

**ORDINANCE OF THE BOARD OF TRUSTEES OF BASALT, COLORADO, APPROVING A NEW
ARTICLE VIII TO CHAPTER 7 OF THE MUNICIPAL CODE OF THE TOWN OF BASALT
ENTITLED "WILDLIFE PROTECTION," WHICH PROTECTS WILDLIFE BY REGULATING THE
STORAGE AND HANDLING OF REFUSE AND FOOD EDIBLE BY WILDLIFE**

**Ordinance No. 8
Series of 2001
RECITALS**

- A.** The Town of Basalt ("Town") acting by and through its Board of Trustees has the power to amend the Municipal Code of the Town of Basalt ("Town Code") pursuant to §1-58, Town Code, and all such amendments shall become a part of the Town Code.
- B.** At a duly noticed public hearing held on February 28, 2001 and continued to March 13, 2001 the Board of Trustees considered the following revisions to the Town Code, and heard testimony from the public and Town staff concerning such revisions.
- C.** The Board of Trustees finds, determines and concludes it is in the best interests of the Town to amend the Town Code as provided herein.

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of Basalt, Colorado as follows:

A. Findings. The Board of Trustees hereby conclusively finds and concludes as follows.

1. The Town is authorized and empowered to enact this Ordinance by the Colorado Revised Statutes, including, but not limited to § 31-15-401, C.R.S.
2. The citizens of the Town of Basalt, Colorado have voiced their concern to the Town and to the Division of Wildlife regarding wildlife to the Town and asked that something be done to help reduce the potential of conflicts between humans and wildlife.
3. In preparing this Ordinance, Town staff has held meetings with staff members from the Roaring Fork Conservancy, the City of Aspen, the Colorado Division of Wildlife, and the Basalt Police Department.
4. The Board of Trustees is aware that bears and other wildlife have become accustomed to feeding on refuse or other food products left accessible by residents of the Town.
5. The Board of Trustees finds, determines and concludes that it has a legitimate public purpose in regulating garbage pickup for the purpose of preserving and protecting the health, safety, welfare and quality of life for the citizens of the Town and the wildlife that we live among.

B. Revisions to Town Code. A new Article VIII is added to Chapter 7, Health, Sanitation and Animals, as follows:

ARTICLE VIII – WILDLIFE PROTECTION

Sec. 7-165. Definitions. For the purposes of this Article the following definitions shall apply, unless the context indicates otherwise:

(a) *Enforcement Officer* means any Basalt Police Officer, the Town Building Official or any other individual deputized by the Basalt Police Department.

(b) *Guidelines* means the Town of Basalt's Wildlife Protection Guidelines which shall be approved by the Board of Trustees and may be amended from time to time by the Town. The Guidelines shall be available for review and purchase at Town Hall and are incorporated herein by this reference.

(c) *Refuse Container* means any trashcan, dumpster, or similar device used for the collection and storage of solid waste.

(d) *Special Event* means a large outdoor gathering such as a concert, conference, festival or rodeo.

(e) *Wildlife* means any medium to large size non-domestic mammal indigenous to the Town of Basalt, including but not limited to: black bear, mule deer, elk, raccoon, coyote, beaver, skunk, badger, bobcat, mountain lion, porcupine and fox.

(f) *Wildlife Resistant Dumpster Enclosure* means a fully enclosed structure inaccessible to wildlife usually consisting of four sides and a roof or cover. Wildlife Resistant Dumpster Enclosures must be consistent with the "Town of Basalt's Wildlife Protection Guidelines."

(g) *Wildlife Resistant Refuse Container* means a fully enclosed container including a lid which is inaccessible to wildlife. Wildlife Resistant Refuse Containers must be consistent with the "Town of Basalt's Wildlife Protection Guidelines."

Sec. 7- 166. Acceptable Wildlife Containers and Enclosures

(a) Any refuse container regardless of size, including containers for residential properties, that receives refuse which is edible by bears or other wildlife shall be either:

- (1) an approved Wildlife Resistant Refuse Container;
- (2) a Wildlife Resistant Dumpster enclosure;
- (3) a refuse container which does not contain any refuse edible by bears or other wildlife at any time except on the day of pick-up before the refuse is picked up by a trash hauler;
- (4) a container that is removed each day and brought inside a building, house, garage, enclosure meeting the definitions in this Article;
- (5) a container that is emptied each day and brought to an acceptable disposal location; or
- (6) other container described in the Guidelines.

