

ORDINANCE NO. 19-_____

AN ORDINANCE AMENDING ARTICLE 4 (PUBLIC HEALTH AND SANITATION - GARBAGE, REFUSE, AND RUBBISH) OF CHAPTER 6 (NEIGHBORHOOD VITALITY/COMMUNITY HEALTH) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO WASTE DISPOSAL WITHIN A BEAR MANAGEMENT AREA AND PROVIDING REMEDIES FOR THE VIOLATION THEREOF

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Article 4 (Public Health and Sanitation - Garbage, Refuse, and Rubbish) of Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

Article 4: PUBLIC HEALTH AND SANITATION ~~GARBAGE, REFUSE, AND RUBBISH~~ - **WASTE**

6.4.101: DEFINITIONS

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~~ASHES: The solid waste product resulting from the combustion of any material.~~

ATTRACTANT WASTE: Any waste that could reasonably attract bears, including, but not limited to, material resulting from the preparation, cooking and/or consumption of food or waste material resulting from the handling, storage, preparation and/or sale of foodstuffs, spices, seasonings, pet food packaging, grease, cosmetics, insect repellants, lotions, and toothpastes.

BEAR MANAGEMENT AREA: The area within the City located west of Interstate 25 and more specifically denoted in the Bear Management Area Map adopted by City Council and updated from time to time.

BEAR RESISTANT CONTAINER: A waste container which also prevents access to the contents by bears. A bear resistant container must be certified by the Interagency Grizzly Bear Committee and must contain a marking declaring such certification that is visible on the outside of the waste container.

~~BUILDING RUBBISH: Waste material resulting from the construction, remodeling, repair or demolition of a house, dwelling, building or other structure.~~

~~COLLECTOR: Any person licensed by the City to engaged in the collection, removal and/or disposal of garbage, refuse or rubbish~~ **waste and yard rubbish.**

COMPOST: A mixture consisting of decayed organic matter used for fertilizing and conditioning land.

~~GARBAGE: Waste material resulting from the preparation, cooking and/or consumption of food or waste material resulting from the handling, storage, preparation and/or sale of foodstuffs, excluding food processing waste material from canneries, slaughterhouses, packing plants or other similar industries and further excluding large quantities of condemned food products.~~

INTERAGENCY GRIZZLY BEAR COMMITTEE: The cooperative entity consisting of members of the United States Forest Service, United States Geological Survey, and various state level officials that is responsible for certifying bear resistant containers.

~~GARBAGE~~ **WASTE** CONTAINER: A container made of galvanized metal or other suitable material which has a tight fitting lid, and the capacity of which does not exceed ninety six (96) gallons and is not less than eight (8) gallons. Any container used for commercial ~~garbage~~ **waste** shall mean a container of the type and capacity commonly known as a "roll off container" or "rear loader" or an equivalent. All containers shall be furnished by the ~~garbage~~ **waste** producer, either by direct ownership or by lease. It shall be the responsibility of the ~~garbage~~ **waste** producer to maintain any container in a tightly covered and sanitary condition.

~~HOUSEHOLD RUBBISH: Waste material or rejected, valueless or worthless matter, material, trash or debris, including useless, unused, unwanted or discarded articles, resulting from the occupation, use and enjoyment of an ordinary household, excluding ashes, sod, dirt, garbage, yard rubbish or building rubbish.~~

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~~POINT OF COLLECTION: A point established for the collection of garbage, refuse or rubbish~~ **waste and/or yard rubbish** which is accessible to the collector and which is adjacent to or abuts a public alley or, if the premises subject to collection is not adjacent to a public alley, the most accessible point.

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~~RECYCLABLE MATERIAL: Any material that is or may be subject to reuse or recycling.~~

~~RECYCLING OPERATION: That part of a solid waste disposal facility or general disposal facility at which recyclable material is or may be separated from other material for further processing.~~

~~REFUSE: Waste material, excluding garbage, attending or resulting from the occupancy of a residence, apartment, hotel or other place or dwelling, or from the operation of a business.~~

~~REFUSE CONTAINER: A container of such size which is capable of containing all refuse and rubbish normally produced by the producer between pick up periods, and which is tightly secured to ensure that no possible leakage or spillage from the sides, top or bottom of the container shall occur.~~

~~RUBBISH: Building rubbish, household rubbish and/or yard rubbish.~~

SECURED DUMPSTER ENCLOSURE: A fully enclosed structure consisting of four (4) sides and a roof or cover of sufficient height, design and construct that reasonably prevents access by a bear.

