

ORDINANCE NO. 16

Series 2019

AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 6 OF TITLE 5 OF THE BRECKENRIDGE TOWN CODE ENTITLED "TRASH ENCLOSURES"; AND MAKING CONFIRMING AMENDMENTS TO THE BRECKENRIDGE TOWN CODE

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

Section 1. Title 5, chapter 6 of the Breckenridge Town Code is repealed and readopted with changes to read as follows:

Chapter 6

TRASH ENCLOSURES

SECTION:

Part A – General Provisions

5-6-1: Legislative Intent

5-6-2: Definitions

Part B – Private Trash Enclosures

5-6-3: Unlawful To Construct Private Trash Approval Without Town Approval

5-6-4: Specifications For Approved Private Trash Enclosure

5-6-5: Allowed Use Of Private Trash Enclosure

5-6-6: Misuse of Private Trash Enclosure

5-6-7: Maintenance Of Private Trash Enclosure

5-6-8: Compliance With Chapter Required; When

Part C – Commercial Shared Trash Enclosures

5-6-9: Allowed Use Of Commercial Shared Trash Enclosure

5-6-10: Misuse of Commercial Shared Trash Enclosure

Part D - Penalty

5-6-11: Penalty

Part E – Rules and Regulations

5-6-12: Rules and Regulations

**Part A – General Provisions**

**5-6-1: LEGISLATIVE INTENT:**

The purpose of this chapter is to protect the public health, safety and welfare by regulating trash enclosures, including trash dumpsters and compactors. The requirements of this chapter are intended to help prevent: a) conditions that may result in the harboring of undesirable pests and rodents, b) conditions which are unsightly and therefore detract from the aesthetic appearance of the community and may affect the value of real property, and c) conditions which may otherwise constitute a safety hazard. The requirements of this chapter are further intended to further the town's goal of encouraging recycling within the town.

**5-6-2: DEFINITIONS:**

As used in this chapter, unless the context clearly requires otherwise:

**APPROVED PRIVATE TRASH ENCLOSURE:** A private trash enclosure that meets the specifications of section 5-6-4 and has been approved by the town pursuant to title 9, chapter 1 of this code.

**COOKING GREASE OR GREASE:** Any residual animal or other fat remaining after food is fried as part of the food preparation process.

**COMMERCIAL SHARED TRASH ENCLOSURE:** A trash enclosure owned or under the control of the town. A commercial shared trash enclosure shall include either a trash dumpster or a trash compactor, as determined by the director.

**DIRECTOR:** The director of public works of the town, or such person's designee acting pursuant to section 1-7-2B of this code.

**NONCONFORMING PRIVATE TRASH ENCLOSURE:** A private trash enclosure that has not been approved by the town pursuant to title 9, chapter 1 of this code.

**PRIVATE TRASH ENCLOSURE:** A trash enclosure that is owned by any person other than the Town. A private trash enclosure may be used by one user or may be shared by multiple users. A private trash enclosure may include a trash dumpster, trash compactor, or other trash receptacles such as carts or cans. A private trash enclosure may be an approved private trash enclosure or a nonconforming private trash enclosure.

**RECYCLABLE MATERIALS:** Has the meaning provided in section 4-16-5 of this code.

**REFUSE:** Has the meaning provided in section 9-1-5 of this code.

**TRASH COMPACTOR:** A device that compresses refuse into small bundles for easy disposal.

**TRASH DUMPSTER:** A metal refuse container which is designed to be emptied on site by a specifically equipped refuse or recycling collection truck.

**TRASH ENCLOSURE:** A structure used to temporarily store refuse and recyclable materials until they are removed from the site. A trash enclosure may be a private trash enclosure or a commercial shared trash enclosure.

## **Part B – Private Trash Enclosures**

**5-6-3: UNLAWFUL TO CONSTRUCT PRIVATE TRASH ENCLOSURE WITHOUT TOWN APPROVAL:** It is unlawful for any person to construct a private trash enclosure without a development permit issued by the town pursuant to title 9, chapter 1 of this code.

