

ORDINANCE NO. 32

Series 2006

AN ORDINANCE AMENDING CHAPTER 6 OF TITLE 5 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE DEPOSITING OF COOKING GREASE INTO TOWN DESIGNATED TRASH COMPACTOR FACILITIES

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. Section 5-6-3 of the Breckenridge Town Code is hereby amended by the inclusion of the following additional definitions:

COOKING GREASE OR GREASE:	Any residual animal or other fat remaining after food is fried as part of the food preparation process.
OWNER:	The owner of a regulated business from which cooking grease is deposited into a Town designated trash compactor facility.
PUBLIC WORKS DIRECTOR:	The director of public works of the Town, or such person's designee.
REGULATED BUSINESS:	A business of any kind which: (i) generates cooking grease as a byproduct of its operations; and (ii) is located within 350 feet of a Town designated trash compactor facility. The distance shall be computed from the nearest property line of the land on which the regulated business is located to the nearest designated trash compactor facility using a route of direct pedestrian access.

Section 2. Chapter 6 of Title 5 of the Breckenridge Town Code is hereby amended by the addition of a new section 5-6-9-1, to be entitled "Depositing of Cooking Grease Into Town Designated Trash Compactor Facilities", which shall read in its entirety as follows:

5-6-9-1: DEPOSITING OF COOKING GREASE INTO TOWN DESIGNATED TRASH COMPACTOR FACILITIES:

A. The owner of a regulated business shall, at the option of such owner, either: (i) cause to be deposited into the nearest Town designated trash compactor facility all cooking grease generated by such regulated business; or (ii) provide on the site of such regulated business a Town-approved location for the proper collection and temporary storage of the cooking grease generated by such regulated business. The owner of a regulated business who is prohibited from depositing cooking grease into a Town designated trash compactor facility for failure to pay the charges due to the Town under this section, as provided in paragraph J of this section, shall be required to provide on the site of such regulated business a Town-approved location for the proper collection and temporary storage of the cooking grease generated by such regulated business.

B. The Town shall arrange for a qualified contractor to periodically remove all cooking grease which is deposited into a Town designated trash compactor facility. The Town shall pay all lawful charges made by the contractor for the removal of cooking grease from the Town designated trash compactor facility.

C. The Town shall bill each owner a fair and proportionate share of the operational and administrative expenses incurred and paid by the Town for the removal of cooking grease from the Town designated trash compactor facility into which the grease from the regulated business was deposited. An owner's fair and proportionate share of the operational and administrative expenses incurred and paid by the Town for the removal of cooking grease from a Town designated trash compactor facility shall be determined based upon the amount of cooking grease deposited by such owner into the facility, as compared to the amount of cooking grease deposited into the facility by all other users of such facility. In the absence of accurate information concerning the amount of grease actually deposited into the Town designated trash compactor facility, an owner's bill shall be based upon the Public Works Director's best estimate

of the amount of grease deposited in the Town designated trash compactor facility by the owner.

D. By depositing cooking grease or causing cooking grease to be deposited into a Town designated trash compactor facility an owner covenants and agrees with the Town to pay when due such owner's fair and proportionate share of the operational and administrative expenses incurred and paid by the Town for the removal of cooking grease from such facility.

E. At the request of the Public Works Director each owner shall periodically provide a written statement of the number of gallons of cooking grease from the regulated business actually deposited into the Town designated trash compactor facility, and a good faith estimate of the number of gallons of cooking grease from the regulated business which such owner reasonably expects to deposit into the Town designated trash compactor facility during the twelve month period immediately following the date of such estimate.

F. Charges due to the Town for the removal of cooking grease from a Town designated trash compactor facility shall be due and payable thirty (30) days after billing.

G. A delinquency charge of one and one-half percent ($1\frac{1}{2}\%$) per month shall be assessed to all delinquent balances due to the Town for cooking grease removal from a Town designated trash compactor facility commencing on the due date.

H. If a Town bill for cooking grease removal charges is not paid in full within ten (10) days of the date due, the Town shall mail to the owner a Notice of Termination.

I. The Notice of Termination described in paragraph H of this section shall contain the following:

1. The name and address of the owner;
2. The address of the Town designated trash compactor facility into which the owner deposited or cause to be deposited cooking grease;
3. The amount due to the Town for grease removal services;
4. The date of the Notice of Termination;
5. The date of termination, which shall be at least ten (10) calendar days from the date of the Notice of Termination;
6. Notice that unless the Town receives complete payment of the amount shown to be due prior to the date of termination, cooking grease removal service shall be terminated as provided for in this paragraph J of this section; and
7. Notice of the owner's right to dispute the correctness of the Town's bill s provided in paragraph M of this section, and the procedure to dispute a bill.

J. If, prior to the date of termination set forth in the Notice of Termination: (i) the Town has not received complete payment of the amount shown on the Notice of Termination; and (ii) the owner has not notified the Town that the owner disputes the correctness of all or part of the amount shown on the Notice of Termination in the manner required by paragraph M of this section, then the Town shall terminate cooking grease removal service provided to the owner on the date of termination.

K. An owner whose privilege to deposit grease into a Town designated trash compactor facility has been terminated pursuant to paragraph J of this section may reinstate the privilege by payment of all sums due to the Town under this section, plus a prepayment of one year's grease removal service charges.

L. If the Town receives payment of the entire amount shown to be due on the Notice of Termination prior to the date of termination, such payment shall be considered a timely and complete payment for purposes of this section, and the owner's privilege to deposit grease into a Town designated trash compactor facility shall not be terminated.

