

**EMERGENCY
ORDINANCE NO. O-2018-1**

AN EMERGENCY ORDINANCE OF THE CITY OF DURANGO RE-ENACTING ORDINANCE NO. 2017-18 OF THE CITY OF DURANGO WHICH ESTABLISHED TEMPORARY REGULATIONS AND ENHANCED PENALTIES FOR THE VIOLATION OF THE PROVISIONS OF THE CITY CODE RELATED TO THE USE, PLACEMENT AND SECURITY OF TRASH CONTAINERS; AND TO REQUIRE STRICT COMPLIANCE WITH THOSE PROVISIONS TO MINIMIZE CONFLICTS WITH WILDLIFE IN THE CITY AND DECLARING AN EFFECTIVE DATE

WHEREAS, the City of Durango (“City”) is a municipal home-rule corporation created and organized pursuant to Article XX of the Colorado Constitution and the Charter of the City of Durango, Colorado; and

WHEREAS, by virtue of such authority, and as further authorized by state statutes, including, but not limited to, C.R.S., §31-15-401, the City has broad authority to exercise its police powers to promote and protect the health, safety and welfare of the community and its inhabitants; and

WHEREAS, such police powers include the power to regulate the storage and disposal of trash and refuse within the community; and

WHEREAS, the City Council adopted Emergency Ordinance No. O-2017- 18 on November 20, 2017 to address concerns with wildlife accessing trash containers and that ordinance will expire on January 18, 2018 unless re-enacted and extended for an additional sixty day period pursuant to the provisions of the Article II, Section of the City Charter; and

WHEREAS, the weather conditions have continued to create a serious shortage of the natural food source for bears and other wildlife in and around the City and there is evidence of wildlife activity within the City; and

WHEREAS, extreme conditions have caused human/wildlife interactions to reach dangerous levels in the City and the health, welfare and safety of the citizens of the City is threatened; and

WHEREAS, the failure of the citizens to assure that trash containers are kept safe, secured and stored in a manner to prevent access to those containers by wildlife as required by the City Code is encouraging wildlife to break into those containers in search of food, and successful efforts by wildlife to breach those containers encourages wildlife to continue to seek trash as a food source in the City; and

WHEREAS, efforts to educate the citizens and to obtain voluntary compliance with the City Code regarding the security of trash containers to avoid conflicts with wildlife have failed; and

WHEREAS, the current City Code provides for leniency for citations written for first offenses for failure to assure that trash containers are not accessible by wildlife; and

WHEREAS, the City is taking steps to make additional residential wildlife resistant refuse containers available to the citizens in the City, but increased diligence will be required in the use of residential containers prior to the availability of those wildlife resistant containers; and

WHEREAS, Section 14 of Article II of the Charter of the City of Durango, Colorado authorizes the adoption of emergency ordinances in response to a public emergency affecting life, health, property or public peace; and

WHEREAS, the Council finds that wildlife conflicts will continue to exist until winter weather conditions exist to provide a natural reduction in the wildlife conflicts in the City and the Council desires to extend the emergency provisions for an additional sixty day period; and

WHEREAS, the current conditions are likely to escalate without an increased enforcement effort to assure the security of trash containers within the city, and those conditions constitute an emergency condition under the provisions of Section 14 of Article II of the Charter of the City of Durango and the provisions of this Ordinance described herein are thereby necessary and appropriate to address a public emergency; and

NOW, THEREFORE, THE CITY OF DURANGO HEREBY ORDAINS:

Section 1. The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the City Council.

Section 2.

A. Section 10-47(g) of the City Code is temporarily amended to read as follows:

10-47 (g). Failure to comply with the regulations of this section 10-47 pertaining to the time and manner of placement and storage of trash containers is found to be a significant cause of human/wildlife conflicts within the City of Durango, and must be strictly enforced to minimize those dangerous conflicts. As such, any owner or occupant of any premises who violates the provisions of section 10-47 shall be issued a citation and shall be subject to the following fine schedule: (1) The first violation of this section shall result in the imposition of a fine of one hundred dollars (\$100.00); (2) A second or other subsequent violation of this section shall result in the imposition of a fine of two hundred dollars (\$200.00) per violation.

B. The first paragraph of Section 10-48(a)(1) of the City Code is temporarily amended to read as follows:

10-48(a)(1). *First violation.* Failure to comply with the regulations of this section 10-48 regarding citizens to keep their premises free of trash and rubbish is found to be a significant cause of human/wildlife conflicts within the City of Durango, and must be strictly enforced to minimize those dangerous conflicts. Any owner or occupant of any premises who violates the provisions of this section 10-48 shall be issued a citation and shall be subject to the imposition of a fine of one hundred dollars (\$100.00). In addition, the property owner shall be required to comply with the requirements of 10-48(a)(1)(a).

C. Section 10-48(a)(2) of the City Code is temporarily amended to read as follows:

10-48(a)(2). *Subsequent violations.* A second or other subsequent violation of this section shall result in the imposition of a fine of two hundred dollars (\$200.00) per violation.

Section 3. The City Council finds and determines that absent the imposition of this ordinance, the existing regulations and penalties governing trash containers are inadequate to address potential impacts from wildlife that could have a significantly detrimental impact on the health, safety and welfare of the community. The Council further finds that the provisions provided for herein are thereby necessary and appropriate to address a public emergency.

Section 4. The City Staff is directed to review additional options to address the issues of human/wildlife conflicts within the City and provide a report to Council and make recommendations for possible revisions to the City Code to minimize those conflicts and avoid significant impacts on the life, health, property or public peace of the citizens of the City.

Section 5. The provisions of this ordinance are temporary in nature and may be repealed by subsequent legislative enactment. The provisions of this ordinance shall automatically terminate at midnight on March 16, 2018, unless sooner repealed or otherwise extended.

Section 6. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof, irrespective of the fact that any one part be declared invalid.

Section 7. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 8. This ordinance shall become effective immediately.

INTRODUCED, READ, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE BY VOTE OF NOT LESS THAN THREE MEMBERS OF THE CITY COUNCIL AND ORDERED PUBLISHED THIS 16th DAY OF JANUARY 2018.



CITY COUNCIL OF THE CITY OF DURANGO

Attest:

Amy Phillips
City Clerk

Richard E. White
Mayor

STATE OF COLORADO)
) ss.
COUNTY OF LA PLATA)

I, Amy Phillips, City Clerk of the City of Durango, La Plata County, Colorado, do hereby certify that Emergency Ordinance No. O-2018-1 was introduced and read at a regular meeting of the City Council of the City of Durango, Colorado on the 16th day of January, 2018, was adopted on said date as an emergency ordinance pursuant to the authority of §14 of Article II of the Charter of the City of Durango, Colorado, and was ordered published, in full, in accordance with the terms and conditions of the statutes in such cases made and provided, in the Durango Herald, a newspaper of general circulation, on the 20th day of January, 2018, by order of the City Council.

Amy Phillips
City Clerk