

ORDINANCE NO. 4
(Series 2019)

**AN ORDINANCE AMENDING TITLE 8, HEALTH AND SAFETY OF THE
GEORGETOWN MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 8.22
CONCERNING NUISANCE WILDLIFE AND GARBAGE CONTAINERS**

WHEREAS, the Town of Georgetown is a Colorado municipal corporation operating under a Territorial Charter and governed by its Board of Selectmen; and

WHEREAS, the Georgetown Board of Selectmen (“Board”) is authorized by the Territorial Charter and the Colorado Revised Statutes to enact ordinances for the preservation of the public health, safety, and welfare, including the elimination of nuisances; and

WHEREAS, evidence has been presented to the Board that wildlife conflicts within the Town are occurring due to the attractive nuisance created by unsecured access to garbage and rubbish by animals, especially bears; and

WHEREAS, the Board has previously adopted Title 8 of the Georgetown Code to address nuisance situations affecting the Town and its residents and property owners; and

WHEREAS, the Board wishes to amend that title by the addition of a new chapter to address the issues created by the attraction of wildlife to unsecured garbage and rubbish.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SELECTMEN OF THE TOWN OF GEORGETOWN, COLORADO:

Section 1. Title 8 is amended by the addition of Chapter 8.22 to read as follows:

CHAPTER 8.22 – Attractive Nuisances to Wildlife

8.22.010. – Legislative intent.

It is the intent of the Board of Selectmen to reduce or eliminate wildlife conflicts within the Town created by the presence of unsecured waste, garbage and rubbish that is produced by residents and businesses and deposited in locations in a manner and/or at a time when said materials create an attraction to wildlife. By adopting the regulations in this Chapter, the Board intends to establish time, locational, and manner requirements for the storage of garbage and putrescible rubbish on public or private property within the Town limits, and establish penalties for persons and landowners violating such regulations.

8.22.020. – Applicability.

This Chapter is a specific supplement to Chapter 8.04, and violations of this Chapter constitute a nuisance or public nuisance as defined therein. However, the penalties for violations of this Chapter are those listed in the respective sections herein. To the extent this Section conflicts with

Section 8.08.020 (Temporary storage permitted when.) of this Code, the more stringent requirement shall apply in the event of conflict in specific cases.

8.22.030. -- Definitions.

The definitions in Chapter 8-4, "Nuisances" of the Code, shall apply to this Chapter, including, without limitation, the definitions of nuisance, garbage, waste, and rubbish.

The following terms used in this Chapter have the following meanings unless the context clearly indicates otherwise:

Dumpster means a movable waste container designed to be brought and taken away by a special collection vehicle, or to a bin, usually metal, that a specially designed garbage truck lifts, empties into its hopper, and lowers, on the spot.

Person means any individual, resident, or occupant of a Premises. The term Person includes a firm, corporation, or organization under circumstances where a group of individuals, residents, or occupants appoints or has appointed such firm, corporation, or organization to assume the responsibility for collecting or accumulating for that group's Premises all waste, garbage, and rubbish for pick-up by a commercial waste hauler for delivery to a Town-authorized depository or landfill. The term Person shall not include any commercial waste haulers.

Premises means any real property, whether vacant or not, located within the Town limits of the Town of Georgetown that is owned, occupied, leased or used for residential or commercial purposes.

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

Wildlife Disturbance means an incident in which an animal herein defined as Wildlife upsets, knocks over, enters or otherwise disturbs a waste, rubbish or garbage container such that any of the container's contents is removed or falls out of the container and becomes scattered in the immediate vicinity of the container.

Wildlife-Resistant Dumpster Enclosure (WRDE) means a fully enclosed structure consisting of either four sides and a roof or cover, or four sides of sufficient height, design and construction to prevent access by wildlife. WRDEs must meet the standards of testing by the Living with Wildlife Foundation. The roof or cover must have a latching mechanism sufficient to prevent entry by wildlife.

Wildlife-Resistant Refuse Container (WRRC) means a fully enclosed container, including a tight-fitting lid designed for that specific container, which may be constructed of pliable materials but must be reinforced, or contain a latching mechanism, to deter access to its contents by wildlife.

8.22.040. – Storage and disposal of waste, garbage, and rubbish.

(a) No person shall:

(1) Store waste, garbage, or rubbish except in rigid containers, in such a manner so as to preclude their contents from overflowing or being scattered by animals, wind, or other elements and so that the containers remain closed except when being filled or when opened in order to allow for collection.