(b) The minimum standards required for wildlife proofing garbage are set forth in the Guidelines.

(c) Any trash hauler who provides a refuse container to a Town of Basalt customer shall only provide wildlife resistant refuse containers, wildlife resistant dumpsters, or a wildlife resistant poly-cart. If the trash hauler provides instructions to individuals or businesses regarding the construction of enclosures, the directions shall be consistent with this Article and the Guidelines. Further, any trash hauler that provides refuse removal within the Town of Basalt and fails to comply with Section 7-167, below shall be in violation of this Article and subject to the penalties set forth herein.

(d) Overfilling of any refuse container, including trashcans set out on the day of collection, is prohibited.

Sec. 7- 167. Maintenance and Operation of Refuse Containers and Dumpster Enclosures.

(a) Wildlife Resistant Refuse Containers which are kept outside and Wildlife Resistant Dumpster Enclosures must be kept closed and secure when refuse is not being deposited.

(b) If a container or enclosure provided by a trash hauler is damaged, allowing access by bears or other wildlife, the owner or tenant shall report the damage to the trash hauler and to the Town of Basalt as soon as reasonably possible. The trash hauler shall have twenty-four hours to repair the damage (on a permanent or temporary basis) or replace the container or enclosure.

(c) If a container or enclosure provided by a Basalt owner or tenant is damaged, allowing access by bears or other wildlife, the owner or tenant shall have twenty-four hours to repair the damage (on a permanent or temporary basis), replace the container or enclosure, or take other acceptable action to ensure that refuse is not left in a manner accessible to wildlife.

(d) Owners or tenants who are storing refuse inside a building or structure with pickup by a licensed hauler on scheduled dates shall place the refuse container at the collection area, such as at the curb, only on the morning of pickup in accordance with the Guidelines.

Sec. 7-168. Special Event Refuse Disposal.

Outdoor special event sites shall be kept free from the accumulation of refuse edible by wildlife. Refuse must be collected from the grounds at the close of each day's activities and shall be deposited in Wildlife Resistant Refuse Containers or Wildlife Resistant Dumpster Enclosures or be removed to an appropriate disposal site.

Sec. 7-169. Feeding of Birds and Wildlife.

No person shall knowingly leave or store any refuse, food product, pet food, grain or salt in a manner which would constitute a lure, attraction or enticement of birds and wildlife. Additional recommendations or requirements regarding the feeding of birds and wildlife may be included in the Guidelines.

Sec. 7-170. Construction Site Refuse Disposal.

All construction sites must have a designated container that receives refuse edible by wildlife in accordance with the Guidelines.

Sec. 7-171. Enforcement.

No person shall interfere with, molest, hinder or impede the enforcement officers in the discharge of their duties as herein prescribed. Enforcement Officers may issue warnings, notices, penalty assessments and summons and complaints to any person in violation of this Chapter. An Enforcement Officer shall have the right to inspect property concerning any wildlife concern or potential wildlife attractant.

Sec. 7-172. Compliance Required.

Any dumpster enclosure or refuse container shall be brought into conformity with the wildlife protection provisions of this Article by May 1, 2001. Upon determination by the Town Administrator that it appears that general compliance is not feasible by the May 1, 2001 date and that an overall hardship to the community would result, the Town Administrator may select a later date to begin enforcement. Subsequent to that time, upon application to the Enforcement Officer and showing a hardship by any owner of a dumpster enclosure or refuse container required to comply with this Article, the Enforcement Officer may grant an extension, for a reasonable period of time, within which to comply with the provisions of this Article.

Sec. 7-173. Penalties.

Violations of any provision of this section by any person, entity, firm or corporation shall be unlawful and subject to the penalty provisions of §1-82, provided that each day of continuing violation after notice or warning from the Enforcement Officer may be considered a separate offense subject to penalties as specified therein. Either the owner or the occupant or both may be held responsible for a violation of any provision of this chapter.

C. General.

1. If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance and the Board of Trustees hereby declares it would have passed this Ordinance and each part, section, subsection, sentence, clause or phrase thereof regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.
2. This Ordinance shall be effective upon completion of publication of the Ordinance and shall apply to all property within the Town.

READ, ADOPTED AND ORDERED PUBLISHED by a vote of 7 to 0 on March 13, 2001.