

20 July 2010

Editor, Daily Sitka Sentinel

“The Bears Are Here”

Dear Editor: You and your readers may have noticed- Sitka’s 2010 bear season has arrived. The bears are in people’s yards and on their decks and porches, and pillaging garbage cans where they find them accessible. The City and Borough of Sitka is concerned for both the safety of Sitkans, and the safety of the bears.

With the local berry crop almost depleted, and fish not yet in the streams, some local bears will be looking for food available from our garbage cans, barbeque grills, and compost piles for at least a few weeks, if not well into fall. It is in every Sitkan’s best interest to protect themselves and the bears by keeping human food and waste away from the bears.

While some work has been done by local residents with “bear resistant” garbage cans, ALL residents are required to use their garbage cans in a way that does not create a bear attraction nuisance. A hungry 500 pound bear can open ANY garbage can that seems appetizing to the bear. The best protection is to keep the garbage can free of waste which will attract a bear, and not put your can out until your day of pickup.

The Bear Attraction Nuisance ordinance passed in 2008 specifically prohibits “...the creation or maintenance of a bear attraction nuisance...”, whether associated with a garbage can, or not. Bear attractions include putrescible waste, soiled disposable diapers, and “Any organic matter which has previously attracted a bear to the property...”. In order to inform Sitkans about their obligations under the ordinance, it will be posted prominently on the City and Borough website for the rest of this summer’s bear season. The Sitka Police Department will be stepping up enforcement of the ordinance, in order to protect Sitkans and Sitka’s bears.

As the Alaska Department of Fish and Game tells us, we live in bear country. We must all work together to ensure that we keep ourselves and our families, and our bears, safe.

Dan Jones, Engineering Manager (Operations), City and Borough of Sitka

Chapter 9.24 BEAR ATTRACTION NUISANCE

Sections:

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9.24.010 Definitions.

The terms and phrases used in this chapter shall have the following meanings:

- A. "Bear attraction nuisance" means, except as otherwise provided in this section:
1. More than one-half gallon of any putrescible waste, including packaging or other surfaces to which the material is adhered;
 2. Any organic material of a type which has previously attracted a bear to the property; or
 3. Soiled disposable diapers.
 4. "Bear attraction nuisance" does not include:
 - a. Material in a certified landfill;
 - b. Manure or sewage;
 - c. Material in a refuse receptacle temporarily placed outside no earlier than four a.m. on refuse collection day;
 - d. Living or dead flora or fauna indigenous to the property; or
 - e. Material completely enclosed in a structure or container which requires hands or tools to open.
- B. "Person in control" means a tenant or an agent, superintendent, or other owner's representative.
- C. "Putrescible waste" means organic waste, including animal parts, human and animal excrement, or bodily fluids, which is capable of being decomposed by microorganisms.

(Ord. 08-09 § 4 (part), 2008.)

9.24.020 Unlawful acts.

No owner or person in control of property shall cause or allow the creation or maintenance of a bear attraction nuisance on that property or any adjacent right-of-way. Except as otherwise provided for in this chapter, the property owner and the

person in control of the property may both be liable for a violation of this chapter concerning the same unlawful act. The unlawful act involves not only the creation of a bear attraction nuisance but allowing the offense to continue. (Ord. 08-09 § 4 (part), 2008.)

9.24.030 Enforcement.

This chapter shall be enforced by the police department or by other employees authorized by the municipal administrator. Whenever waste or other material is found on property in violation of this chapter, the officer or authorized employee shall issue a citation stating the nature of the offense and the date and time for a court appearance, and:

- A. Mail the citation to the owner's address listed in the municipal property assessor records and to the address of the person in control of the property when known; and
- B. Conspicuously affixing a copy of the citation on the property.

(Ord. 08-09 § 4 (part), 2008.)

9.24.040 Defenses.

A. It shall be no defense for the owner of property issued a citation under this chapter that the property was in possession or control of another, unless the owner of the property meets the burden of proof that the property was being used without the consent of the owner when the bear attraction nuisance was created.

B. It shall be a defense for the owner of property or person in possession or control of the property who is issued a citation under this chapter who fails to appear in court if the owner or person in control of the property meets the burden of proof of being unaware of the citation.

(Ord. 08-09 § 4 (part), 2008.)

9.24.050 Fines.

A. Each person who owns and/or is in control of property that creates, maintains, or permits a bear attraction nuisance on the property, shall be charged with an infraction and subject to the following fine:

1. First offense within one year: warning with no fine.
2. Second offense within one year: fine not exceeding one hundred dollars.
3. Third and subsequent offenses within one year: fine not exceeding two hundred dollars.

B. Each and every day during any portion of which a violation or failure to comply is committed, permitted, or continued, shall be treated as a separate offense, and subject the offender to separate charges and a fine as provided in subsection A of this section.

(Ord. 08-09 § 4 (part), 2008.)

TITLE 9 FOOTNOTES

1. For statutory provisions authorizing home rule municipalities to maintain and operate a garbage and solid waste collection and disposal system, see AS 29.48.033.

This page of the Sitka General Code is current through 10-05, passed May 11, 2010.

Disclaimer: The Municipal Clerk's Office has the official version of the Sitka General Code. Users should contact the Municipal Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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