

ORDINANCE NO. 6, 2008

AN ORDINANCE OF THE CITY OF OURAY, COLORADO, REVISING REGULATIONS RELATING TO REFUSE COLLECTION AND CONTAINERS.

WHEREAS, the City of Ouray finds that the growing incidence of wildlife entering the corporate limits of the City to forage for food in refuse containers is creating increased threat to the citizenry; and

WHEREAS, in order to protect the citizenry, thereby protecting the animals as well, it is the City Council's desire to amend its regulations relating to refuse placement and collection, so as to minimize available food sources within the City and discourage wildlife foraging within the City limits; and

WHEREAS, the City Council finds that requiring wildlife resistant containers and further requiring the enclosure of refuse outside of collection days will help protect its citizens and is in the interest of public health, safety and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OURAY, COLORADO, as follows:

SECTION 1:

That Subsections 12-3(B) and (D), of the Code of the City of Ouray, Colorado, is amended to read as follows:

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- B. Charges for customers using commercial and multi-unit residential refuse containers or dumpsters shall be set in accordance with the City's refuse collection contracts.

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- D. Residential customers are entitled to use three (3) thirty-two gallon refuse containers that meet the requirements of this Chapter 12, or larger containers the equivalent thereof if approved by the refuse collection service provider and the City. Customers requiring or desiring additional service shall make arrangements with the refuse service provider for such services and pay any additional charges determined to be necessary.

SECTION 2:

That Subsection 12-4, of the Code of the City of Ouray, Colorado, is amended to read as follows:

12-4: Residential Refuse Containers:

- A. Residential customers shall provide, at their own expense, refuse containers meeting the requirements of this Chapter.
- B. Residential refuse containers shall be of sturdy construction consisting of durable plastic or metal, and shall be fully enclosed with tight fitting lids that have **well secured** locking mechanisms sufficient in design and strength to withstand the opening by wildlife readily, and will remain closed when turned on their side.
- C. **Wildlife resistant refuse containers are encouraged and shall be available for purchase through the service provider. "Wildlife resistant refuse" containers, for purposes of the provisions in this Chapter 12, shall mean a fully enclosed, plastic container of sturdy construction, with a sturdy plastic or metal reinforced lid which must have a well secured latching mechanism which prevents or significantly inhibits access to the contents by wildlife.**
- D. "Wildlife", for purposes of the provisions in this Chapter 12, shall mean any non-domestic animal including, but not limited to, skunks, crows, raccoons, bears, coyotes, mountain lions, lynx, bobcats and foxes.
- E. No more than three 32-gallon refuse containers, or larger containers the equivalent thereof if approved by the refuse collection service provider and the City, may be utilized by any residential customer.
- F. The provisions of this Subsection 12.4 shall not apply to residential containers used solely for recyclable materials and which do not include refuse. All recyclable materials shall be free of food and beverage residue.
- G. "Refuse" for purposes of the provisions in this Chapter 12, shall mean any trash or waste that could reasonably attract wildlife including but not limited to food products, kitchen wastes, organic wastes, packaging with food and beverage residues, spices, seasonings, grease, cosmetics, toothpaste, compost, pet food and pet waste.

SECTION 3:

That Subsection 12-5 of the Code of the City of Ouray, Colorado, is amended to read as follows:

12-5: Placement for Collection:

- A. Residential refuse containers shall be placed in alleys at the edge of alley if applicable, for pickup. If, due to terrain, inaccessibility or other reasons, it is impractical to make pickups in the alley, individual arrangements shall be made with the City.
- B. Residential refuse containers shall only be placed in or at the edge of alleys for collection the mornings of scheduled collection service, and no earlier than 6 AM. At all other times, residential refuse containers shall be stored upon residential property and shall remain in a closed or latched position and in a manner to prevent or significantly inhibit access by wildlife, or stored within an enclosed structure or building.
- C. Residential containers used for recyclable materials shall only be placed outside for alley collection the mornings of scheduled collection service, and no earlier than 6 AM.

SECTION 4:

That Subsection 12-6 of the Code of the City of Ouray, Colorado, is amended to read as follows:

12-6: Commercial Refuse Containers:

- A. Commercial refuse containers or dumpsters meeting the specifications of this Chapter 12 shall be required of all commercial, industrial and multi-unit residential customers which regularly produce more refuse than can be otherwise accommodated in the allowed number of residential refuse containers.
- B. The customer is responsible for the cost of the refuse container.
- C. The customer shall supply or obtain refuse containers adequate to accommodate the amount of refuse normally generated between pick-ups.
- D. All commercial refuse containers shall be placed on hard, level surfaces in a place accessible for pick-up by the refuse collection equipment.
- E. Commercial refuse containers or dumpsters shall be fully enclosed metal

containers with tight fitting metal lids or hardened, plastic lids with metal reinforcement that can be latched into a closed position which prevent access to its contents by wildlife. The containers shall be closed and latched at all times when not being filled or emptied through pick-up service, and shall not at any time be over-filled so as to prevent proper closure. The customer shall be strictly liable for compliance with these requirements.

- F. The provisions of this Subsection 12.6 shall not apply to commercial containers used solely for recyclable materials which do not include refuse. All recyclable materials shall be free of food and beverage residue.

