

ORDINANCE NO. 8045

AN ORDINANCE AMENDING SECTIONS 6-3-2, "DEFINITIONS," 6-3-3, "ACCUMULATION OF TRASH, RECYCLABLES, AND COMPOSTABLES PROHIBITED," 6-3-9, "SPECIAL TRASH SERVICE REQUIREMENTS ON CERTAIN RESIDENTIAL RENTAL PROPERTIES AT CERTAIN TIMES," AND 6-12-6, "DISPOSITION OF RECYCLABLE OR COMPOSTABLE MATERIALS," B.R.C. 1981, AND ADDING NEW SECTIONS 6-3-13, PROPERTY OWNER REQUIREMENTS FOR RECYCLABLES AND COMPOSTABLES COLLECTION," 6-3-14, "BUSINESS OWNER REQUIREMENTS FOR RECYCLABLES AND COMPOSTABLES COLLECTION," 6-3-15, SPECIAL EVENTS REQUIREMENTS FOR RECYCLABLES AND COMPOSTABLES COLLECTIONS," 6-3-16, "APPLICABILITY," 6-3-17, "EXEMPTIONS," 6-3-18, "VIOLATIONS," B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

WHEREAS, THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

The city, through its policies, programs, and laws, supports efforts to reduce the amount of waste that must be disposed of in landfills and pursues "zero waste" as a long-term goal by emphasizing waste prevention efforts;

A. The City of Boulder has been managing recycling and composting programs since 1981 when the Trash Tax, Chapter 3-10, B.R.C. 1981, was first instituted;

B. The City has found the most effective way to ensure maximum recovery of recyclable and compostable materials from trash is to require they be separated from trash;

C. City Council encourages businesses that prepare, serve or sell food to investigate donating or repurposing edible food waste prior to composting it;

1 D. No entity currently exists in Boulder County that will accept mixed trash and
2 separate it into recyclable and compostable materials offsite. Such post-collection processing of
3 mixed trash and recyclable materials is not an environmentally effective or efficient method of
4 managing trash;

5 E. The Boulder County Recycling Center is a publicly owned facility that can bolster
6 the City's goals of increasing both the amount of recyclables being processed and the efficiency
7 of implementing the City's Zero Waste Strategic and Action plans;

8 F. Therefore, the purpose of this Ordinance is to ensure every person within the City
9 of Boulder is able to separate recyclables and compostables from trash and that the materials
10 designated by the City Manager to be recyclable and compostable are recycled and composted
11 properly.
12

13 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
14 COLORADO:

15 Section 1. 6-3-2, B.R.C. 1981, is amended to read:

16 **6-3-2. - Definitions.**

17 The definitions in Chapter 1-2, "Definitions," B.R.C. 1981, shall apply to this chapter,
18 including, without limitation, the definitions of compostables, hauler, recyclable materials, trash,
19 trash container, visible to the public, and wildlife-resistant container.

20 The following terms used in this chapter have the following meanings unless the context
21 clearly indicates otherwise:

22 *Bear-resistant container* shall mean a container that meets the requirements for such a
23 container established by the city manager in a rule adopted pursuant to Section 6-3-11, "City
24 Manager Authorized to Issue Rules," B.R.C. 1981.

25 *Bear-resistant dumpster* shall mean a dumpster that meets the requirements for such a
26 container established by the city manager in a rule adopted pursuant to Section 6-3-11, "City
27 Manager Authorized to Issue Rules," B.R.C. 1981.

1 *Bear-resistant enclosure* shall mean a fully enclosed structure that meets the
2 requirements for such a container established by the city manager in a rule adopted pursuant to
3 Section 6-3-11, "City Manager Authorized to Issue Rules," B.R.C. 1981.

4 *Business* shall have the meaning set forth in Chapter 1-2, "Definitions," B.R.C. 1981, and
5 as used in this section shall also include, without limitation, educational institutions, and
6 charitable or nonprofit organizations.

7 *Owner* shall have the meaning set forth in Chapter 1-2, "Definitions," B.R.C. 1981, and
8 as used in this section, shall include a business operator or business manager. With respect to
9 requirements relating to the provision of recyclable and compostable materials collection for a
10 condominium or cooperatively owned development, "owner shall include the owners'
11 association or its equivalent.

