

ORDINANCE NO. 14-20

An Ordinance of the City Council of the City of Whitefish, Montana, providing that Title 4, Chapter 2, Section 4(A), and Title 12, Chapter 4, Section 21(D) of the Whitefish City Code, regarding the City-wide preventative measures to avoid problems with animals be amended.

WHEREAS, the Whitefish City Council enacted Ordinance Nos. 01-05 and 05-22 in response to residents' reports of bear sightings and problems with bears and other animals being attracted to garbage and waste stored outdoors or otherwise placed in solid waste containers in certain geographical areas of the City; and

WHEREAS, Ordinance No. 05-22 attempted to resolve the frequent encounters with bears and other animals by requiring animal resistant containers or compliance with the City's garbage container roll out limitations for businesses located north of the railroad tracks and for residents located north of Denver Street and Bay Point Drive because most of the incidents involving bears or other animals occur north of the Burlington Northern Santa Fe railroad tracks that bisect the City; and

WHEREAS, Erik Wenum, a wildlife management specialist with the Montana Fish, Wildlife & Parks (FWP), appeared before the May 20, 2013 Council Meeting and reported the City's bear problem is now City-wide and would only get worse unless the City's requirements for animal resistant containers or garbage container roll out limitations are extended City-wide. Mr. Wenum encouraged the City Council to consider a City-wide enactment of preventative measures with regular enforcement that will further restrict conflicts with bears and other animals; and

WHEREAS, trash management has been identified as a key issue in resolving the encounters with bears and other animals because garbage and other solid wastes attract bears and other animals, lead to conflicts between animals and humans, and frequently result in injury and/or death to such animals; and

WHEREAS, FWP mapping of bear sightings and incidents demonstrates bear and other animal encounters are now City-wide and not limited to certain geographical areas in the City as it had been in 2001 through 2005; and

WHEREAS, regular education of businesses and residents through newsletters, mailings, and other forms of information will improve the likelihood that businesses and residents will handle their solid waste in a manner to discourage conflicts with bears and other animals; and

WHEREAS, the number of reported bear and other animal sightings have continued City-wide and garbage container roll-out limitations are now necessary City-wide in the best interests of public health, safety and welfare of City residents and affected animals; and

WHEREAS, at the public hearing held by the City Council on October 20, 2014, the City Council considered an emergency measure to extend garbage container preventative measures City-wide, received and considered oral and written staff reports, and thereafter unanimously adopted Emergency Ordinance No. 14-11; and

WHEREAS, at a public hearing held by the City Council on December 1, 2014, the City Council reviewed and considered oral and written staff reports and public input, and approved the Ordinance to amend Title 4, Chapter 2, Section 4(A), and Title 12, Chapter 4, Section 21(D), regarding the City-wide preventative measures to avoid problems with animals.

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to adopt the proposed amendments to the Whitefish City Code to extend the garbage container preventative measures City-wide.

NOW, THEREFORE, be it ordained by the City Council of the City of Whitefish, Montana, as follows:

Section 1: Section 4-2-4(A) of the Whitefish City Code is hereby amended to provide as follows:

A. ~~Bear Animal~~ Resistant Containers:

1. All businesses ~~located north of the Burlington Northern Santa Fe Railroad tracks~~ that produce food scraps and food byproducts as part of their solid waste, including, but not limited to, restaurants, bars, and grocery stores, shall deposit and store all solid wastes in ~~bear animal~~ resistant containers throughout the year. Residents and associations of residents located ~~north of Denver Street and Bay Point Drive shall within City limits will~~ either: ~~1a)~~ store their solid waste in securely latched ~~bear animal~~ resistant containers or, alternatively, ~~2b)~~ store solid waste containers securely inside of a home, garage or other animal resistant enclosure. Animal resistant containers shall be set out on collection days with all latches in the open position. Solid waste will not be collected from latched containers.

2. ~~Residents and associations of residents located within City limits will bring their solid waste containers or animal resistant containers away from their location to the City right-of-way for collection no earlier than until~~ four o'clock (4:00) A.M. on the morning that such solid waste will be picked up by the city or other permitted hauler. ~~Bear resistant containers shall be set out on collection days with all latches in the open position. Solid waste will not be collected from latched containers.~~ Any solid waste container placed outside of a home, garage, or other animal resistant enclosure for pick up shall be returned to a secure location no later than seven o'clock (7:00) P.M. on the day that solid waste is picked up. Any ~~bear animal~~ resistant container shall be relatched no later than seven o'clock (7:00) P.M. on the day that waste is picked up.

B.3. A business, resident, or association of residents convicted of violating this subsection shall be guilty of a misdemeanor and,

upon conviction thereof, be subject to a fine and/or confinement as provided in the general penalty provisions in section 1-4-1 of this code. A business, resident, or association of residents who violates this subsection shall be deemed to have committed a municipal infraction, and shall be assessed the civil penalty described in section 1-4-4 of this code. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa. Each day that a violation remains shall constitute a separate violation.

Section 2: Section 12-4-21(D) of the Whitefish City Code is hereby amended to provide as follows:

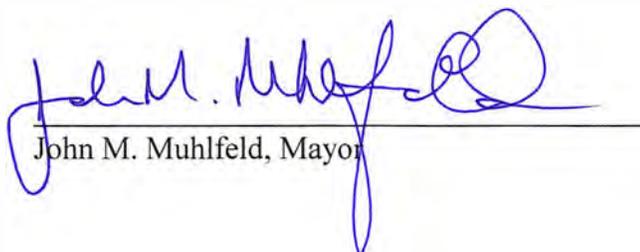
D. Subdivisions ~~located on the north side of the railroad tracks~~ are subject to subsection 4-2-4(A), "~~Bear-Animal~~ Resistant Containers", of this code. In addition, a note shall be placed on the face of the plat (see appendix D, attached to the ordinance codified herein).

Section 3: All other provisions of Whitefish City Code Title 4, Chapter 2, and Title 12, Chapter 4, shall remain unmodified.

Section 4: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

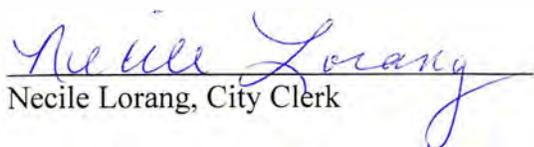
Section 5: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 5TH DAY OF JANUARY, 2015.



John M. Muhlfeld, Mayor

ATTEST:



Necile Lorang, City Clerk