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TOC: [Oregon Revised Statutes, Constitution, Court Rules & ALS, Combined](#) > /.../ > [HUNTING AND TRAPPING RESTRICTIONS](#) > **498.166. Bears or cougars posing threat to human safety.**

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ORS § 498.166

OREGON REVISED STATUTES

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SESSION OF THE 73RD LEGISLATIVE ASSEMBLY ***

*** ANNOTATIONS CURRENT THROUGH APRIL 5, 2006 ***

TITLE 41. WILDLIFE

CHAPTER 498. HUNTING, ANGLING AND TRAPPING REGULATIONS; MISCELLANEOUS WILDLIFE
PROTECTIVE MEASURES
HUNTING AND TRAPPING RESTRICTIONS

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ORS § 498.166 (2006)

498.166. **Bears** or cougars posing threat to human safety.

(1) Notwithstanding the licensing and tag requirements of ORS 497.102 and 497.112, a person may take a cougar or **bear** that poses a threat to human safety.

(2) Any person who takes a cougar or **bear** pursuant to subsection (1) of this section shall immediately report the taking to a person authorized to enforce the wildlife laws and shall dispose of the animal in such manner as the State Fish and Wildlife Commission directs.

(3) Any regional office of the State Department of Fish and Wildlife ordering the disposal of an animal under subsection (2) of this section shall file a report with the State Fish and Wildlife Director within 30 days after the disposal. The report shall include but need not be limited to the disposition of the animal, the events leading to the taking of the animal and any injury caused by the animal to humans or domesticated animals. The director shall compile all reports received under this subsection on a bimonthly basis. The reports compiled by the director shall be available to the public upon request.

(4) As used in this section:

(a) "Structure" includes a building being used as a residence, a building located on land actively used for agricultural, timber management, ranching or construction purposes or a building used as part of a business.

(b) "Threat to human safety" means the exhibition by a cougar or **bear** of one or more of the following behaviors:

(A) **Aggressive** actions directed toward a person or persons, including but not limited to charging, false charging, growling, teeth popping and snarling.

(B) Breaking into, or attempting to break into, a residence.(C) Attacking a pet or domestic animal as defined in ORS 167.310.

(D) Loss of wariness of humans, displayed through repeated sightings of the animal during the day near a permanent structure, permanent corral or mobile dwelling used by humans at an agricultural, timber management, ranching or construction site.

🚩 History:

2001 c.431 § 2

NOTES:

498.166 was added to and made a part of the wildlife laws by legislative action but was not added to ORS chapter 498 or any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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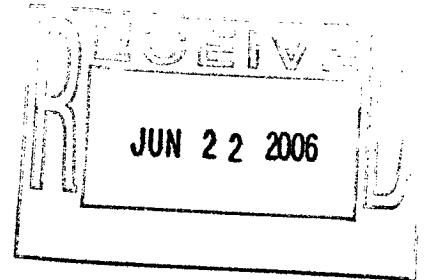
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June 21, 2006

Michael Franel
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City of Ashland
20 East Main
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Dear Mike:

I am writing about the cinnamon-colored black bear that has been photographed and publicized in town lately. I thought you should be aware of certain facts that pertain to the City's potential liability.

Approximately a week ago, the bear tipped over my garbage can at 2 a.m.. I went out, didn't see the bear, made considerable noise cleaning up the garbage and went back inside. When I looked out my front window within fifteen seconds, he was back, about ten feet from where I had been.

Yesterday or the day before he again tried to rummage in our trash can at approximately 2 p.m; the precise date and time are on file at APD, as I called to report it. At that time there were several elderly people walking down Ridge within yards of where he had been.

Today at around noon, he again came into the driveway, within five feet of the house, then left through a neighbor's front yard in no particular hurry, though I was outside and at least one car stopped to watch him. It is my understanding there have been other similar reports recently from other citizens.

I do not write merely to complain about strewn garbage. My point is this:

this bear gives all signs of having lost his fear of humans. I do not live in a remote rural area. Immediately across the road to the west is the upper portion of Lithia Park, interlaced with walking trails, and directly uphill from the tennis courts. In the other three directions, my yard is surrounded by other residences. Walkers and joggers and bicyclists go by every few moments on both adjoining streets (Ridge and Glenview). Traffic is frequent. Nonetheless, this bear is apparently patrolling this neighborhood routinely during the daylight hours, and through an area with many people present.

I have read the recent articles, one of which quoted a City employee as believing that the bear still feared humans and that he might simply go away without anyone's intervention. Based on what I have seen, both those beliefs are incorrect. As I'm sure you know, a municipality has wide discretion in choosing the precise means of dealing with a known hazard, but does not have discretion to do nothing.

Directly on the route he took today is a swing a neighbor makes available to passing neighborhood children. There are kids in this neighborhood, and many elderly retired people, in addition to the frequent passers-by I mentioned above. I will leave it to you to draw the obvious conclusions about what might happen, and the liabilities that might ensue.

Thank you for your attention to this matter.

Very truly yours,

Michael Jewett

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Bear ransacks garbage, enters home

Neighbors say bruin seemed experienced

By Alan Panebaker

Ashland Daily Tidings

A small bear invaded an apartment on Iowa Street Tuesday evening, startling three women before heading outside to visit some garbage cans.

Roanne Lyall said her cousin, Tanya Sangrey was using a computer in the apartment when she looked up to see a waist-high brown colored bear.

Lyall said Sangrey came into the living room in a crouched, defensive position with her "eyes as big as saucers."

"She said, 'There's a bear in the house,'" Lyall said. "I looked at her and thought, 'Why was she walking like that?'"

Lyall's granddaughter, Kelly Mamaradlo was getting ready to watch a movie when the bear popped in. She called the police, who responded quickly and shooed the bear toward the wooded hills nearby. According to Ashland Police, the bear was last seen

in a tree at the corner of Idaho and Iowa streets.

"I didn't see the bear until it came waltzing through the kitchen," Mamaradlo said.

Lyll said the animal came into her house through a door that she always leaves open for her 17-year-old dog. The canine was not injured in the incident.

Neighbors Robert and Colleen Ward, who live in another apartment building next door, thought they saw two bears Tuesday evening — although they never saw them both at the same time. Watching from their upstairs apartment window, the couple saw a bear casually open a trash can lid and scoop out what it was looking for.

"He looked like he had done it before," Colleen Ward said.

The Wards also saw a bear scamper along the sidewalk next to Lyll's apartment building before scaling a fence and trotting inside.

Ashland Police Sgt. Bob Smith said the department has received more calls about bears than usual this year, although he did not have an exact number available.

"We've had a number of calls," Smith said. "Most of the sightings occur around the park."

The most recent bear sighting was near the playground in Lithia Park. Officers frightened the animal into the woods, Smith said.

Ashland Parks and Recreation Director Don Robertson said a bear got into some trash that picnickers had left high in the park earlier this week, despite signs that warn people to pack out all garbage.

Oregon Department of Fish and Wildlife biologists have been stressing the importance of keeping smelly garbage inaccessible



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to bears. Locking trash cans if possible and cleaning them out regularly with ammonia is the recommended method.

Kelly Mamaradlo's personal bear encounter contained a hint of irony.

"I go out camping in the woods and don't see a thing," Mamaradlo said. "Then I come home, and there's a bear in my house."

Staff writer Alan Panebaker can be reached at 482-3456 x 227 or apanebaker@dailytidings.com.

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