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BOARD OF COUNTY COMMISSIONERS

COUNTY OF EAGLE, STATE OF COLORADO


ORDINANCE NO. 07-____


**AN ORDINANCE PROHIBITING THE FEEDING OF WILDLIFE AND REGARDING WASTE
DISPOSAL IN UNINCORPORATED EAGLE COUNTY**


WHEREAS, pursuant to C.R.S. §30-15-401, the Board of County Commissioners of Eagle County, Colorado is authorized to adopt ordinances related to mitigation of nuisances; and


WHEREAS, the Board of County Commissioners finds that the feeding of wildlife, inadvertent or otherwise, within


 **Bear-Resistant Cart Garage** (2)


 **Bear-Resistant Food Storage Lockers** (11)

 **Bear-Resistant "BE Series" Trash Cans and Recycle Bins** (5)

 **Bear-Resistant "CE Series" Trash Cans and Recycle Bins** (14)


 **Bear-Resistant "HA Series" Trash Cans and Recycle Bins** (8)

 **Bear-Resistant "Hid-A-Bag" Trash Cans and Recycle Bins** (19)

 **Bear-Resistant "Bearier™ RCE Series" Residential Can/Cart Enclosures** (7)

 **Bear-Resistant Dumpsters** (2)

 **Bear-Resistant Residential Poly Carts** (4)

 **Bear-Resistant "Mini Depot" Trash Cans and Recycle Bins** (2)

 **Hot Coal Containers** (3)

unincorporated territory of Eagle County and County controlled lands constitutes a nuisance and menace to property and the health, safety, and welfare of the citizens of Eagle County; and

WHEREAS, the Board of County Commissioners finds that regulations and standards requiring the utilization of wildlife-resistant containers, wildlife-proof refuse containers, wildlife-proof dumpster enclosures and the proper storage of food or refuse edible by bears or wildlife, are necessary to enhance public safety and protect the health and welfare of bears and other wildlife; and

WHEREAS, the Board of County Commissioners finds that human refuse provides an abundant yet unhealthy supply of food for wildlife that will support artificially high populations, placing additional strain on an already insufficient supply of naturally occurring foods.

NOW THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of the County of Eagle, State of Colorado:

1. Basis/Purpose

Bears, mountain lions, skunks, raccoons, magpies, crows, foxes, and coyotes are a few of the wildlife species living in close proximity to people in Eagle County. Over the past several years human-wildlife conflict incidents dealing with these species have dramatically increased. Human provided food sources are a primary cause of conflicts between wildlife and people. Of particular concern is the issue of certain residents intentionally or unintentionally feeding these animals and creating potential safety issues.

1. Intent

The Board of County Commissioners finds and declares that the purpose of this Ordinance is to protect the public health and welfare by prohibiting the feeding of wildlife in any manner on private property within Eagle County or on Eagle County controlled lands.

2. Definitions

The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this section:

A. Premises – means property owned, occupied, leased, or expressly permitted to be used by a resident, including any confined area or locality such as a residence, business, room, shop, building, motor vehicle, or refuse container/dumpster enclosure.

B. Person – any person, resident, occupier, firm, corporation, or organization within unincorporated Eagle County or on

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County controlled land.

C. Wildlife – any undomesticated and unrestrained animal, including but not limited to elk, deer, sheep, lynx, bears, skunks, squirrels, raccoons, magpies, crows, coyotes, bobcats, foxes, and mountain lions.

D. Wildlife-Proof Refuse Container (WPRC) – a fully enclosed container constructed of non-pliable material (*e.g.*, metal) to prevent access by wildlife and meeting the standards as set forth in the Site Development Standards of the Eagle County Land Use Regulations, as may be amended from time to time. WPRCs must also meet the standards of testing by the Living With Wildlife Foundation and approved by the Interagency Grizzly Bear Committee (IGBC) as bear resistant for 90 minutes. A dumpster or similar trash receptacle of heavy construction may be a WPRC. The container must employ a latching mechanism on the access door sufficient to defeat attempts by wildlife to enter. All WPRCs must have the residence street address and unit number permanently affixed to the container with digits no smaller than two inches in height.

