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Presented by: The Manager  
Introduced: 03/08/2004  
Drafted by: J.W. Hartle

**ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA**

**Serial No. 2004-11**

**An Ordinance Repealing and Reenacting the Urban Bear Ordinance.**

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

**Section 1. Classification.** This ordinance is of a general and permanent nature and shall become a part of the City and Borough code.

**Section 2. Amendment of Section.** CBJ 03.30.053, the health and sanitation fine schedule is amended at the provisions applicable to "bear attraction nuisance" to read:

36.20.056(a)(2)a.	Bear attraction nuisance (purposeful)	1st	<del>250.00</del> 50.00
		2nd within 2 years	<del>500.00</del> 100.00
		3rd and subsequent within 2 years	<del>MCA</del> 300.00
36.20.056(a)(2)b.	Bear attraction nuisance (nonpurposeful)	1st	<del>50.00</del>
		2nd within 2 years	<del>100.00</del>
		3rd and subsequent within 2 years	<del>300.00</del>

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1           **Section 3. Repeal and Reenactment of Section.** CBJ 36.20.056 is repealed  
2 and reenacted to read:

3           **36.20.056 Bear attraction nuisance.**

4           (a) Offense. Except as provided in this section, no owner or person in charge of  
5 property shall cause or allow the creation or maintenance of a bear attraction  
6 nuisance on that property or the adjacent right-of-way.

7           (b) Classification of offense. Violation of this section is

8                 (1) A class A misdemeanor if the offense is committed intentionally,  
9                     knowingly, or recklessly;

10                (2) A class B misdemeanor if the offense is committed with criminal  
11                   negligence;

12                (3) An infraction if the offense is not committed intentionally, knowingly,  
13                   recklessly, or with criminal negligence;

14                (4) Terms in this subsection identifying culpable mental states shall have  
15                   the meaning ascribed to them in CBJ 42.05.010.

16           (c) Citations. Whenever waste or other material in violation of this section is  
17 found on property, the officer finding it may note the address and any other  
18 information upon or within the material which may identify the owner or person in  
19 charge of the property, and shall conspicuously affix to such property a summons  
20 and complaint for the owner or person to answer to the charge in court at a specified  
21 time, provided, however, that service for misdemeanor offenses shall be according to  
22 the Alaska Rules of Court.

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(d) Defenses.

- (1) It shall be no defense for the owner of property to a charge under this section that the property was in the possession or control of another, unless it can be shown to the satisfaction of the court that at such time such property was being used without the consent of the owner.
- (2) It shall be a defense for the owner of property to a charge of a failure to appear in court if it is shown to the court's satisfaction that the owner was not aware of the citation and that such property was in the possession or control of another.

(e) Definitions. For purposes of this section:

- (1) "Bear attraction nuisance" means
  - (A) More than one-half gallon of any putrescible material, including packaging or other surfaces to which the material is adhered;
  - (B) Any organic material of a type which has previously attracted a bear to the property;
  - (C) Soiled disposable diapers;
  - (D) Exceptions. "Bear attraction nuisance" does not include:
    - i. Material in a certificated landfill;
    - ii. Manure or sewage;
    - iii. Material in a garbage can stored outside temporarily for purposes of collection after 4:00 a.m. on a day scheduled for collection;
    - iv. Living or dead flora or fauna indigenous to the property on which it is located;

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**Section 4. Effective Date.** This ordinance shall be effective 30 days after its adoption.

Adopted this      day of              2004.

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Bruce Botelho, Mayor

Attest:

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Laurie J. Sica, Clerk