12 *Person* shall have the meaning set forth in Chapter 1-2, "Definitions," B.R.C. 1981, and
13 shall also include, without limitation, owner of any property or vacant land; occupant, owner,
14 operator, or manager of any single-unit dwelling, multi-unit dwelling, mobile home, mobile
15 home park, private club, or other similar property; or owner, operator, manager, or employee of
16 any business or business property.

17 *Property Manager* shall mean any person who is an owner's representative, has charge
18 of, or controls any property of an owner appointed to manage on-site property operations
19 including trash collection services for the property.

20 *Refuse attractant* shall mean any trash or other substance which could reasonably be
21 expected to attract wildlife or does attract wildlife, including, but not limited to, soiled diapers,
22 sanitary pads, food products, pet food, feed, kitchen organic waste, food, food packaging,
23 toothpaste, deodorant, cosmetics, spices, seasonings, or grease. Attractants do not include
24 recyclable materials properly enclosed in a recycling container, or materials that do not meet the
25 definition of trash in Section 1-2-1, "Definitions," B.R.C. 1981, and is fruit associated with a
fruit tree or bush, produce associated with a garden, or a bird feeder.

Self-haul when used in reference to trash, recyclable and/or compostable materials
generated by a business or person, shall mean the collection and transportation of such materials
from a property where an owner, employee or agent of the property or business hauls the
material rather than a hauler or to perform this function

Venue facility means any structure used for temporary events.

Section 2. 6-3-3(b), B.R.C. 1981, is amended to read:

6-3-3. - Accumulation of Trash, Recyclables, and Compostables Prohibited.

...

1 (b) No owner of any property ~~containing one or more rental dwelling units~~ shall fail to
2 maintain in effect a current and valid contract with ~~a one or more haulers~~ providing for
3 the removal of accumulated trash, recyclables and compostables from the property, which
4 contract shall provide for sufficient trash, recyclables and compostable materials hauling
5 to accommodate the regular accumulation of trash, recyclables and compostables from
6 the property. Properties containing one or more rental dwelling units shall maintain a
7 contract for the collection of trash no less frequently than on a biweekly basis.

8 ...
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10 Section 3. 6-3-9(c), B.R.C. 1981, is amended to read:

11 **6-3-9. - Special Trash Service Requirements on Certain Residential Rental Properties at**
12 **Certain Times.**

- 13 (c) Within the special trash service zone and during a designated period, no owner of
14 property required to be licensed by Section 10-3-2, "Rental License Required Before
15 Occupancy and License Exemptions," B.R.C. 1981, shall fail to maintain in effect a
16 current and valid contract with a commercial trash hauler providing for the removal of
17 accumulated trash from the property, which contract provides for trash hauling:
18 (1) The hauler will check the regular trash containers for the property every day,
19 excluding Sundays and holidays.
20 (1)(2) The recyclables hauler will check the regular recycling containers for the property
21 at least two times per week during the city manager's designated consecutive days in
22 the third quarter of the calendar year.
23 (2)(3) Any trash container which is full Monday through Friday will be emptied by the
24 hauler. On Saturdays, containers will be emptied if more than half full.
25 (4) Any trash which is on the ground or otherwise near the container is picked up by the
26 hauler.
27 (3)(5) Any recycling container which is more than half full when checked will be
28 emptied by the recyclables hauler.

29 Section 4. Chapter 6-3, "Trash, Recyclables, and Compostables," B.R.C. 1981, is

30 amended by the addition of a new section to read:

31 **6-3-13. - Property Owner Requirements for Recyclables and Compostables Collection.**

- 32 (a) For all services that meet the requirements of this section, the property owner or property
33 manager must establish on-site collection areas for recyclable and compostable materials
34 that are convenient to occupants and tenants. The recycling and compost collection
35 containers shall be placed in a location or locations within reasonable and convenient
36 proximity to all buildings and other uses on site and be at least as convenient to occupants
37 and tenants as trash containers.

1 (b) When a property owner or property manager provides janitorial services to its tenants,
2 employees or occupants, the contract for janitorial services shall include recyclables and
3 compostables collection service that meets the requirements of this section.

4 (c) At least once per year, the property owner or property manager shall conduct training and
5 distribute to all tenants information about how to use the on-site system established for
6 collection of recyclables and compostables pursuant to this section. Property owners and
7 managers shall provide new tenants with this information within 30 days of tenant move-
8 in and no later than the thirtieth day after a substantive change in the recycling or
9 composting location or service offered at the property.