E. Wildlife-Proof Dumpster Enclosure (WPDE) – a fully enclosed structure consisting of four sides and a roof or cover of sufficient design and construction to prevent access by wildlife and meeting the standards as set forth in the Site Development Standards of the Eagle County Land Use Regulations, as may be amended from time to time. WPDEs must also meet the standards of testing by the Living With Wildlife Foundation. The door or cover must have a latching mechanism sufficient to prevent entry by wildlife. The sides of the structure must extend to within two inches of the ground, and ventilation openings must be covered with a heavy gauge steel mesh or other material of sufficient strength to prevent access by wildlife. Mesh openings shall not exceed one-quarter inch in width. All WPDEs must have the residence street address and unit number permanently affixed to the container with digits no smaller than two inches in height. The door or cover to the WPDE may be removed from December 1 through March 30.

G. Wildlife-Resistant Refuse Container (WRRC) – a fully enclosed container that can be constructed of pliable materials, but must be reinforced to deter access by wildlife and meeting the standards as set forth in the Site Development Standards of the Eagle County Land Use Regulations, as may be amended from time to time. The container must employ a sturdy pliable lid that has a latching mechanism preventing access to its contents by wildlife. WRRCs must also meet the standards of testing by the Living With Wildlife Foundation and approved by the Interagency Grizzly Bear Committee (IGBC) as bear resistant for 90 minutes. The container must employ a latching mechanism on the access door sufficient to defeat attempts by wildlife to enter. All WRRCs must have the residence street address and unit number permanently affixed to the container with digits no smaller than two inches in height.

4. Feeding of Wildlife Prohibited



A. With the exception of 4 B below governing birdfeeders, no person shall intentionally feed or knowingly leave or store any refuse, food product, pet food, or other product edible by wildlife on any premises in a manner which would constitute a lure, attraction, or enticement of wildlife on property within unincorporated Eagle County or Eagle County controlled lands.

B. Birdfeeders are allowed. Between the dates of April 15 and November 15 all birdfeeders must be suspended on a cable or other device so as to be inaccessible to bears, and the area below the feeders must be kept free from seed debris during this period. If a bear gains access to a birdfeeder, the condition allowing access must be corrected or the birdfeeder removed within 48 hours.

5. Acceptable Wildlife Containers and Enclosures

A. Single-family units and special events: Any refuse container regardless of size, including containers for single-unit residential properties or special events, which receives refuse edible by bears or other wildlife, shall be a WPRC, WPDE, or WRRC.

B. Multi-family units, commercial property, and construction sites: Any refuse container regardless of size, including containers for multi-family residential units, commercial properties, or construction sites, which receive refuse edible by bears or other wildlife, shall be a WPRC, WPDE, or WRRC.

C. Damage and repair of containers and enclosures: If a WPRC, WPDE, or WRRC is damaged or defeated so that it may allow access by wildlife, repairs must be made within 24 hours after the damage is discovered.

D. Curb pick-up and drop-off: Residents with curbside pick-up shall use only WRRCs or WPRCs and shall place them at the curb, alley, or public right of way at or after six o'clock (6:00) a.m. on the morning of scheduled pick-up. After pick-up, all containers must be removed from the curb, alley, or public right of way by seven o'clock (7:00) p.m. on the same day.

6. Acceptable Outdoor Compactor Design

Any outdoor compactor containing any material edible by bears or other wildlife must not be accessible by wildlife. No trash or material may be exposed and doors must be kept closed and latched with a wildlife-proof mechanism except when loading or removing refuse. If damaged, allowing access by wildlife, repairs must be made to the outdoor compactor within 24 hours after written notification by Eagle County.

7. Areas Requiring New Containers or Enclosures; Deadlines for Compliance; Annual Review

The residential and commercial areas designated in Exhibit A shall employ WPRCs, WPDEs, or WRRCs pursuant to the schedule set forth in that Exhibit. The Board of County Commissioners, in consultation with the Division of Wildlife, Eagle County Animal Services Department, Eagle County Code Enforcement Officers, the Eagle County Sheriff's Department, or any other applicable agency, department, or governmental entity, shall monitor and update the areas required to employ WPRCs, WPDEs, or WRRCs annually. Areas that have five (5) or more bear calls or one (1) bear trapped or destroyed within one (1) calendar year shall be added to Exhibit A.

8. Exceptions – The following entities or actions are exempt from the requirements of this Ordinance:

A. Any individual, company or corporation that is duly licensed by the State of Colorado or is entitled under law to possess wildlife of any kind.

B. Any action that is officially sanctioned by the State of Colorado, Federal Agencies, or Eagle County that would require feeding, baiting, or luring of wildlife (i.e., capturing and tagging wildlife for scientific projects and study).

