neighborhoods in New York City have already adopted similar strategies in light of recent sightings. The city's parks department planned on posting fliers, handing out information cards, and holding a program entitled "Living With Urban Coyotes." *Id.*

²³⁶ MATTHEW BENDER & CO., INC., *supra* note 154.

²³⁷ See Lavine, *supra* note 165, at 14–15 (stating the value of contiguous habitat).

²³⁸ See CITY OF CASTLE PINES, COYOTE MANAGEMENT PLAN 1 (2010) (describing a community-based awareness and monitoring program similar to Yorba Linda's); see CHERRY HILLS VILLAGE, COYOTE MANAGEMENT PLAN 1 (2013) (adding extra language concerning the protection of local livestock); see CITY OF WHEAT RIDGE, COYOTE MANAGEMENT PLAN 2 (2013) (assigning the monitoring and incident response of coyotes to the city police department).

VIII. CONCLUSION

Although a bevy of regulations are available to cities to control encounters between humans and coyotes, encounters will still likely occur.²³⁹ Development along wildland–urban interfaces poses initial threats to coyotes’ food and shelter sources, and eventually gives coyotes the chance to habituate to humans.²⁴⁰ Because state and federal laws fail to regulate interactions between humans and coyotes, local governments have the burden to do so.²⁴¹ Cities and growing communities will need to decide the best methods available to prevent coyotes from hurting more children and pets.

Local governments in developing regions can prepare for coyote attacks before any actually happen by maximizing their police powers. These municipalities have the ability to zone their land to create an industrial buffer between wildlands and neighborhoods. A coyote will have a better chance of finding food in a desert than a commercial or industrial district that does not produce food waste.²⁴² Any city can also follow Chino Hills’ example by enacting ordinances that make caring for or feeding coyotes illegal.²⁴³ If cities combine this idea with a comprehensive coyote management plan, such as the one in Yorba Linda,²⁴⁴ then local governments can rely on neighbors to hold each other responsible to make sure no one is attracting coyotes into the neighborhood.²⁴⁵ Cities should also use non-legal methods such as educating the public about how to react and who to contact should they encounter a coyote.²⁴⁶ Any combination of these ideas should make cities near wildlands safer for their residents and coyotes. Even if a city does not have a history of coyote encounters, if the possibility of encounters is at all foreseeable, then the city should do whatever it can to prevent violent encounters between its citizens, especially small children, and coyotes.

²³⁹ Sam Young & Kate Malpeli, *Coyote Ecology and Conflicts with Humans Across the Urban–Wildland Gradient: Identifying the Potential Impacts of Changing Land Use*, THE NELSON INST. FOR ENVTL. STUDIES, http://faculty.nelson.wisc.edu/treves/reports/2015_Coyote_Lit_Review_final.pdf [<https://perma.cc/BA3D-WJFD>] (accessed Feb. 24, 2016).

²⁴⁰ Timm, *supra* note 1.

²⁴¹ See *generally* 16 U.S.C. § 1531(b) (declaring the purpose of the Act to conserve endangered and threatened species of animals, not to safely separate species from humans); Orthmeyer et al., *supra* note 97, at 347 (describing how Title 14 of the California Code of Regulations, CAL. CODE REGS. tit. 14, § 251.1 (2014), that prohibits people from feeding coyotes, is often not enforced).

²⁴² See Jim Bremner, *Coyotes*, DESERTUSA, <http://www.desertusa.com/animals/coyote.html> [<https://perma.cc/LVP6-Z95X>] (accessed Feb. 2, 2016) (describing coyotes as opportunistic predators that eat whatever food the area offers).

²⁴³ See CHINO HILLS, CAL., CODE OF ORDINANCES § 6.16.080 (making illegal possession of or care for coyotes).

²⁴⁴ YORBA LINDA COYOTE PLAN, *supra* note 131.

²⁴⁵ See discussion *supra* Section IV; Terrell, *supra* note 129.

²⁴⁶ YORBA LINDA COYOTE PLAN, *supra* note 131, at 17.