M. The following provisions shall apply to any dispute concerning the billing of charges for the removal of cooking grease from a Town designated trash compactor facility:

1. Prior to the date of termination of cooking grease removal service, an owner may dispute the correctness of all or any part of the amount shown to be due to the

Town in accordance with the provisions of this paragraph. An owner shall not be entitled to dispute the correctness of any amount which was the subject of a previous dispute under this paragraph.

2. The procedure for an owner dispute shall be as follows:
 - (a) Prior to the date of termination, the owner shall notify the Director of Public Works, in writing, that the owner disputes all or part of the amount shown to be due to the Town, stating as completely as possible the basis for the dispute.
 - (b) If the Director of Public Works determines that the present dispute is untimely or that the owner previously disputed the correctness of all or part of the amount shown to be due to the Town, the Director of Public Works shall mail to the owner a Notice of Rejection stating that the present dispute is untimely or invalid. The Town shall then proceed as if the owner had not notified the Town of the present dispute.
 - (c) If the Public Works Director determines that the present dispute is not untimely or invalid under this paragraph, the Public Works Director shall, within five (5) business days after receipt of the customer's notice, arrange for a formal hearing to be held before the Town Manager or his designee.
 - (d) The formal hearing before the Hearing Official shall be held in accordance with the procedures of chapter 19 of title 1 of this code.
 - (e) If the Hearing Official determines that the owner must pay some or all of the disputed amount, such sum shall be due and payable to the Town within ten (10) days of the Hearing Official's determination. If such sum is not paid when due, the provisions of paragraph H of this section shall apply.
3. Utilization of the dispute procedure set forth in this paragraph shall not relieve an owner of the obligation to pay, timely and completely, the undisputed portion of the Town's bill. Failure to pay in a timely and complete manner all such undisputed amounts shall subject the owner to termination of cooking grease removal service in accordance with the provisions of this section.
4. The Town shall not terminate the cooking grease removal service of the owner, and shall not issue a Notice of Termination to the owner for nonpayment of the disputed amount, until at least ten (10) days following the date of the Hearing Officer's decision.

N All unpaid cooking grease charges shall constitute a personal debt due and owing to the Town by the owner, and the Town shall have the right to recover on such debt by judgment and execution thereon in a civil action in any court of competent jurisdiction. In connection with any such action the Town shall have the right to recover its reasonable attorneys' fees incurred in connection with such action. If there are more than one owner, the liability of each owner under this section shall be joint and several.

O. An owner is liable under this section for the charges arising from the depositing of cooking grease into a Town designated trash compactor facility by the owner's employees or agents.

P. Each owner who deposits cooking grease or who causes cooking grease to be deposited into a Town designated trash compactor facility shall clean up any spillage, overflow or tracking of cooking grease within the designated trash compactor facility caused by the owner, or the owner's employees or agents. It shall be unlawful for any such owner to fail or to refuse to provide the required cleaning of the designated trash compactor facility.

Q. It shall be unlawful for any person to intentionally, knowingly or recklessly deposit any cooking grease into a solid waste container located within a designated trash compactor facility.

R. In addition to other remedies available to the Town, the Town may commence an action pursuant to Section 1-8-10 of this Code to enjoin the alleged violation of any provision of this section. In connection with any such action the Town shall have the right to recover its reasonable attorneys' fees incurred in connection with such action.

S. Each of the remedies provided for in this section may be exercised singly or in combination with the other remedies herein provided.

Section 3. The definition of "person" set forth in Section 1-3-2 of the Breckenridge Town Code is hereby amended so as to read in its entirety as follows:

PERSON: Any public or private corporation, firm, partnership, limited liability entity of any kind, association, organization, government or any other group acting as a unit, as well as a natural person.

Section 4. Except as specifically amended hereby, the Breckenridge Town Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

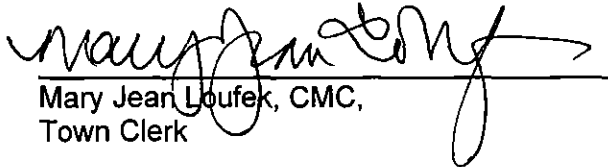
Section 5. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants thereof.

Section 6. The Town Council hereby finds, determines and declares that it has the power to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

Section 7. This ordinance shall be published and become effective as provided by Section 5.9 of the Breckenridge Town Charter.

INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL this 9th day of May, 2006. A Public Hearing shall be held at the regular meeting of the Town Council of the Town of Breckenridge, Colorado on the 23rd day of May, 2006, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the Town.

ATTEST: TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC,
Town Clerk

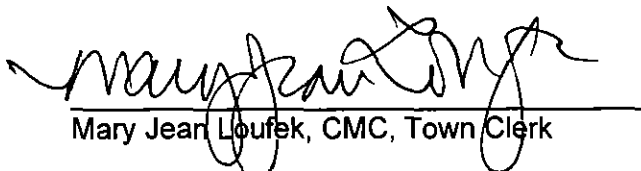

Ernie Blake, Mayor

This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on May 19, 2006.

The public hearing on this ordinance was held on May 23, 2006.

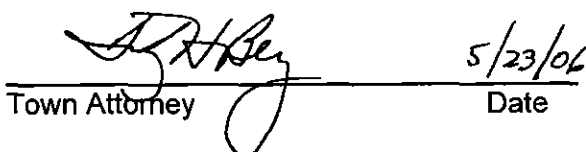
READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY, this 23rd day of May, 2006. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

ATTEST: TOWN OF BRECKENRIDGE


Mary Jean Loufek, CMC, Town Clerk


Ernie Blake, Mayor

APPROVED IN FORM


Town Attorney 5/23/06
Date

This ordinance was published by title only in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on June 2, 2006.