

1 ORDINANCE 8161

2 AN ORDINANCE AMENDING CHAPTER 6-3, "TRASH,
3 RECYCLABLES AND COMPOSTABLES," B.R.C. 1981, BY
4 AMENDING SECTION 6-3-2 TO CLARIFY THE DEFINITION OF
5 "REFUSE ATTRACTANT," AMENDING SECTION 6-3-5(A)(9) TO
6 ALLOW RESIDENTS TO PUT OUT BEAR-RESISTANT AND
7 RECYCLING CONTAINERS THE EVENING BEFORE
8 COLLECTION, AND BY AMENDING SECTION 6-3-12 TO CLARIFY
9 THE CITY COUNCIL'S INTENT AND REDUCE THE AMOUNT OF
10 THE FINES AND SETTING FORTH RELATED DETAILS.

11 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
12 COLORADO:

13 Section 1. The City Council finds and determines that:

14 A. The City Council adopted Ordinance 7962 on March 18, 2014.

15 B. The City Council's intent was to create an obligation to secure trash in bear
16 resistant containers in certain areas of the city. The City Council intended to create an
17 independent obligation for a person to fix a broken container.

18 C. The City Council did not intend that lack of notice of a broken container would
19 be a defense to a failure to secure trash in a bear resistant container.

20 D. The City Council adopts this ordinance to clarify its intent and make other
21 changes to address issues that have arisen through the application of the law.

22 Section 2. The definition of "Refuse Attractant" in Section 6-3-2, B.R.C. 1981, is
23 amended as follows:

24 *Refuse attractant* shall mean any trash or other substance which could reasonably
25 be expected to attract wildlife or does attract wildlife, including, but not limited to,
soiled diapers, sanitary pads, food products, pet food, feed, kitchen organic waste,
food, food packaging, toothpaste, deodorant, cosmetics, spices, seasonings, or

1 grease. Attractants do not include recyclable materials properly enclosed in a
2 recycling container, ~~or~~ materials that do not meet the definition of trash in Section
3 1-2-1, "Definitions," B.R.C. 1981, fruit close to a fruit tree or bush, produce close
4 to a garden, bird feed associated with a bird feeder or yard waste, including leaves,
5 clippings, wood and branches and is fruit associated with a fruit tree or bush,
6 produce associated with a garden, or a bird feeder.

7 Section 3. With all other sections remaining the same, Section 6-3-5(a)(9), B.R.C.

8 1981 is amended as follows:

9 **6-3-5. - Storage, Disposal, and Screening of Trash, Recyclables, Compostables, and**
10 **Specified Other Materials.**

11 (a) No person shall:

12 . . .

13 (9) Place a trash, recycling, or composting container, that is not a bear-resistant
14 container or a recycling container containing only recycling materials in a front
15 yard setback or in the public right of way, excepting public alleys, any earlier than
16 5 a.m. on the day on which such materials are scheduled to be collected or place a
17 bear-resistant container or a recycling container containing only recycling material
18 in a front yard setback or in the public right of way, excepting public alleys, any
19 earlier than 8:00 p.m. on the day before the day on which such materials are
20 scheduled to be collected. All such containers shall be removed from those
21 locations by 9 p.m. of the same day on which such materials are scheduled to be
22 collected.

23 Section 4. Section 6-3-12, B.R.C. 1981, is amended to read as follows:

24 **6-3-12. - Bear Resistant Containers Required.**

25 (a) No private owner, agent appointed pursuant to section 10-3-14, "Local Agent
Required," B.R.C. 1981, or manager of any property, lessee leasing the entire
premises, or adult occupant of a single-family dwelling, a duplex, a triplex, or a
fourplex shall fail to keep all refuse attractants in bear resistant enclosures, in bear
resistant containers, bear resistant dumpsters or securely stored within a house,
garage, shed or other structure at least as secure as a bear resistant enclosure at all
times, except when being transported from a house, garage or bear resistant
enclosure for pickup. Refuse attractants transported for pickup **not in a bear
resistant container** shall be attended, by a person remaining within 15 feet of the
container at all times. It is not a defense to a violation of this section that a
container or enclosure was damaged and the owner had not received the notice
under subsection (d) below.

1 (b) No person shall place into the public right-of-way or front yard setback any bear-
2 resistant container that is not securely closed, regardless of whether it contains
3 refuse attractants.

4 (cb) This section shall apply to the area bounded by Broadway Street, the City's
5 southern boundary, the city's western boundary and a line extended from Sumac
6 Avenue due west through Wonderland Lake Park. Provided that the city manager
7 may extend the area by rule adopted pursuant to Section 6-3-11 "City Manager
8 Authorized to Issue Rules," B.R.C. 1981.

9 (de) No private owner, agent appointed pursuant to Section 10-3-14, "Local Agent
10 Required," B.R.C. 1981, or manager of any property, lessee leasing the entire
11 premises, or adult occupant of a single-family dwelling, a duplex, a triplex, or a
12 fourplex shall fail to repair a damaged container or enclosure within 72 hours after
13 written notification by any city official, or such other time designated in the notice
14 by the city official. If a container or enclosure is damaged, allowing access by
15 wildlife, repairs must be made within 72 hours after written notification by any
16 city official, or such other time designated in the notice by the city official.

17 (ed) If the city manager finds a violation of any provision of this section, the manager,
18 after notice and an opportunity for hearing under the procedures prescribed by
19 Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may impose a civil penalty
20 according to the following schedule:

21 (1) For the first violation of the provision, ~~\$250~~100;

22 (2) For the second violation of the same provision, ~~\$500~~250;

23 (3) For the third violation of the same provision, ~~\$500~~1,000; and

24 (4) The hearing officer may adjust the penalty, based on evidence presented at a
25 hearing.

26 (fe) The city manager's authority under this section is in addition to any other authority
27 the manager has to enforce this chapter, including but not limited to Section 5-2-4,
28 "General Penalties," B.R.C. 1981, and election of one remedy by the manager shall
29 not preclude resorting to any other remedy as well.

30 (gf) The city manager may, in addition to taking other collection remedies, certify due
31 and unpaid charges to the Boulder County Treasurer for collection as provided by
32 Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to
33 County Treasurer for Collection," B.R.C. 1981.

34 (hg) Notice under this subsection is sufficient if hand delivered, emailed, mailed, or
35 telephoned to such person, or by posting on the premises.

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

3 Section 6. The City Council deems it appropriate that this ordinance be published
4 by title only and orders that copies of this ordinance be made available in the office of the
5 city clerk for public inspection and acquisition.

6
7 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED
8 BY TITLE ONLY this 3rd day of January, 2017.

9
10 _____
Suzanne Jones
Mayor

11 Attest:

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13 _____
Lynnette Beck
City Clerk

14
15 READ ON SECOND READING, AMENDED, AND PASSED this 17th day of
16 January, 2017.

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18 _____
Suzanne Jones
Mayor

19 Attest:

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21 _____
Lynnette Beck
City Clerk

1 READ ON THIRD READING, PASSED, AND ADOPTED this 7th day of
2 February, 2017.

3
4 Suzanne Jones
5 Mayor

6 Attest:

7 Lynnette Beck
8 City Clerk
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Declarations Are Now Listed in the CAC Agenda