10 (d) Property owners or managers must maintain and make available upon request, to the city
11 manager for inspection and copying during normal business hours, any contracts and
12 invoices for collection and disposition of recyclable and/or compostable materials for a
13 period covering the most recent three years.

14 Section 5. Chapter 6-3, "Trash, Recyclables, and Compostables," B.R.C. 1981, is
15 amended by the addition of a new section to read:

16 **6-3-14. - Business Owner Requirements for Recyclables and Compostables Collection.**

17 (a) All business owners must separate recyclable and compostable material from the trash
18 and wherever business owners provide trash containers to employees or customers, they
19 must also provide recyclables and compostables containers for employees and customers'
20 use. Containers must be at least as conveniently located as trash and be of adequate size
21 and number to prevent recyclables and compostables from being mixed with trash.

22 (b) At least once per year, business owners must conduct training that instructs all employees
23 how to use the containers established for collection of recyclables and compostables
24 pursuant to this section. Business owners shall provide new employees with this
25 information within 30 days of when the employee begins work and no later than the
thirtieth day after a substantive change in the recycling or composting service offered at
the business.

(c) All business owners must provide Spanish and English or picture-only signs at each
recyclables and compostables container, clearly indicating the appropriate materials to be
placed inside the container in accordance with rules issued by the city manager.

(d) Business owners or managers must maintain and make available upon request, to the city
manager for inspection and copying during normal business hours, any contracts and
invoices for collection and disposition of recyclable and/or compostable materials for a
period covering the most recent three years.

1 Section 6. Chapter 6-3, “Trash, Recyclables, and Compostables,” B.R.C. 1981, is
2 amended by the addition of a new section to read:

3
4 **6-3-15. - Special Events Requirements for Recyclables and Compostables Collection.**

5 All special events and temporary events at a venue facility in the City of Boulder must
6 provide recyclables and compostables collection in compliance with the city’s Special Event
7 Permit requirements.

8 Section 7. Chapter 6-3, “Trash, Recyclables, and Compostables,” B.R.C. 1981, is
9 amended by the addition of a new section to read:

10 **6-3-16. – Applicability.**

11 (a) The requirements of section 6-3-13, “Property Owner Requirements for Recyclables and
12 Compostables Collection” shall apply to all property owners within the City of Boulder
13 beginning one year from the date this Ordinance is adopted by city council.

14 (b) The requirements of section 6-3-14, “Business Owner Requirements for Recyclables and
15 Compostables Collection,” shall apply to all businesses existing within the City of
16 Boulder by the date established in a rule adopted by the city manager in accordance with
17 Chapter 1-4, “Rulemaking,” B.R.C. 1981.

18 (c) The requirements of section 6-3-15, “Special Events Requirements for Recyclables and
19 Compostables Collection” shall apply to all special events and temporary events at venue
20 facilities beginning on January 1, 2016.

21 Section 8. Chapter 6-3, “Trash, Recyclables, and Compostables,” B.R.C. 1981, is
22 amended by the addition of a new section to read:

23 **6-3-17. - Exemptions.**

24 (a) Applications for exemptions from complying with the requirements of sections 6-3-13,
25 “Property Owner Requirements for Recyclables and Compostables Collection,” or 6-3-
26 14, “Business Owner Requirements, must be made by the owner of the property or
27 business. Any exemption shall be for a period of one year. Property or business owners
28 may re-apply for one additional exemption at the expiration of the initial exemption
29 period. City staff will review exemption applications and work with the applicants to
30 bring the property owner or business owner into compliance. Applications must be

1 received within sixty days of the start of the compliance period established in section 6-3-
2 17, "Applicability." The city manager may issue additional rules that govern the
3 conditions under which an application for an exemption may be submitted and granted. In
4 order to be granted an exemption, applicants must demonstrate they have considered all
5 reasonable options that would bring their business or property into compliance and must
6 explain to the satisfaction of the city manager why none of these options are viable. The
7 city manager shall determine whether an exemption will be granted. Applications for an
8 exemption may require submission of an application processing fee.