SECTION 5:

That Subsection 12-8(A) of the Code of the City of Ouray, Colorado, is amended to read as follows:

12-8: Tampering with Refuse Containers:

- A. It shall be unlawful for any person to tamper with or otherwise disturb any refuse container or dumpster, or its contents which belong to another, without permission or a legal right to do so.

SECTION 6:

That Subsection 12-10 of the Code of the City of Ouray, Colorado, is amended to read as follows:

12-10: Illegal Use of Refuse Collection Service:

- A. It shall be unlawful for any person to utilize City refuse collection services without paying the charges imposed by this Chapter.
- B. It shall be unlawful for any person to place his or her refuse for collection with or in containers belonging to a City customer unless such person is paying the charges imposed by this Chapter and had the other's permission.

SECTION 7:

That a new Subsection 12-12 of the Code of the City of Ouray, Colorado, is

added to read as follows:

12-12: Feeding of Wildlife Prohibited:

- A. It shall be unlawful for any person to feed any wildlife, or knowingly leave or store any refuse or food, food product, pet food, grain, or salt in a manner intended to entice or attract wildlife.
- B. Bird feeders are exempt to the provisions of this Chapter 12. However, between the dates of November 15 and April 15, bird feeders shall be suspended on a cable or other device so that they are inaccessible to wildlife mammals and the area below the feeders must be kept free from the accumulation of seed debris.

SECTION 8:

That a new Subsection 12-13 of the Code of the City of Ouray, Colorado, is added to read as follows:

12-13: Miscellaneous Exemptions:

- A. City-owned refuse containers utilized in City parks, City rights of way, and City facilities, are exempt from the provisions of this Chapter 12, but shall, to the extent practical, be designed and constructed in a manner to prevent access by wildlife.
- B. Outdoor special events shall be kept free from the accumulation of refuse. Refuse must be collected from the site at the close of each day's activities and shall be deposited into appropriate containers that meet the provisions of this Chapter 12, or shall be removed to an appropriate disposal site.
- C. Construction sites shall be kept free from the accumulation of refuse, construction materials and debris. Refuse must be collected from construction sites at the close of each day's activities and shall be deposited into appropriate containers that meet the provisions of this Chapter 12, or shall be removed to an appropriate disposal site.

SECTION 9: That a new Subsection 12-14 of the Code of the City of Ouray, Colorado, is added to read as follows:

12-14: Violations:

- A. The City of Ouray Police or Code Enforcement Officers shall have the

power to issue warning notices or a summons and complaint to any person in violation of this Chapter.

- B. Violation of any provision of this Chapter by any person shall be unlawful. Penalties for violations to the provisions of Chapter 12 shall be as follows: first violations shall be subject to a written warning; second violations by the same owner or occupant shall be subject to a fine of Three Hundred Dollars (\$300.00) plus court costs; third or repeat violations by the same owner or occupant shall be subject to a fine of Three Hundred Dollars (\$300.00) or by imprisonment of not more than ninety (90) days, or by both such fine and imprisonment, plus court costs, provided however, that no person under the age of eighteen (18) years may be sentenced to any term of imprisonment. Fines issued for violations in those cases involving residential refuse containers, as set forth in Sections 12-4 and 12-5 above, may be offset by the verified purchase and proper use of a wildlife resistant refuse container prior to the scheduled Municipal Court hearing regarding such violation.
- C. Either the owner or occupant of a residence or commercial establishment or both may be held responsible for a violation of this Chapter.
- D. A resident or occupant 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 the City. If the identity of the resident or occupant is not known, the entity responsible for payment of the refuse collection service for the subject property shall be held responsible for any penalties assessed pursuant to this Chapter.

SECTION 10:

That a new Subsection 12-15 of the Code of the City of Ouray, Colorado, is added to read as follows:

12-15: Severability:

Should any provision of this ordinance or its application to any person or circumstances be held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application. The provisions of this ordinance are declared to be severable.

SECTION 11:

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The provisions of this Ordinance shall become effective July 21, 2008.

SECTION 12:

Savings Clause. The repeal and amendment of various provisions of the Ouray Municipal Code by this ordinance shall not affect any offense or act committed, any penalty incurred, any contract, right, or duty established or accruing before the effective date of this ordinance.

INTRODUCED, READ, PASSED and ORDERED PUBLISHED on first reading by 3-2 vote of the Ouray City Council, this 19th day of May, 2008.

CITY OF OURAY, COLORADO

By 
Robert E. Risch, Mayor

ATTEST:


Kathy Elmont, City Clerk

INTRODUCED, READ AND ADOPTED, as amended, on second reading by 5-0 vote of the Ouray City Council, this 16th day of June, 2008.

CITY OF OURAY, COLORADO

By *R. E. Risch*
Robert E. Risch, Mayor

ATTEST:

Kathy Elmont
Kathy Elmont, City Clerk

CERTIFICATE OF ATTESTATION

I, Kathy Elmont, Ouray City Clerk, hereby certify that Ordinance No. 6 (Series No. 2008), was introduced, read and passed by the Ouray City Council on first reading on May 19, 2008. Said Ordinance was published, in full, in the Ouray County Plaindealer on May 23, 2008, and thereafter introduced, read and adopted by the Ouray City Council on June 16, 2008, and thereafter published in the Ouray County Plaindealer, as required by law.

Kathy Elmont
City Clerk