

ORDINANCE NO. 20
SERIES 2006

AN ORDINANCE REPEALING AND REENACTING TITLE 5, CHAPTER 9 “WILDLIFE PROTECTION,” VAIL TOWN CODE; ESTABLISHING REGULATIONS AND STANDARDS REGARDING THE PROTECTION OF WILDLIFE; AND SETTING FORTH DETAILS IN REGARD THERETO.

WHEREAS, the Town of Vail, in the County of Eagle and State of Colorado (the "Town"), is a home rule municipal corporation duly organized and existing under laws of the State of Colorado and the Town Charter (the "Charter"); and

WHEREAS, the members of the Town Council of the Town (the "Council") have been duly elected and qualified; and

WHEREAS, it is the Town Council's opinion that the health, safety and welfare of the citizens of the Town of Vail, and the wildlife indigenous to this valley, would be enhanced and promoted by the adoption of this ordinance; and

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

WHEREAS, human refuse provides an abundant yet unhealthy supply of food for wildlife, which supports artificially high populations and places an additional strain on the supply of naturally occurring foods; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF VAIL, COLORADO THAT:

Section 1. Title 5, Chapter 9 “Wildlife Protection,” of the Vail Town Code is hereby repealed in its entirety and reenacted to read as follows:

5-9-1: PURPOSE: The purpose of this Chapter 9 is to protect and maintain wildlife in the Town of Vail and surrounding areas and to minimize the risk of dangerous interaction between humans and wildlife.

5-9-2: DEFINITIONS: For the purpose of this Chapter, the following definitions shall apply:

ATTRACTANT: Any substance which could reasonably be expected to attract wildlife or does attract wildlife, including but not limited to food products, pet food, feed, compost, grain or salt.

REFUSE: any waste that could reasonably be expected to attract wildlife or does attract wildlife which includes, but shall not be limited to, kitchen organic waste, food, food packaging, toothpaste, deodorant, cosmetics, spices, seasonings and grease.

REFUSE CONTAINER: Any trashcan, dumpster, or similar device used for the collection and storage of waste.

RESIDENT: Any person, firm, corporation or organization within the Town of Vail or on Town controlled land.

SPECIAL EVENT: An outdoor gathering such as a concert, conference or festival.

WILDLIFE: Any undomesticated animal, including, but not limited to, elk, deer, sheep, lynx, skunks, magpies, crows, bears, raccoons, coyotes, beavers, porcupines, mountain lions, bobcats and foxes.

WILDLIFE-PROOF REFUSE CONTAINER: A fully enclosed metal container with a metal lid. The lid must have a latching mechanism, which prevents access to the contents by wildlife. Wildlife-Proof refuse container must be certified as such by the Living with Wildlife Foundation, Interagency Grizzly Bear Committee (Fish and Wildlife Service, Forest Service, Park Service and Bureau of Land Management). A container not so certified, is considered a Wildlife-Proof Refuse Container if it is certified as such by a Town of Vail designated official.

WILDLIFE-RESISTANT ENCLOSURE: A fully enclosed structure consisting of four 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. An enclosure of less than one hundred twenty (120) square feet shall not require a building permit. An enclosure of one hundred twenty (120) square feet or larger requires a building permit. The walls of the enclosure and the

latching device must be of sufficient strength and design to prevent access by wildlife. Ventilation openings shall be kept to a minimum and must be covered with a metal mesh or other material of sufficient strength to prevent access by wildlife. Wildlife-Resistant enclosures must be approved by a Town of Vail designated official.

WILDLIFE-RESISTANT REFUSE CONTAINER: A fully enclosed plastic container, of sturdy construction, with a sturdy plastic lid which must have a latching mechanism which prevents access to the contents by wildlife. Wildlife-Resistant Refuse Containers must be certified as such by the Living with Wildlife Foundation, Interagency Grizzly Bear Committee (Fish and Wildlife Service, Forest Service, Park Service and Bureau of Land Management). A container not so certified, is considered a Wildlife-Resistant Refuse Container if it is certified as such by a Town of Vail designated official.

5-9-3: RESIDENTIAL REFUSE DISPOSAL:

A. All residential refuse containers which receive refuse or attractants as defined by this Chapter must be either Wildlife-Resistant Refuse Containers or Wildlife-Proof Refuse Containers, or be securely stored within a house, garage or Wildlife-Resistant Enclosure at all times.

B. Residents with curbside pick-up shall place only Wildlife-Resistant Refuse Containers or Wildlife-Proof Refuse Containers, at the curb, alley, or public right of way at or after six o'clock (6:00) a.m. on the morning of scheduled pick-up. After pick-up, all containers must be removed from the curb, alley or public right of way by seven o'clock (7:00) p.m. on the same day.

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

D. Multi-family housing developments and other types of clustered residential housing, utilizing centralized refuse containers, must use either a Wildlife-Proof Refuse Container or a Wildlife-Resistant Enclosure for all refuse. The container or enclosure shall be kept closed in secure manner except when refuse is being deposited.