SECURED STRUCTURE: Any building, shed, garage, or other structure that could reasonably prevent access by a bear.

WASTE: Any and all rubbish; unused, rejected and/or discarded material(s); feces; garbage; trash; debris or other foreign substances, solid or liquid of every form, size, kind and description, excluding yard rubbish.

YARD RUBBISH: Tree branches, twigs, grass, shrub clippings, weeds, leaves and other general yard, garden and organic waste material.

6.4.102: COLLECTION BY CITY PROHIBITED:

The City shall not collect or remove any ~~trash, ashes, garbage or refuse~~ **waste** except in the event of an emergency, as determined by the Health Department or Administrator, or during designated cleanup days as proclaimed by the Mayor.

6.4.103: COLLECTION AND DISPOSAL OF ~~GARBAGE~~ **WASTE**, RESPONSIBILITY FOR:

A. The ~~owner~~ **Owner** of any premises where any ~~garbage, refuse, rubbish or ashes~~ **waste or yard rubbish** ~~are~~ **is** produced shall be responsible to provide for minimum service for such matter at the point of collection, unless it is shown to the satisfaction of the Administrator that the ~~garbage or refuse~~ **waste or yard rubbish** is disposed of in a manner which is not harmful to the public health or does not create a nuisance or other unsanitary condition and is removed from

the property at least weekly. The Administrator may use discretion to require more frequent pick up or disposal to protect the public health, safety or welfare.

B. All ~~garbage, refuse, rubbish or ashes~~ **waste and yard rubbish** collected within the City shall be transported to and disposed of at an approved site or facility.

6.4.104: PREPARATION FOR COLLECTION:

A. All ~~garbage~~ **waste** shall be placed in a ~~garbage~~ **waste** container.

B. ~~Refuse, household rubbish and y~~Yard rubbish **that is not attractant waste** may be placed in a garbage or refuse container. ~~Rubbish and refuse~~ **Waste** shall be no longer than three feet (3') in length.

C. It shall be unlawful for any person or any producer of ~~garbage, refuse, rubbish or ashes~~ **waste** to place or deposit the ~~material~~ **waste** in any container except a ~~garbage or refuse~~ **waste** container or for any person or producer of the ~~material~~ **waste** to place or scatter the ~~material~~ **waste** on the ground, or to contract or arrange for the collection and removal of the ~~material~~ **waste** except by licensed ~~refuse and garbage~~ **waste** collectors.

D. Nothing in this section shall be construed to prevent the accumulation of compost by any person on private property. The accumulation of ~~the~~ compost shall not be in a condition which is dangerous to the public health, safety and welfare. **The accumulation and use of compost in compliance with the standards set forth in this article shall not be considered attractant waste.** ~~For the purposes of this section, "compost" shall mean a mixture consisting of decayed organic matter used for fertilizing and conditioning land.~~

E. It shall be unlawful and ~~shall constitute~~ a nuisance for any person to maintain a compost pile which substantially annoys, injures or endangers the health, safety or welfare of the public. The term "annoy" shall include, but not be limited to, strong offensive odors or the presence of mice, rats, vermin or rodents.

F. ~~Garbage, refuse and rubbish~~ **Waste** containers shall be located in the rear or side yard areas of all properties or within a Secured Structure. The containers shall not be placed in front yards except for collection purposes. Dumpsters may be placed on the side or front yard areas only if the rear yard area is of insufficient size or accessibility. Dumpsters permanently located on a property must be kept inside an enclosure which fully surrounds the dumpster. The enclosure shall be maintained in good condition and shall not interfere with the movement of traffic or pedestrians in the right of way.

G. It shall be unlawful for any person owning, occupying or maintaining real property in the City to fail to remove ~~rubbish, garbage, refuse and ashes~~ **waste**

and yard rubbish from the person's property line to the centerline of any abutting alley and from the person's property to the paved area of a street abutting the property. This responsibility extends to the entire alley or public right of way if there is no other property adjoining the person's property.

