

ORDINANCE

AN ORDINANCE AMENDING TITLE 7 OF THE MUNICIPAL CODE OF THE CITY OF MANITOU SPRINGS, COLORADO, REGARDING THE PROTECTION OF WILDLIFE

WHEREAS, the City Council finds and determines that the health, safety and welfare of the citizens of the City of Manitou Springs, and the wildlife indigenous to the area, would be enhanced and promoted by the adoption of this ordinance;

WHEREAS, the City Council finds that the intentional or unintentional feeding of wildlife within the City of Manitou Springs constitutes a menace to property and to the health, safety and welfare of the citizens of Manitou Springs;

WHEREAS, waste and recyclable materials provides an abundant, yet unhealthy supply of food for wildlife; and

WHEREAS, the City Council, after reviewing the recommendations of the Manitou Springs Bear Smart Task Force, has determined that it is in the public interest to enact the proposed amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANITOU SPRINGS, COLORADO, THAT:

Section 1: Title 7 of the Manitou Springs Municipal Code is hereby amended by the addition of a new Chapter 7.10 to be enacted as follows:

Chapter 7.10 – WILDLIFE PROTECTION

7.10.010 – Purpose and authority.

The purpose of this chapter is to minimize the risk of dangerous wildlife and human conflicts as a result of unsecured waste/recyclables and to protect and maintain wildlife in the City of Manitou Springs and surrounding areas.

7.10.020 – Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

"Attractant" means any substance which could reasonably be expected to attract wildlife or does attract wildlife, including, but not limited to, food products, kitchen waste, food packaging, pet food. Composting shall not constitute an "Attractant" for purposes of this Chapter.

"City" means the City of Manitou Springs, Colorado.

"Collection bin" means a container utilized for the collection and storage of waste/recyclables, including any trashcan, dumpster or similar devise used for that purpose.

"Commercial user" means any person, firm or corporation performing any business, industry, occupation or profession. It shall also include dwelling units used for residential occupancy for three (3) or more families or groups of individuals living independently of each other in separate units where the land under the dwelling units is not individually owned by the residents. This includes apartments, condominiums, and mobile home parks.

"Occupant" means any person living in, sleeping in, possessing or otherwise using any land, building or part thereof.

"Owner" means a person who, alone, jointly or severally with others, or in a representative capacity (including, without limitation, an authorized agent, executor or trustee), has legal or equitable title to any property in question.

"Person" means a natural person, corporation, firm, partnership, association, organization and any other group acting as a unit, as well as individuals.

"Premises" means any property located within the city limits of the City of Manitou Springs that is owned, occupied, leased or used for residential or commercial purposes.

"Responsible Party" means any person who has possession or control of any real property or premises, whether as owner, occupant or tenant and shall include any owner or owners of vacation rental property or properties.

"Special event" means an outdoor gathering such as a concert, conference or festival.

"Waste" means solid or semi-solid discarded material including, but not limited to, ashes, litter, garbage, refuse, rubbish and recyclables.

"Wildlife" means any undomesticated or unrestrained animal, including, but not limited to, elk, deer, sheep, lynx, bears, skunks, squirrels, raccoons, magpies, crows, coyotes, bobcats, foxes, mountain lions, unrestrained livestock, or unrestrained household pets.

"Wildlife-Resistant Waste Container" means a fully enclosed container of sturdy construction that meets the standards of testing by the Interagency Grizzly Bear Committee (IGBC) as bear resistant. A container not so certified, is considered a Wildlife-Resistant Waste Container if it is certified as such by a City designated official.

"Wildlife-Resistant Enclosure" means a fully enclosed structure consisting of four (4) sides and a secure door or cover, which shall have a latching device of sufficient strength and design to prevent access by wildlife. Wildlife-Resistant Enclosures are subject to all planning and zoning requirements and building codes.

"Yard Waste" means grass clippings, lawn rakings, leaves, garden vegetation, brush and other woods, free of other waste.

7.10.030 –Waste Disposal.

A. Any owner, occupant or person utilizing collection bins which receive waste/recyclables or attractants on the premises shall utilize Wildlife-Resistant Waste Containers, or be securely stored within a house, garage or Wildlife-Resistant Enclosure at all times.

B. Any owner, occupant or person with curbside pick-up shall place collection bins at the curb, alley or public right-of-way at or after 5:00 a.m. on the morning of scheduled pick-up. After pick-up, all collection bins shall be removed from the curb, alley or public right-of-way by 9:00 p.m. on the same day.

C. Other household waste that cannot reasonably be considered an attractant as defined in this chapter, including, but not limited to, non-edible yard waste as defined in this chapter, cardboard, or household items, shall not require the use of Wildlife-Resistant Waste Containers when not commingled with waste/recyclables or any other attractant.

7.10.040 – Special Event Waste/Recyclable Disposal.