(2) Fail to remove and properly dispose of any spillage or scattered waste, garbage or rubbish resulting from its dispersal by animals, wind, or other elements.

(3) Fail to keep the person's premises or property free of waste, garbage or rubbish. For purposes of this section, the term "property" includes adjacent private property or public rights-of-way if the rubbish, garbage or solid waste has been scattered to such locations from a waste container on the person's property.

(4) Permanently store a waste container in the public rights-of-way without approval of the Town Administrator or his designee.

(5) Place an unsecured waste container outside for collection before 5 a.m. on the day scheduled for such collection, unless such container is a WRRC in which case it may be placed outside for collection on the preceding day.

(6) If storing waste, garbage, or rubbish in a dumpster, fail to secure the dumpster in a WRDE or, if not enclosed, fail to use a bear-resistant locking dumpster.

8.22.050. – Notice to abate; administrative penalties for violation.

(a) Whenever the Town Administrator or his designee shall be informed or otherwise determines that any premises or property within the Town is covered or partially covered with rubbish, garbage, trash or solid waste or reflects the scattering thereof on such premises or property, he shall cause an investigation to be made into the spilling or scattering of refuse and shall make findings with reference to such investigation. If, as a result of such investigation, the Town Administrator finds, based on competent evidence, that the condition of the premises or property violates the provisions of section 8.22.040, the owner or occupant of the premises or property, if the premises/property is not occupied by the owner, shall be issued a notice to abate the violation and will subject the owner or occupant to the following procedures and penalties:

(1) First Violation. The first violation of section 8.22.040 shall result in the issuance of a notice to abate as a courtesy. In addition, the owner or occupant shall be required to comply with the requirement that future waste, garbage, or rubbish at the offending address must be secured and stored in a WRRC, or stored in an enclosed area sufficient to prevent wildlife from accessing the waste, garbage, or rubbish.

Failure to correct the initial violation within a reasonable time, not to exceed 48 hours, constitutes a continuing violation and shall be grounds for the issuance of a subsequent citation for a violation of this Chapter. The owner or occupant of the premises/property shall be deemed

to have been issued an appropriate notice of violation if such notice or citation is personally served upon the owner and/or occupant, or placed in the U.S. Mail, postage prepaid and addressed to the occupant at property address and to the property owner, if the property owner is not the occupant, at the last known address given to any Town of Georgetown or Clear Creek County government department.

(2) Subsequent Violations. Persons who continue to violate section 8.22.040 or fail to achieve timely compliance as set forth in any previous notice of abatement or violation shall, upon a subsequent finding pursuant to the afore-described process, be subject to a graduated fine schedule as set forth below.

i. A second violation of section 8.22.040 shall result in the imposition of a fine of \$50.00.

ii. A third or subsequent violation of section 8.22.040 shall result in the imposition of a fine of \$250.00 for each such violation.

8.22.060. -- Feeding of wildlife.

(a) No person shall knowingly leave or store any garbage, food product, pet food, grain, seeds or salt in a manner which would constitute a lure, attraction or enticement to wildlife, except for birdfeeders.

(b) The first violation of this section shall result in the issuance of an initial notice of violation as a courtesy. Second and subsequent violations of this section shall be punishable by a fine of not less than one hundred dollars (\$100.00) and not more than two-hundred fifty dollars (\$250.00).

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

SECTION 3. Effective Date. This ordinance shall take effect upon adoption and posting as provided by Section 5.26 of the Territorial Charter, except that the provisions of new code 8.22.040(a)(6) (WRDE dumpsters) shall not take effect until December 10, 2019.

INTRODUCED, READ, APPROVED AND ORDERED POSTED IN FULL ON FIRST READING on the 27th day of August, 2019.

INTRODUCED ON SECOND READING, FINALLY ADOPTED AND ORDERED POSTED AFTER PUBLIC HEARING on the 10th day of September, 2019.

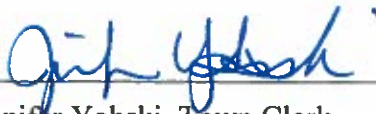
TOWN OF GEORGETOWN

By: 
Lynette Kelsey, Police Judge

ATTEST:


Jennifer Yobski, Town Clerk

Posted up in full on the Town's website and at Town Hall and two (2) other designated posting locations within the limits of the Town after final adoption, in accordance with Section 5.26 of the Territorial Charter.


Jennifer Yobski, Town Clerk

Date: 9-20-19

