

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2013-21(b)

An Ordinance Amending the Bear Attraction Nuisance Code.

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 of Juneau Code.

Section 2. Amendment of Section. CBJ 36.20.056 Bear attraction nuisance, is amended to read:

36.20.056 Bear attraction nuisance.

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

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

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

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

(3) A violation, subject to a civil fine, if the offense is not committed intentionally, knowingly, recklessly, or with criminal negligence;

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

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4 (c) *Each and every day ~~during any~~ or portion thereof during which a violation or failure to*
5 *comply is committed, permitted, or continued, shall be treated as a separate offense, and*
6 *subject the offender to separate charges and a fine as provided in subsection (a) of this*
7 *section.*

8
9 (d) Defenses.

10 (1) It shall be no defense for the owner of property to a charge under this section that the
11 property was in the possession or control of another, unless it can be shown to the
12 satisfaction of the court that at such time such property was being used without the
13 consent of the owner.

14
15 (2) It shall be a defense for the owner of property to a charge of a failure to appear in court if
16 it is shown to the court's satisfaction that the owner was not aware of the citation and that
17 such property was in the possession or control of another.

18
19 (e) Definitions. For purposes of this section:

20 (1) "Bear attraction nuisance" means

21 (A) More than one-half gallon of any putrescible material, including packaging or other
22 surfaces to which the material is adhered;

23
24 (B) Any organic material of a type which has previously attracted a bear to the property;

25 (C) Soiled disposable diapers;

1 (D) Exceptions. "Bear attraction nuisance" does not include:

2 (i) Material in a certificated landfill;

3 (ii) Manure or sewage;

4 (iii) Material in a garbage can stored outside temporarily for purposes of collection
5 after 4:00 a.m. on a day scheduled for collection;

6 (iv) Living or dead flora or fauna indigenous to the property on which it is located;

7 (v) Material completely enclosed in a structure or container which requires hands or
8 tools to open, *unless the structure or container has been proven ineffective as a*
9 *bear-resistant container or containment area, ~~either by~~ whether due to design or*
10 *improper use, three or more times within a 30-day period;*

11 (vi) Material in a metal garbage container designed to be lifted and emptied by a
12 garbage truck, provided that the container is tightly covered by a bear-resistant
13 metal lid fastened with a bear-resistant device or located within a garbage
14 containment area behind barriers ~~approved by the City and Borough~~ as sufficient
15 to withstand entry by a bear, *unless the container or area has been proven*
16 *ineffective as a bear-resistant container or containment area, ~~either by~~ whether*
17 *due to design or improper use, three or more times within a 30-day period.*

18 (2) "Garbage can" means a watertight, odor-free, corrosion-resistant container labeled in a
19 clear, discernible and legible fashion with the address of its owner, or, if rented, with the
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1 address of its renter, and equipped with a tight-fitting cover secured so as to remain in
2 place if the can is knocked over.

3
4 (3) "Person in control" means a tenant or an agent, superintendent, or other owner's
5 representative.

6 (4) "Property" means developed or undeveloped real property, including any apartment
7 house, mobile home park, planned unit development, or other multifamily development.

8
9 (f) Regulations. The Manager may adopt regulations pursuant to chapter 01.60 to implement the
10 provisions of this chapter.

11 (g) Notification and abatement. CBJ 36.20.060 does not apply to violations of the provisions of
12 this section.

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

16 Adopted this _____ day of _____, 2013.

17
18
19 _____
Merrill Sanford, Mayor

20 Attest:

21 _____
22 Laurie Sica, Municipal Clerk