

ORDINANCE NO. 25

Series 2022

AN ORDINANCE ADOPTING REGULATIONS PERTAINING TO GENERATORS OF SOLID WASTE AND IN CONNECTION THEREWITH ADOPTING FINES AND PENALTIES FOR ENFORCEMENT OF VIOLATIONS

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

Section 1. That section 5-2-2 of title 5, chapter 2, be stricken and that chapter 2 be renumbered accordingly.

Section 2. That chapter 6 of title 5 is hereby repealed and replaced in its entirety to read as follows:

5-6-1: Legislative Intent:

The purpose of this chapter is to protect the public health, safety and welfare by regulating solid waste containers, including 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 meet the town's waste diversion goals.

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.

BIN: Has the same meaning as set forth in title 4, chapter 16.

COMMERCIAL GENERATOR: Any property located in the Town of Breckenridge where a Multi-Family Property is located or a business, industrial or institutional enterprise is carried out including without limitation retail establishments, restaurants, hospitals, schools, day care centers, office buildings, nursing homes, clubs, churches, hotels, and public facilities regardless of container type.

COMMERCIAL SHARED TRASH ENCLOSURE: A trash enclosure owned or under the control of the town. A commercial shared trash enclosure shall include containers for both trash and recoverable material as determined by the director.

COMMON AREA: Areas, rooms, spaces or elements inside or outside of a multi-family Property, business, hotel, industrial or institutional property that are made available to tenants, occupants, Generators or guests of the property.

CONTAINER: Has the same meaning as set forth in in title 4, chapter 16.

DIRECTOR: The director of public works of the town, or such person's designee.

HOTELS AND MOTELS: Any property in which lodging is provided to transient guests for compensation but excludes boarding or rooming facilities, tourist homes or accommodation unit.

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.

ORGANICS: Has the same meaning as set forth in in title 4, chapter 16.

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 shall include solid waste containers. A private trash enclosure may be an approved private trash enclosure or a nonconforming private trash enclosure.

RECYCLABLE: Has the same meaning as set forth in in title 4, chapter 16.

RESIDENTIAL GENERATOR: An individual or individual residential property located in the Town that has a discrete trash container and collection provided under a discrete service subscription or contract for that property as part of a group account.

TRASH: Has the same meaning as set forth in in title 4, chapter 16.

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

TRASH DUMPSTER: Has the same meaning as set forth in title 4, chapter 16.

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

VALET: Has the same meaning as set forth in title 4, chapter 16.

Part A. General Provisions

5-6-3: General:

A. **Responsibility for Solid Waste.** The owner of real property and any other person who causes the accumulation of solid waste at the owner's property are both individually responsible for any solid waste placed, stored or kept at such property.

B. **Collection Service Requirement.**

Each owner of real property or occupant thereof shall be responsible for:

1. Preventing the accumulation of solid waste, whether by retaining the services of a licensed hauler or by self-hauling; and,

2. At least one (1) trash container and one (1) recyclables container for each individual residence or commercial enterprise unless said parties share collection service.

Generators located adjacent to one-another or sharing a trash enclosure may share collection service.

Part B. Private Trash Enclosures

5-6-4: 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.

5-6-5 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 allow for recycling containers with at least one-half (1/2) volume of the size of the proposed trash container.

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.

5-6-6: 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 trash 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:

1. 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

2. Grease from a private residence is placed back in its original container, properly resealed, and placed in a private trash enclosure pending removal by a licensed grease 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.

5-6-7: Misuse of private trash enclosure:

Any person who does any of the following acts commits the offense of misuse of a private trash enclosure:

A. Deposits hot ashes within a private trash enclosure; or

B. Deposits grease within a private trash enclosure except as described in subsection 5-6-6.

5-6-8: 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. (Ord. 16, Series 2019)

5-6-9: Compliance with Part B. 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. Residential and Commercial Generators

5-6-10: Residential Generator Requirements:

A. Except when placed for curbside pick up in accordance with subsection B of this section, all solid waste that is placed, stored, or kept outside of a building, structure, or an approved trash enclosure shall be kept in an outdoor container with a properly secured lid and labeled by contents.

B. Solid waste may be placed at the curbside for pick up by a Licensed Hauler only in accordance with the following regulations:

1. Solid waste may be placed at the curbside for pick up only when fully contained within a Container. No solid waste may be placed at the curbside in a paper or plastic bag, or other receptacle that is not a Container.