**5-6-4: SPECIFICATIONS FOR APPROVED PRIVATE TRASH ENCLOSURE:** An approved private trash enclosure shall meet the following specifications:

A. The enclosure shall have a roof designed to support snow load as required by the Town's building and technical codes adopted by reference in title 8, chapter 1 of this code, or as otherwise approved by the town's building official. The roof shall be reinforced so that contact with the enclosure during refuse removal will not damage the roof, structure, or veneer of the enclosure.

B. Collection access to the enclosure must be screened in a manner meeting the following specifications:

1. Collection access opening within the historic district shall be a maximum of nine feet (9') in height; access opening outside the historic district shall be a minimum of nine feet (9') in height, or as approved by the director of the department of community development.
2. Collection access opening width shall be a minimum of twelve feet (12'). Where steel supports the structure and the gates, the access opening width can be reduced to ten feet (10').
3. Swinging gates shall have eight inches (8") minimum clearance above the ground. Devices shall be installed to prevent gates from swinging into the trash enclosure, and to secure the gates open during refuse collection.

C. A thirty six inch (36") minimum width access opening for pedestrians shall be included in the enclosure design.

D. The design, color and materials of the enclosure shall be architecturally compatible with that of principal structures. Where an enclosure is located within the historic district boundaries, architectural design shall comply with the most current edition of the "Handbook Of Design Standards For The Historic And Conservation Districts."

E. Ventilation shall be provided. Nonmechanical ventilation is acceptable.

F. If a trash dumpster is to be located in the trash enclosure, an acceptable mechanism to limit dumpster movement is required.

G. A storage area for recyclable materials shall be provided. The recycling area shall provide containers for material separation and be protected under a roof. The minimum required size of the recycling storage area shall be based on a recycling program to be submitted by the applicant and approved by the director.

H. It is recommended that new construction incorporate the trash enclosure into the principal structure.

I. The rehabilitation of historic sheds as trash enclosures is encouraged.

**5-6-5: ALLOWED USE OF PRIVATE TRASH ENCLOSURE:**

A. Except as provided in subsections B and C, all private trash enclosures are for the collection and storage of refuse and recyclable materials only. It shall be unlawful for any person to use, or to permit the use of, a private trash enclosure for any other purpose.

B. It is not a violation of subsection A if: (i) grease from a commercial business is stored in a private trash enclosure; provided that such grease shall only be disposed of by a licensed grease hauler; or (ii) grease from a private residence is placed back in its original container, properly resealed, and placed in a private trash enclosure pending removal by the trash hauler.

C. It is not a violation of subsection A if space within a private trash enclosure is utilized for storage of personal property if such storage does not interfere with the allowed use of the private trash enclosure as set forth in subsection A.

**5-6-6: MISUSE OF PRIVATE TRASH ENCLOSURE:** Any person who does any of the following acts commits the offense of misuse of a private trash enclosure:

1. Deposits hot ashes within a private trash enclosure; or
2. Deposits grease within a private trash enclosure.

**5-6-7: MAINTENANCE OF PRIVATE TRASH ENCLOSURE:**

A. All private trash enclosures shall be structurally sound, maintained in good repair and kept clear of snow and ice. No private trash enclosure shall constitute a hazard to safety, health, or public welfare by reason of inadequate maintenance or dilapidation.

B. The exterior surfaces of all private trash enclosures shall be kept neatly painted and clean at all times. In addition to other remedies provided for in this chapter and code, the town shall have the authority to order the painting, repainting, staining, repair, maintenance, or removal of all trash enclosures which have become dilapidated or a hazard to safety, health, or public welfare.

C. If a condition described in subsection B is determined by the director to exist, the director shall give notice thereof by certified mail, return receipt requested, to the owner of such private trash enclosure at the address of the property on which the enclosure is located, or such other address as the director may have. If, within fifteen (15) days from service of the notice, or such additional time as the director may permit, the director's order is not complied with, the condition shall be deemed to be a nuisance and may be abated as provided in chapter 1 of this title. In the event of a judicial decision that a nuisance exists, the court as part of its penalty may order the painting, repainting, repair, maintenance or removal of the private trash enclosure, and the cost thereof shall be paid by the owner of the trash enclosure.