5-9-4: MAINTENANCE AND OPERATION OF ALL REFUSE CONTAINERS AND ENCLOSURES:

A. All refuse containers defined in this Chapter shall be kept closed and secured when refuse is not being deposited. Any container which is over filled so as to prevent a containers' designed latching is not a Wildlife-Resistant or Wildlife-Proof Refuse Container within the meaning of this Chapter.

B. If a container or enclosure is damaged, allowing access by wildlife, repairs must be made within 24 hours after written notification by Town of Vail Police or Code Enforcement Officers.

C. All refuse containers that are placed at the curb, alley or public right of way for collection must have the residence street address and unit number permanently affixed to the container with digits no smaller than two inches in height.

5-9-5: SPECIAL EVENT REFUSE DISPOSAL: Outdoor special event sites shall be kept free from the accumulation of refuse. Refuse must be collected from the grounds at the close of each day's activities and shall be deposited into appropriate Wildlife-Resistant, Wildlife-Proof containers or Wildlife-Resistant Enclosures as provided in this Chapter, or shall be removed to an appropriate disposal site.

5-9-6: CONSTRUCTION SITE REFUSE DISPOSAL: All construction sites must have a designated refuse container which receives refuse or attractants as defined by this Chapter. This container shall be a Wildlife-Proof Refuse Container.

5-9-7: COMMERCIAL REFUSE DISPOSAL: All refuse containers receiving refuse from commercial establishments and restaurants shall be in Wildlife-Proof Containers, or shall be secured in a Wildlife-Resistant Enclosure.

5-9-8: COMPACTORS: Trash compactors are compliant with this Chapter when no refuse is exposed. Compactor doors must be kept closed at all times, except when loading or removing refuse and the area around the compactor must be kept clean of refuse and debris.

5-9-9: FEEDING OF WILDLIFE PROHIBITED:

A. Intentional or Unintentional: No person shall intentionally or unintentionally feed or provide food in any manner for wildlife on public or private property within the Town of Vail. A person will be considered to be in violation of this Chapter if they leave or store any garbage, refuse or attractant in a manner which would create or does create a lure or enticement for wildlife.

B. Bird Feeders: Bird feeders are allowed. However between the dates of April 15 and November 15, all bird feeders must be suspended on a cable or other device so that they are inaccessible to bears and the area below the feeders must be kept free from the accumulation of seed debris.

5-9-10: ENFORCEMENT:

A. Town of Vail Police and Code Enforcement Officers shall have the power to issue a warning notice or a summons and complaint to any person in violation of this Chapter.

B. Town of Vail Police or Code Enforcement Officers shall have the right to inspect, during reasonable hours, any property in the Town concerning any wildlife concern or potential wildlife attractant.

5-9-11: PENALTY ASSESSMENT:

A. Violation of any provision of this Chapter by any person shall be unlawful and subject to the General Penalty provision, Section 1-4-1, of the Vail Town Code. Either the owner or occupant of a residence or commercial establishment may be held responsible for a violation of any provision of this Chapter.

B. A Resident shall be deemed to have been issued an appropriate notice of violation if it is personally served upon the Resident, placed in the U.S. mail, postage prepaid and addressed to the Resident according to the last known address given by the resident to any Town of Vail or Eagle County government department. If the identity of the resident is not known, the entity 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.

5-9-12: VIOLATOR'S RESPONSIBILITY: In addition to the penalties outlined in this Chapter, violators may be required to perform all necessary actions to remove or abate

attractants of wildlife. This may include, but shall not be limited to: the removal of bird feeders or pet food, cleaning or appropriate storage of barbecue grills, additional storage requirements for refuse containers and/or the required use of Wildlife-Proof Containers and/or Wildlife-Resistant Enclosures.

5-9-13: COMPLIANCE REQUIRED AND TIME PERIOD: Any container required by this Chapter shall be brought into conformity with the provision of this Chapter by April 15, 2007. Any enclosure required by this Chapter shall be brought into conformity with the provision of this Chapter by August 1, 2007. Upon application to the Town Manager, and showing hardship by an owner of an enclosure or container required hereunder, the Town Manager may grant an extension, for a reasonable period of time, with which to comply with the provision of this Chapter.

Section 2. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not effect the validity of the remaining portions of this ordinance; and the Town Council 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.

Section 3. The amendment of any provision of the Town Code as provided in this ordinance shall not affect any right which has accrued, any duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision amended. The amendment of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

Section 4. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, theretofore repealed.

INTRODUCED, READ ON FIRST READING, APPROVED, AND ORDERED PUBLISHED ONCE IN FULL ON FIRST READING this 19th day of September, 2006, and a public hearing for second reading of this Ordinance set for the 3rd day of October, 2006, at

6:00 P.M. in the Council Chambers of the Vail Municipal Building, Vail, Colorado.

Rodney E. Slifer, Mayor

ATTEST:

Lorelei Donaldson, Town Clerk

INTRODUCED, READ, ADOPTED AND ENACTED ON SECOND READING
AND ORDERED PUBLISHED IN FULL this 3rd day of October, 2006.

Rodney E. Slifer, Mayor

ATTEST:

Lorelei Donaldson, Town Clerk