2. Any Container placed for curbside pick up shall be kept closed and secured with no gap between the Container and the lid until it has been emptied by the Licensed Hauler and moved back to its normal location.

3. Containers may be placed at the curbside only after six o'clock (6:00) A.M. on the day of pick up. After pick up, each Container must be moved back to its normal location by ten o'clock (10:00) P.M. of the same day.

C. The owner of real property and any other person who causes the accumulation of solid waste at the owner's property are both individually responsible for any solid waste placed, stored, or kept at such property in violation of this section.

5-6-11: Commercial Generator Requirements:

A. Commercial generators located adjacent to one-another or sharing a solid waste enclosure may share trash, recyclables, glass or organics.

B. Commercial generators shall ensure that trash is not commingled with recyclables, glass materials, or organics whether directly provided or handled through contracts for housekeeping and janitorial services.

C. Commercial generators shall provide employee, occupant, tenant, housekeeping and janitorial training with materials provided by Summit County at a frequency needed to effectively prevent recyclables and glass from being mixed with trash but no less than annually; training shall also be provided within thirty (30) days of occupancy or start date for any new employee, occupant, tenant, housekeeping or janitorial staff; and

D. Commercial generators shall maintain written records of solid waste collection services and training activities.

E. Commercial generators shall provide bins in accordance with the following requirements for the collection of recyclables to employees, occupants, tenants, and the general public wherever trash bins are located in common areas:

1. Bins for the collection of commingled recyclables shall be located proximal to trash bins;

2. Bins for the collection of glass are optional except a commercial business that serves beverages primarily in bottles or glass, including, but not limited to, restaurants, bars, taverns, and tap houses, shall be required to recycle glass in addition to other recycle services;

3. Commingled recyclables, glass and organics bins shall be sized and serviced with a frequency that prevents recyclables, glass, and organics from being mixed with trash; and

4. Each bin shall include a label identifying acceptable and unacceptable materials provided by Summit County and affixed by the commercial generator.

5. Hotels and motels shall provide bins for the collection of commingled recyclables without glass in each individual unit made available for overnight lodging. Bins for glass are optional.

F. 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 solid waste collection is available. All necessary development and building permits must be obtained prior to the construction of the approved private trash enclosure as set forth in Part B above.

5-6-12 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 trash or recyclables.
 2. Deposits, throws, or leaves any solid waste in a commercial shared trash enclosure if such person has not been authorized by the Director to use such enclosure.
 3. Deposits, throws, or leaves any solid waste anywhere within a commercial shared trash enclosure, except within the appropriate Containers;
 4. Deposits, throws, or leaves any solid waste 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. Fines and Penalties

5-6-13: Administrative fines; Penalties; Injunctive relief:

It shall be unlawful for any person to fail to comply with the requirements of this chapter. Failure to comply may result in civil infraction and/or may be punishable by an administrative fine up to one-hundred (100) dollars per day for the first violation and up to five hundred (500) dollars per day for the second or more for each day that the violation continues. Written notice of an administrative penalty shall be provided by first class United States mail to such person at such person's last known address. The administrative penalty shall be due and payable within fourteen (14) days of the date of the notice.

Part E. Review of Decisions

As a prerequisite to filing a civil action in a court of competent jurisdiction, a person challenging a decision of public works director shall file an appeal in writing with the manager. An appeal submitted under this section of the code must set forth the factual basis for the appeal. The manager or their designated hearing officer shall conduct a hearing in a timely matter and in accordance with procedures in Title 1, Chapter 19; provided, however, any decision of the finance or public works director, as the case may be, shall be a final decision of the town, and may be appealed to the district court pursuant to rule 106(a)(4) of the Colorado rules of civil procedure.

Part F. Rules and Regulations

5-6-14: 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, including, but not limited to, granting, waivers, variances, and or grants in aid. Such regulations shall be adopted in accordance with the procedures established by title 1, chapter 18 of this code.

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.

Section 3. 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 4. 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 5. 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 26th day of July, 2022.

This ordinance was published in full on the Town of Breckenridge website on July 31, August 1, August 2, August 3 and August 4, 2022.

A public hearing on this ordinance was held on August 9, 2022.

READ, ADOPTED ON SECOND READING AND ORDERED PUBLISHED IN FULL ON THE TOWN'S WEBSITE this 9th day of August, 2022. 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

8.24.22
Date

This Ordinance was published on the Town of Breckenridge website on August 12, August 13, August 14, August 15 and August 16, 2022. This ordinance shall become effective on September 15, 2022.