**5-6-8: COMPLIANCE WITH CHAPTER REQUIRED; WHEN:**

A. An approved private trash enclosure shall be provided as follows:

1. Concurrently with any new development or further development of any existing site proposing use of a trash enclosure that requires the issuance of a class A, B, or C development permit;

2. At the time of the structural repair or alteration of a nonconforming private trash enclosure; or

3. At the time of installation of an additional trash enclosure on a developed site.

B. An approved private trash enclosure shall be provided on newly annexed property within two (2) years following the effective date of the annexation, or as otherwise provided in the annexation ordinance for such property.

### **Part C – Commercial Shared Trash Enclosures**

#### **5-6-9: ALLOWED USE OF COMMERCIAL SHARED TRASH ENCLOSURE:**

A. A commercial shared trash enclosure may only be used for the temporary collection and storage of refuse, including recycling material.

B. The Director shall establish a program to manage the commercial shared trash enclosures. In connection therewith, the Director shall determine those persons who are authorized to use a commercial shared trash enclosure, and which enclosure such person shall be authorized to use. In determining which enclosure a user shall be authorized to use the Director shall consider all relevant information, including, but limited to, the user's proximity to the enclosure, and whether the enclosure has the capacity to accommodate the user's anticipated volume of trash. The Director shall attempt to permit an authorized user to use the enclosure that is nearest to the prospective user's property or business. However, there is no right to use a particular trash enclosure, and a user's authorized trash enclosure may be changed by the Director.

C. Nothing in this Section prohibits a person from constructing an approved private trash enclosure upon such person's property (and not upon public property); provided that legal vehicular access for waste collection is available. All necessary development and building permits must be obtained prior to the construction of the approved private trash enclosure.

#### **5-6-10: MISUSE OF COMMERCIAL SHARED TRASH ENCLOSURE:**

A. Any person who does any of the following acts commits the offense of misuse of a commercial shared trash enclosure:

1. Deposits, throws, or leaves anywhere within a commercial shared trash enclosure any item that is not refuse as defined in Section 5-6-2.
2. Deposits, throws, or leaves any refuse in a commercial shared trash enclosure if such person has not been authorized by the Director to use such enclosure pursuant to Section 5-6-9B.
3. Deposits, throws, or leaves any refuse anywhere within a commercial shared trash enclosure, except within the trash dumpster;
4. Deposits, throws, or leaves any refuse within ten feet (10') of the exterior wall of a commercial shared trash enclosure;
5. Deposits hot ashes within a commercial shared trash enclosure.
6. Deposits grease within a commercial shared trash enclosure.
7. Places any recyclable material in a recycling container within a commercial shared trash enclosure that is clearly indicated by signage or labeling as being intended to contain only other types of recyclable materials.

B. An employer is legally accountable under this section for the conduct of his or her employees that violates the provisions of this section if such conduct occurs in the course and scope of such employment. It shall be presumed that such conduct was caused to be done, requested, commanded, or authorized by the employer as part of the employee's duties.

### **Part D – Penalties**

#### **5-6-10: PENALTY:**

It is unlawful and a civil infraction for any person to violate any provision of this chapter. Any

person found to be in violation of this chapter, or against whom a default judgment has been entered for a violation of this chapter, shall be punished as provided in section 1-4-1-1 of this code. 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 chapter.

## Part E – Rules and Regulations

**5-6-11: Rules and Regulations:** The Director of Public Works shall have the authority from time to time to adopt, amend, alter, and repeal administrative rules and regulations as may be necessary for the proper administration of this chapter. Such regulations shall be adopted in accordance with the procedures established by title 1, chapter 18 of this code. A violation of such regulations may be enforced in the Town’s Municipal Court.

Section 2. Section 5-2-2A of the Breckenridge Town Code is amended to read as follows:

A. Except when placed for curbside pickup in accordance with subsection B of this section, all garbage that is placed, stored, or kept outside of a building, structure, or an “approved private trash enclosure” as defined in section 5-6-2 of this title, shall be kept in an outdoor garbage receptacle with a properly secured lid.

