

ORDINANCE 8161

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

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

Section 1. The City Council finds and determines that:

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

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

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

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

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

*Refuse attractant* shall mean any trash or other substance which could reasonably 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

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

Section 3. With all other sections remaining the same, Section 6-3-5(a)(9), B.R.C. 1981 is amended as follows:

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

(a) No person shall:

...

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

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

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

(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 (c**b**) 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 (d**e**) 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 (e**d**) 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.

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

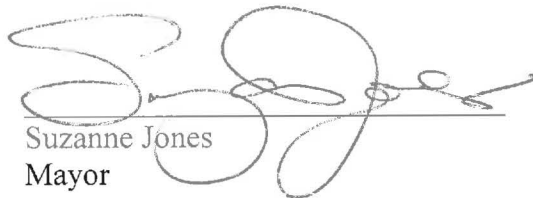
(g**f**) The city manager may, in addition to taking other collection remedies, certify due  
and unpaid charges to the Boulder County Treasurer for collection as provided by  
Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to  
County Treasurer for Collection," B.R.C. 1981.

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

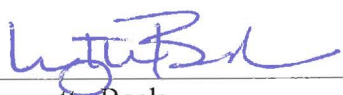
1        Section 5. This ordinance is necessary to protect the public health, safety, and  
2 welfare of the residents of the city, and covers matters of local concern.

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.

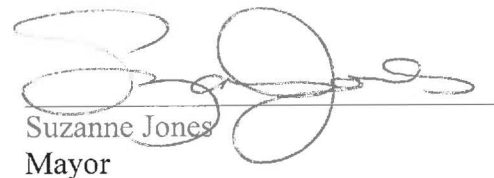
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7        INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED  
8 BY TITLE ONLY this 3<sup>rd</sup> day of January, 2017.

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Suzanne Jones  
Mayor


Attest:

  
Lynnette Beck  
City Clerk

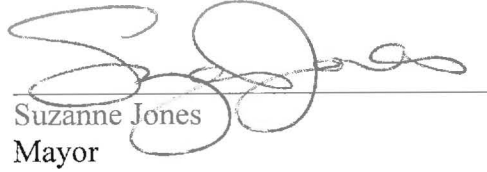
READ ON SECOND READING, AMENDED, AND PASSED this 17<sup>th</sup> day of  
January, 2017.

  
Suzanne Jones  
Mayor


Attest:

  
Lynnette Beck  
City Clerk

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

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Suzanne Jones  
Mayor

5 Attest:

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7 Lynnette Beck  
City Clerk