



BOARD OF COUNTY COMMISSIONERS
COUNTY OF LA PLATA, STATE OF COLORADO

ORDINANCE NO. O-2008-1

**AN ORDINANCE REGARDING WASTE DISPOSAL IN
UNINCORPORATED LA PLATA COUNTY**

WHEREAS, pursuant to C.R.S. § 30-15-401(1)(a)(I)(A), the Board of County Commissioners of La Plata County, Colorado is authorized to adopt ordinances related to the removal of trash and rubbish within the County;

WHEREAS, pursuant to C.R.S § 25-1-611, the Board of County Commissioners of La Plata County, Colorado is authorized to pass such regulations respecting nuisances, sources of filth and causes of sickness that the Board judges necessary for the public health and safety;

WHEREAS, pursuant to Section 46-56 of the La Plata County Code, the Board of County Commissioners of La Plata County, Colorado has deemed it to be unlawful for any person to allow, cause or permit the dumping of rubbish upon any private or public lands within the County;

WHEREAS, the Board of County Commissioners finds that the practice of leaving unattended and unsecured trash and refuse out in the open and along the County rights-of-way within the unincorporated territory of La Plata County and County controlled lands on days and at times when that trash and refuse is not scheduled to be collected or picked up creates an unnecessary and dangerous attraction to bears and other wildlife, and thus constitutes a nuisance, source of filth, cause of sickness, and otherwise threatens the health, safety, and welfare of the citizens of La Plata County; and

WHEREAS, the Board of County Commissioners finds that regulations and standards either requiring the use of secured and wildlife-proof trash containers or limiting the days and periods in which unattended and unsecured trash and refuse containers may be left out in the open and along the County rights-of-way within the unincorporated territory of La Plata County, are necessary to enhance the public health, safety and welfare of the citizens of La Plata County;

NOW THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of the County of La Plata, State of Colorado:

1. Basis/Purpose

Bears, mountain lions, skunks, raccoons, magpies, crows, foxes, and coyotes are a few of the wildlife species living in close proximity to people in La Plata County. Over

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the past several years human-wildlife conflict incidents dealing with these species have dramatically increased. Unsecured and unattended trash containers that are left in the open for extended periods of time are a strong attractant for wildlife and a primary cause of conflicts between wildlife and people.

2. Intent

The Board of County Commissioners finds and declares that the purpose of this Ordinance is to protect the public health and welfare by either requiring the use of secured and wildlife-proof trash containers or restricting the times and dates in which residents or other property owners or users may leave unattended and unsecured trash, rubbish and refuse containers in the open and along rights-of-way within the unincorporated territory of La Plata County and on La Plata County controlled lands.

3. Definitions

The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this section:

A. **Premises** – any property located within the unincorporated territory of La Plata County that is owned, occupied, leased or expressly permitted to be used as a residence or business and over which the County has jurisdiction.

B. **Person** – any individual, resident or occupier of a Premises or, in the circumstance where a group of individuals, residents or occupiers appoints or has appointed for them a firm, corporation, or organization to bear the responsibility for collecting or accumulating for that group all trash, refuse and rubbish for pick-up by a commercial waste hauler for delivery to an authorized depository or landfill, that firm, corporation, or organization. However, Person shall not include any commercial waste haulers.

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

D. **Wildlife Disturbance** – an incident in which some animal or species defined herein as being Wildlife upsets, knocks over, enters or otherwise disturbs a trash, rubbish or refuse container such that any trash, refuse or rubbish contained in the container is removed or falls out of the container and becomes scattered or spread across the area in the immediate vicinity of the container, thereby threatening the public's health, safety and welfare.

E. **Wildlife-Proof Refuse Container (WPRC)** – a fully enclosed

container constructed of non-pliable material (e.g. metal) to prevent access by wildlife and meeting the standards as set forth in the Site Development Standards of the La Plata County Land Use Regulations, as may be amended from time to time. WPRCs must also meet the standards of testing by the Living with Wildlife Foundation and approved by the Interagency Grizzly Bear Committee (IGBC) as bear resistant for 90 minutes. A dumpster or similar trash receptacle of heavy construction may be a WPRC. The container must employ a latching mechanism on the access door sufficient to defeat attempts by wildlife to enter. All WPRCs must be individually identifiable by serial number.