C. The lawful operation of a landfill and related activities by Eagle County or other governmental entities.

D. The Board of County Commissioners or its designee may, in consultation with the Division of Wildlife, remove a geographic area of Eagle County (e.g., a subdivision) from any part of the above requirements.

E. Any individual, company, or corporation that is engaged in lawful agricultural or ranching pursuits (i.e., haystack or cattle feeder located in a rancher's pasture).

9. Violation and Penalties

First Violation – the first violation of this Ordinance may, at the discretion of the enforcement officer, result in the issuance of a Notice of Violation and a fine as set forth below. Failure to correct a Notice of Violation within a reasonable time, not to exceed 72 hours, is grounds for issuance of a Subsequent Violation. The fine amount for a first violation may be excused if the violator purchases a WPRC, WPDE, or WRRC within the time period for payment of the fine.

Subsequent Violation– Offenders who continue to violate this Ordinance or continue to fail in achieving timely compliance as set forth in any previous Notice of Violation shall be subject to a graduated fine scheduled as set forth below.

Penalties– Any person who or entity that is issued a Notice of Violation shall be guilty of a class 2 petty offense, punishable as follows:

A. A fine not exceeding one hundred dollars (\$100) for a first Notice of Violation.

B. A fine not exceeding two hundred dollars (\$200) for a second Notice of Violation.

C. A fine not exceeding five hundred dollars (\$500) for each additional Notice of Violation.

10. Enforcement

A. Notwithstanding any other provision of this Ordinance, any law enforcement officer, Code Enforcement Officer, Community Development Director, Environmental Health Director, or other persons or positions designated by resolution of the Board of County Commissioner for Eagle County as enforcement officers under this Ordinance may issue Notices of Violations, citations, summonses, and complaints for violation of this Ordinance.

B. Violation of this Ordinance is hereby declared to be a nuisance pursuant to C.R.S. 31-15-401(1)(c), which may be abated by Eagle County by restraining order, preliminary and permanent injunction, or other means provided for by law, and the County may take action to recover the costs of the nuisance abatement.

11. Notice of Violation

A person shall be deemed to have been issued a Notice of Violation if it is personally served upon the resident, posted on the person's premises, or placed in the U.S. Mail, postage prepaid and addressed to the resident according to the last address given by the resident to any County government department.

12. Liberal Construction

This Ordinance shall be liberally construed so as to further its purposes.

13. Severability

If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

14. Effective Date

This Ordinance shall be effective thirty (30) days from and after the date of its adoption. This Ordinance shall apply throughout all of Eagle County all year round.

Introduced, First Read and Set for Public Hearing on the 20th day of March, 2008.

Ordinance and Notice of Public Hearing published in the Eagle Valley Enterprise on the 29th day of

March, 2008.

Second Reading and Public Hearing on the 10th day of April, 2008.

Ordinance and Notice of Public Hearing published in the Eagle Valley Enterprise on the 31st day of May, 2008.

Approved and Adopted upon Third Reading and after Public Hearing on the 4th day of June, 2008.

Published after adoption in the Eagle Valley Enterprise on the ____ day of _____, 2008.

MOVED, READ AND ADOPTED, by the Board of County Commissioners of the County of Eagle, State of Colorado, at its regular meeting held the ____ day of _____, 2008.

COUNTY OF EAGLE, STATE OF COLORADO

By and Through its BOARD OF COUNTY COMMISSIONERS

ATTEST:

By: _____

_____ Arn M. Menconi, Chairman

Clerk to the Board of County

Commissioners _____

Sara J. Fisher, Commissioner

Peter F. Runyon, Commissioner

EXHIBIT A TO AN ORDINANCE PROHIBITING THE FEEDING OF WILDLIFE AND REGARDING WASTE DISPOSAL IN
UNINCORPORATED EAGLE COUNTY

(the "Ordinance")

Pursuant to Paragraph 7 of the Ordinance, the following areas require WPRCs, WPDEs, or WRRCs pursuant to the deadline for implementation set forth below. Unless otherwise noted, these areas refer to residential and commercial development south of Interstate 70.

- West Vail: August 1, 2008
- Eagle Vail residential: September 1, 2008
- Eagle Vail business north of I-70 (Paddy's, the bakery, etc.): September 1, 2008
- Beaver Creek: September 1, 2008
- Bachelor Gulch: September 1, 2008
- Lake Creek to Squaw Creek: September 1, 2008
- Squaw Creek to Bellyache: September 1, 2008
- Arrowhead to Lake Creek: April 1, 2008
- Singletree (North of I-70): April 1, 2008

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