9 (b) The following persons are exempt from the provisions of this chapter:

- 10 (1) The owner of a business that occupies less than fifty percent of the floor area of a
11 residence.
12 (2) A business or property owner or manager that can demonstrate extreme economic
13 hardship as defined by the city manager.
14 (3) Businesses that generate a de minimis volume of trash, recyclables or compostables
15 as defined by the city manager.
16 (4) Any business owner or manager who can demonstrate that compliance would require
17 the business to violate other municipal codes or regulations, or applicable state or
18 federal regulations.
19 (5) A businesses or property owner that hauls its own trash, recyclables or compostables
20 as certified by a self-hauling certification, the contents and format of which is defined
21 by the city manager, may be granted an exemption from section 6-3-3(b).
22 (6) A property or business owner that composts on-site in compliance with all applicable
23 laws pertaining to Title 6, Chapter 3, Section 6-3-6, "Compost piles permitted if not a
24 nuisance."
25 (7) Property owners that share collection service as certified by a shared service
certification, the contents and format of which is defined by the city manager, may be
granted an exemption from section 6-3-3(b).
(8) A business or property owner that can demonstrate to the satisfaction of the city
manager that the property is sufficiently space constrained so as to preclude
compliance with the provisions of these sections.
(9) Innovation exemption - business or property owner may apply for an exemption if
they are reusing or repurposing a significant portion of their waste stream.

Section 9. Chapter 6-3, "Trash, Recyclables, and Compostables," B.R.C. 1981, is
amended by the addition of a new section to read:

6-3-18. - Violations.

If the city manager finds a violation of any provision of this chapter, the manager, after
notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-

1 Judicial Hearings," B.R.C. 1981, may impose a civil penalty according to the following
2 schedule:

3 (a) For the first violation of the provision, \$500;

4 (b) For the second violation of the same provision, \$1,000;

5 (c) For the third and subsequent violations of the same provision, \$2,000; and

6 (d) The city manager's authority under this section is in addition to any other authority the
7 manager has to enforce this chapter, and election of one remedy by the manager shall
8 not preclude resorting to any other remedy as well.

9 (e) Violations of this chapter are also punishable as provided in Section 5-2-4, "General
10 Penalties," B.R.C. 1981.

11 Section 10. 6-12-6, B.R.C. 1981, is amended to read:

12 **6-12-6. - Disposition of Recyclable or Compostable Materials.**

13 (a) No person other than the person placing the recyclables or compostables for collection or
14 that person's designated hauler shall take physical possession of any recyclables or
15 compostables separated from trash, set out in the vicinity of the curb or alleys, and
16 plainly marked for recyclables or compostables collection.

17 (b) Each property owner, property manager, residential customer, commercial customer, or
18 multifamily customer shall relinquish recyclable materials to a hauler only on the
19 condition that the hauler deliver the recyclable materials only to a recyclables processing
20 center as set forth in subparagraph (c) below.

21 (c) It shall be presumed that each property owner, property manager, residential customer,
22 commercial customer -or multifamily customer has designated both single stream and
23 source-separated, clean fiber recyclable materials as defined by city manager rules to be
24 hauled to the recyclables processing center owned by Boulder County or its successor in
25 interest ("Boulder County Recycling Center"). ~~However, each customer may designate~~
~~another recyclables processing center by notifying the hauler of that designation in~~
~~writing. This written notification must be given at the initiative of the customer, not the~~
~~hauler, and may not be written on a form furnished by the hauler. The City Manager may~~
designate conditions under which the presumption in this subsection (c) shall not apply
with respect to source-separated, clean fiber recyclable materials.

(d) Haulers shall take all compostable materials collected to a ~~state permitted~~-compost
facility that is in compliance with state composting regulations and can certify that the
material is processed into a compost or biogas product. Alternatively, haulers may deliver

1 compostable materials to a facility that repurposes the materials for beneficial uses, such
2 as feeding animals, if the facility is in compliance with all federal, state and local laws.
3 Haulers shall maintain receipts and records for a period of five years. Upon request by
4 any customer or the city manager, haulers shall produce receipts from the facility utilized.

5 Section 11. This ordinance is necessary to protect the public health, safety, and welfare
6 of the residents of the city, and covers matters of local concern.

7 Section 12. The city council deems it appropriate that this ordinance be published by title
8 only and orders that copies of this ordinance be made available in the office of the city clerk for
9 public inspection and acquisition.

10 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
11 TITLE ONLY this 5th day of May, 2015.

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14 Attest: _____
15 Mayor
16 _____
17 City Clerk

18 READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY
19 TITLE ONLY this 2nd day of June, 2015.

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22 Attest: _____
23 Mayor
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25 City Clerk

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READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED

BY TITLE ONLY this 16th day of June, 2015.

Mayor

Attest:

City Clerk