F. **Wildlife Resistant Refuse Container (WRRC)** – a fully enclosed container that can be constructed of pliable materials, but must be reinforced to deter access by wildlife and meet the standards as set forth in the Site Development Standards of the La Plata County Land Use Regulations, as may be amended from time to time. The container must employ a sturdy pliable lid that has a latching mechanism preventing access to its contents by wildlife. WPRCs must also meet the standards of testing by the Living with Wildlife Foundation and approved by the Interagency Grizzly Bear Committee (IGBC) as bear resistant for 90 minutes. All WRRCs must be individually identifiable by serial number.

G. **Wildlife-Proof Dumpster Enclosure (WPDE)** – 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. WPDEs must also meet the standards of testing by the Living with Wildlife Foundation. The door or cover must have a latching mechanism sufficient to prevent entry by wildlife. The sides of the structure must extend to within two inches of the ground, and ventilation openings must be covered with a heavy gauge steel mesh or other material of sufficient strength to prevent access by wildlife. Mesh openings shall not exceed one-quarter inch in width. The door or cover to the WPDE may be removed from December 1 through March 1.

4. **Trash, Rubbish and Refuse Containers**

A. **Trash Containers to be secured.** Any trash, rubbish or refuse containers that are utilized by any Person on any Premises in La Plata County, regardless of size, including containers for single-unit residential properties or special events, and which contains any refuse that is edible to or attracts wildlife shall at all times, except when it is being placed out for pick-up by a commercial waste hauler in accordance Section 4(B) below or being directly attended to by an individual, either be (i) a WPRC or a WRRC and shall be effectively locked or latched so as to prevent access by wildlife, or (ii) be stored either within a WPDE or an otherwise secure structure that prevents access to that container by wildlife.

B. **Curb pick-up and drop-off.** Persons with curbside pick-up by a commercial waste hauler that are not using either a WPRC or WRRC shall only be

permitted to place any trash, rubbish or refuse containers containing any refuse that is edible to or attracts wildlife at the curb, alley, or right of way at or after five thirty (5:30) a.m. on the morning of scheduled pick-up. After pick-up, all containers must be removed from the curb, alley, or right of way by nine o'clock (9:00) p.m. on the same day.

5. Acceptable Outdoor Compactor Design

Any outdoor compactor containing any material edible by bears or other wildlife must not be accessible by wildlife. No trash or material may be exposed and doors must be kept closed and latched with a wildlife proof mechanism except when loading or removing refuse. If damaged, allowing access by wildlife, repairs must be made to the outdoor compactor within 72 hours after written notification by La Plata County.

6. Exceptions

The following entities or actions are exempt from the requirements of this Ordinance:

A. The lawful operation of a landfill, transfer station, recycling center or composting facility and related activities by La Plata County or any other governmental entity or any other authorized, licensed or otherwise permitted entity.

B. The Board of County Commissioners or its designee may, in consultation with the Colorado Division of Wildlife, remove a geographic area of La Plata County (e.g. a subdivision) from any part of the above requirements.

C. Any individual, company, or corporation that is engaged in lawful agricultural or ranching pursuits (i.e., haystack or cattle feeder located in a rancher's pasture).

D. Special events of a duration of less than one day, provided that the organizers or operators of the event provide for the removal of all unsecured refuse or trash containers within 24 hours of the completion of such event.

E. Any entity operating on federally or state owned lands located within the unincorporated territory of La Plata County.

7. Violation and Penalties

A. **Violation.** A violation of this ordinance has occurred when a Person fails to comply with the provisions of Section 4 of this ordinance and that failure to comply creates a Wildlife Disturbance. Any party authorized to enforce this ordinance pursuant to Section 8 shall investigate any report of an apparent wildlife disturbance and if he or she determines that a Person's failure to comply with the terms and restrictions set forth

in Section 4 have caused that wildlife disturbance, he or she may issue a summons and complaint to that Person. A summons and complaint issued by an enforcement officer shall contain the name of the defendant, shall identify the offense charged, including a citation of the statute or resolution section alleged to have been violated, shall contain a brief statement or description of the offense charged, including the date and approximate location thereof, and shall direct the defendant to appear before the county court at a stated time and place.

