

Presented by: The Manager
Introduced: 06/18/2001
Drafted by: J.R. Corso

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2001-37

An Ordinance Amending the Health and Sanitation Code to Provide for Notice and Cure of Violations, to Redefine the Term “Bear Attraction Nuisance”, and to Provide for Service of Citations by Posting on Property.

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 36.20.056(c) is amended to read:

36.20.056 Urban Bear Control.

(a) Bear Attraction Nuisance.

(1) A peace officer or enforcement agent may issue a written notice to the owner or person in control of property containing a bear attraction nuisance. The recipient shall within 48 hours abate the nuisance described in the notice.

(2) Violation of this section is:

(A) a class A misdemeanor if the bear attraction nuisance is created or maintained for the purpose of attracting bears, or

(B) a class B misdemeanor if the bear attraction nuisance is not created or maintained for the purpose of attracting bears.

(b) Storage of Garbage.

(1) Except as provided in this section, no owner or person in charge of property shall wilfully or negligently cause or allow the storage of garbage on that property or any right of way adjacent thereto except in:

(A) a fully enclosed structure subject to the setback requirements of Title 49 of this code,

(B) a garbage can owned and emptied daily by a government agency,

(C) a bear-resistant structure or container, or

(D) a certificated landfill.

(2) Notwithstanding subsection (b)(1) of this section, garbage may be stored outside in a garbage can meeting only the requirements of subsection (c) of this section temporarily for purposes of collection after 4:00 a.m. on a day scheduled for collection.

(3) Violation of this subsection (b) is an infraction.

(A) Whenever a garbage can is found in violation of any of the restrictions imposed by this subsection (b), the officer finding it may note the address and any other information upon or within the garbage can which may identify the owner or person in charge of the property using the garbage can, and shall conspicuously affix to such property a summons and complaint for the owner or person to answer to the charge in court at a specified time.

(B) It shall be no defense for the owner of property to a charge under subsection (b) 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. It shall be a defense for the owner of property to a charge of a failure to appear 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.

(c) Definitions. As used in this section:

“Bear attraction nuisance” means property other than a certificated landfill containing:

(i) more than five gallons of garbage not in any structure or container or in only a cardboard box or plastic bag, or

(ii) any organic material other than indigenous vegetation or wildlife which has on one or more prior occasions attracted a bear to the property.

“Bear-resistant” means capable of preventing access to the contents by a person using neither hands nor tools.

“Garbage” means all putrescible wastes, except animal wastes, but including disposable diapers and wastes resulting from the handling, preparation and consumption of food.

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“Garbage can” or “garbage container” means a watertight, odor-free, corrosion-resistant container of not less than 20 nor more than 33 gallons capacity, equipped with tight-fitting covers, loaded only as much as will allow the covers to be securely placed, and inscribed with the address of its owner.

“Person in control” means a tenant or an agent, superintendent, or other owner’s representative.

“Property” means developed or undeveloped real property, including any apartment house, mobile home park, planned unit development, or other multifamily development.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this 2nd day of July, 2001.



Sally Smith, Mayor

Attest:

Elizabeth J. McEwen, Deputy City Clerk