Outdoor special event sites shall be kept free from the accumulation of waste/recyclables and attractants as defined under this chapter. Waste/recyclables shall be collected from the grounds at the close of each day's activities and shall be deposited into appropriate Wildlife-Resistant Waste Containers or Wildlife-Resistant Enclosures as provided in this chapter, or shall be removed to an appropriate disposal site.

7.10.050 – Construction Site Waste/Recyclable Disposal.

All construction sites shall have a designated collection bin which receives waste/recyclables or attractants as defined by this chapter. This collection bin shall be a Wildlife-Resistant Waste Container, or shall be secured in a Wildlife-Resistant Enclosure.

7.10.060 – Commercial User Waste/Recyclable Disposal.

A. All collection bins receiving waste/recyclables from commercial users shall be in Wildlife-Resistant Waste Containers, or shall be secured in a Wildlife-Resistant Enclosure.

B. Multi-family housing developments, including apartments, condominiums, mobile home parks and other types of clustered residential housing utilizing centralized collection bins shall either use a Wildlife-Resistant Waste Container or a Wildlife-Resistant Enclosure for all waste/recyclables. The container shall be kept closed in a secure manner, except when waste/recyclables are being

deposited.

7.10.070 – Feeding of Wildlife Prohibited.

A. No person shall intentionally or unintentionally feed or provide food in any manner for wildlife on public or private property within the City of Manitou Springs. Persons will be considered to be in violation of this chapter if they leave or store any waste/recyclables, attractants or food product in a manner that would create an attraction for wildlife.

B. No person shall leave or store any waste/recyclables, food product, pet food, grain or salt in a manner which would constitute a lure, attractant or enticement for wildlife.

C. Between the dates of April 15th and November 15th, all bird feeders shall be suspended on a cable or other device so that they are inaccessible to bears, and the area below the feeders shall be kept free from the accumulation of seed debris.

D. This section 7.10.070 shall not apply to:

1. Any individual, company or corporation that is duly licensed by the State of Colorado or otherwise entitled under law to possess a wildlife species; or
2. Any action that is officially sanctioned by the State of Colorado that would require feeding, baiting or luring of wildlife.

7.10.080 – Maintenance and Operation of All Waste/Recyclable Collection Bins and Enclosures

A. All collection bins as defined in this chapter shall be kept closed and secured when waste is not being deposited.

B. If a container or enclosure is damaged, allowing access by wildlife, repairs shall be made within 72 hours after written notification by City of Manitou Springs Police or Code Enforcement Officers.

7.10.090 – Penalty Assessment

Violation of any provision of this chapter by any owner, occupant or person shall be handled in the following manner:

A. First violation: The first violation of this chapter will result in a Notice of Violation to an alleged responsible party. The responsible party will be warned and informed of the proper precautions necessary to prevent the feeding of wildlife and the necessary actions to meet the provisions of the chapter, which may include, but not be limited to: removal of wildlife

attractants, time limits of the placement of curbside collection bins and use of Wildlife-Resistant Waste Containers. The notice shall include a reasonable time schedule for compliance. A responsible party who timely complies with the first Notice of Violation will not be subject to the penalty provisions of this chapter.

- B. Subsequent Violation(s): Subsequent offenses will be subject to a graduated fine schedule imposed by the City Council.

7.10.100 – Violations – Penalties.

Violations of this chapter shall be punished as provided in Section 1.01.100 of this code

7.10.110 – Compliance Required and Time Period.

Any collection bins required by this chapter shall be brought into conformity with the provisions of this chapter by January 1, 2018. Any enclosure required by this chapter shall be brought into conformity with the provision of this chapter by March 1, 2018. Upon application to the City Administrator, and showing hardship by any owner, occupant or person of an enclosure or container required hereunder, the City Administrator may grant an extension, for a reasonable period of time, with which to comply with the provisions of this chapter.

7.10.120 – Notice of Violation

A responsible party shall be deemed to have been issued an appropriate Notice of Violation if: (1) it is personally served upon the responsible party, (2) posted on the premises or (3) placed in the U.S. Mail, postage prepaid and addressed to the responsible party according to the last known address given by the responsible party to any Manitou Springs or El Paso County government department. If the identity of the responsible party is not known, the owner, occupant or person responsible for payment of the garbage removal services for the subject location will be held responsible for complying with this chapter and for any penalties assessed pursuant to the same.

Section 2: If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3: The repeal or modification of any provision of Manitou Springs Municipal Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining

any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 4: This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Passed on first reading and ordered published this 17th day of October, 2017.

/s/ Donna Kast
City Clerk, Donna Kast

A Public Hearing on this ordinance will be held at the November 21, 2017, City Council meeting. The meeting will be held at 6:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: October 19, 2017 (in full)
City's Official Website and City Hall

Passed on second reading and adopted by Council this 21st day of November, 2017.

/s/ Nicole Nicoletta
Mayor, Nicole Nicoletta

Attest: /s/ Donna Kast
City Clerk, Donna Kast

Ordinance Published: November 22, 2017 (in full)
City's Official Website and City Hall