Section 3. Section 5-2-2C of the Breckenridge Town Code is amended to read as follows:

C. The provisions of this section shall not apply to: 1) a receptacle maintained by a business that is: a) primarily intended as a convenience for use by the customers of the business (and not the business itself); b) designed in such a manner as to discourage wildlife from getting into the receptacle; and c) emptied on a daily basis; or 2) rubbish, including, but not limited to, recyclable material as defined in section 4-16-5 of this code, that is placed at the curbside for pick up by a trash collector.

Section 4. Section 5-2-7 of the Breckenridge Town Code is deleted.

Section 5. Section 6-3H-5C of the Breckenridge Town Code is amended to read as follows:

C. Between the hours of four o’clock (4:00) A.M. and ten o’clock (10:00) A.M. of the same day, it shall be lawful to operate or park a motor vehicle within the Riverwalk for the limited purposes of: 1) removing refuse from a trash enclosures or properties located adjacent to the Riverwalk; 2) making deliveries of merchandise to or picking up merchandise from commercial establishments located immediately adjacent to the Riverwalk.

Section 6. The definition of “Approved Trash Dumpster Enclosure” in section 9-1-5 of the Breckenridge Town Code is repealed and replaced with the following new definition:

APPROVED PRIVATE TRASH ENCLOSURE: Has the meaning provided in section 5-6-2 of this code.

Section 7. Item N under the definition of “Class D Minor” in section 9-1-5 of the Breckenridge Town Code is amended to read as follows:

N. Construction of approved private trash enclosure or conversion of nonconforming private trash enclosure to approved private trash enclosure.

Section 8. Section 9-1-5 of the Breckenridge Town Code is amended by the addition of the following definition:

RECYCLABLE MATERIAL: Has the meaning provided in section 4-6-15 of this code.

Section 9. The definition of “Refuse” in section 9-1-5 of the Breckenridge Town Code is amended to read as follows:

REFUSE: All forms of solid waste, including garbage, rubbish, trash, recyclable and similar material, but excluding waste grease.

Section 10. 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 11. 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 12. 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 13. 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 25th day of June, 2019.

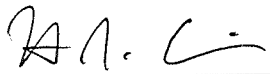
This ordinance was published in full on the Town of Breckenridge website on June 26, June 27, June 28, June 29 and June 30, 2019.

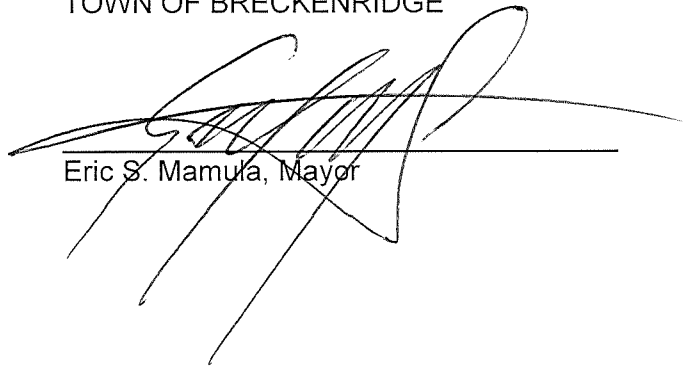
A public hearing on this ordinance was held on July 9, 2019.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 9th day of July, 2019. A copy of this Ordinance is available for inspection in the office of the Town Clerk.

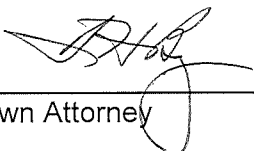
ATTEST:

TOWN OF BRECKENRIDGE

  
\_\_\_\_\_  
Helen Cospolich, CMC, Town Clerk

  
\_\_\_\_\_  
Eric S. Mamula, Mayor

APPROVED IN FORM

  
\_\_\_\_\_  
Town Attorney

7/9/19  
Date

This Ordinance was published on the Town of Breckenridge website on July 10, July 11, July 12, July 13 and July 14, 2019. This ordinance shall become effective on August 13, 2019.