B. **First Violation.** The first violation of this Ordinance may, at the discretion of the enforcement officer, also result in the issuance of a Notice of Violation and a fine as set forth below. Failure to correct a Notice of Violation within a reasonable time, not to exceed 72 hours, is grounds for issuance of a summons and complaint for a Subsequent Violation. In lieu of paying the fine amount for a first violation, a violator may instead elect to either purchase or lease for a period of no less than 12 months a WPRC or WRRRC within the time period for payment of the fine and agree to thereafter exclusively use that container for the purpose of storing or containing trash, rubbish or refuse on the Premises or for leaving out for curbside pick-up.

C. **Subsequent Violation.** Offenders who continue to violate this Ordinance or continue to fail in achieving timely compliance as set forth in any previous Notice of Violation shall be subject to a graduated fine schedule as set forth below.

D. **Penalties.** Pursuant to C.R.S. § 30-15-402(1), any person who or entity that violates this ordinance shall be guilty of a class 2 petty offense, punishable as follows:

i. A fine not exceeding two hundred dollars (\$200) for a first Notice of Violation.

ii. A fine not exceeding three hundred dollars (\$300) for the second Notice of Violation.

iii. A fine not exceeding five hundred dollars (\$500) for each additional Notice of Violation.

8. Enforcement

A. Notwithstanding any other provision of this Ordinance, all commissioned peace officers of the La Plata County Sheriff's Department, Colorado Wildlife Officers from the Colorado Division of Wildlife and any other persons or positions designated by resolution of the Board of County Commissioners for La Plata County as enforcement officers under this Ordinance may issue Notices of Violations, citations, summonses, and complaints for violation of this Ordinance. Any violations of this Ordinance shall

thereafter be prosecuted by the District Attorney for the Sixth Judicial District of Colorado.

B. Violation of this Ordinance is hereby declared to be a nuisance pursuant to C.R.S. 30-15-401, which may be abated by La Plata County by restraining order, preliminary and permanent injunction, or other means provided for by law, and the County may take action to recover the costs of the nuisance abatement.

9. Notice of Violation

A person shall be deemed to have been issued a Notice of Violation if it is personally served upon the resident, posted on the person's premises, or placed in the U.S. Mail, postage prepaid and addressed to the resident according to the last address given by the resident to any County government department.

10. Liberal Construction

This Ordinance shall be liberally construed so as to further its purposes.

11. Severability

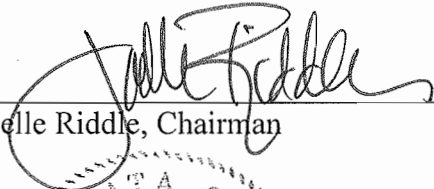
If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

12. Effective Date

This Ordinance shall be effective April 15, 2009. This Ordinance shall apply throughout the unincorporated areas of La Plata County over which the County has jurisdiction all year round.

ADOPTED AND APPROVED FOR FINAL PUBLICATION THIS 18TH DAY OF
DECEMBER, 2008

By: THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY



Joelle Riddle, Chairman

Attest:



Clerk to the Board of County Commissioners



CERTIFICATION: THE FOREGOING ORDINANCE WAS INTRODUCED AND
READ ON THE 12th DAY OF NOVEMBER, 2008, BY THE BOARD OF COUNTY
COMMISSIONERS OF LA PLATA COUNTY, COLORADO AND APPROVED FOR
PUBLICATION.

DATE OF INITIAL PUBLICATION: NOV. 17, 2008 IN THE DURANGO HERALD, A
NEWSPAPER OF GENERAL CIRCULATION.

THE FOREGOING ORDINANCE WAS CONSIDERED AT A SECOND READING
ON THE 18TH DAY OF DECEMBER, 2008 AND WAS ADOPTED AND APPROVED
FOR PUBLICATION BY THE BOARD OF COUNTY COMMISSIONERS WITH
AMENDMENTS.

DATE OF FINAL PUBLICATION: Dec. 23, 2008 IN THE
DURANGO HERALD, A NEWSPAPER OF GENERAL CIRCULATION.



La Plata County Clerk and Recorder