6.4.105: IMPROPER ACCUMULATION PROHIBITED:

It shall be unlawful for the owner or occupant of any premises to permit the accumulation of ~~garbage, refuse or rubbish~~ **waste and yard rubbish** which **creates an unsanitary condition**, ~~is fermenting or putrefying or~~ which constitutes a ~~rodent~~ **rat** ~~haborage as defined in section 6.2.104, or which is kept on a premises not in conformity with this part 1. or other condition dangerous to the public health, safety or welfare.~~ Any **improper** accumulation of **waste or yard rubbish** may be abated by action initiated pursuant to article 5 of this chapter.

6.4.106: ESTABLISHMENT OF THE BEAR MANAGEMENT AREA:

The City of Colorado Springs hereby finds that the area within Colorado Springs located west of Interstate-25 (I-25) has experienced a high incidence of bears foraging for food in waste containers and other sources, occurring at levels that pose a threat to the health, safety, and welfare of the citizens and visitors to the City. In light of such finding, the "Bear Management Area" is hereby established. This area is located generally west of I-25 but is more specifically denoted in the Bear Management Area Map adopted by City Council and updated from time to time.

6.4.107: COLLECTION AND DISPOSAL WITHIN THE BEAR MANAGEMENT AREA:

The following requirements apply to collection and disposal of waste within the Bear Management Area:

A. Within the Bear Management Area, all attractant waste must be secured within a functioning bear resistant container, secured structure, or secured dumpster enclosure at all times except as authorized in this section.

B. Non-bear resistant waste containers may be placed at the designated collection location on the scheduled collection day no earlier than 5:00 A.M., and must be removed from the collection location and secured as soon as practicable after collection service has been provided, but no later than 7:00 P.M. on the same scheduled day.

C. Any other waste stored in waste containers and stored outside must be sufficiently free from attractant waste so that it is not an enticement to bears.

D. Any organizer conducting a special event within the Bear Management Area pursuant to a permit required by City Code section 3.2.404 must remove or

secure within a bear resistant container, secured dumpster enclosure, or secured structure attractant waste from the area, subject to the requirements contained in the permit, but no later than one (1) hour following completion of the event each day.

6.4.108 ADMINISTRATION AND ENFORCEMENT

A. Article 5 of this Chapter applies to enforcement actions filed pursuant to sections 6.4.106 through 109 of this part unless a more specific provision is provided herein.

B. The Administrator shall commence enforcement action pursuant to sections 6.4.106 through 109 of this part by the issuing of a notice, order and assessment of administrative fee(s) to the owner or agent of the owner and occupant of any Premises upon which it has reasonable cause to believe a violation of this part exists. The notice, order and assessment of administrative fee(s) shall:

1. Be in writing;
2. Be personally served whenever feasible on the owner, or agent of the owner, and occupant of the Premises; or, when personal service is not feasible, either posted conspicuously at the premises or mailed to the person by certified mail, return receipt requested, to the person's last known address;
3. Describe with reasonable particularity the violation of this part which gives rise to the issuance of the notice, order and assessment of administrative fee(s);
4. Indicate the amount and method of payment for the assessed administrative fee(s); and
5. State that an appeal is available to the Municipal Court Referee provided written application is made within ten (10) days of service, posting or receipt of the notice, order and assessment of administrative fee(s).

6.4.109 ADMINISTRATIVE FEES AND DEFENSES:

A. The owner or agent of the owner or occupant of any Premises issued a notice, order and assessment of administrative fee(s) for a violation of section 6.4.107 of this part shall be assessed the following administrative fees:

1. For a first violation of this part, \$100;

2. For a second violation of this part, \$250;
3. For a third and subsequent violation of this part, \$500.

B. The owner or occupant shall pay all costs and fees within thirty (30) calendar days of posting or receipt of the notice, order and assessment of administrative fee(s). If not paid within thirty (30) calendar days of billing, such amount shall be subject to collection by any lawful method including, but not limited to, the amount owed being certified to the Treasurer of El Paso County Colorado as an assessment on and a lien against the Premises in compliance with the procedures specified in section 6.5.107. The assessment of administrative fees pursuant to this part may be appealed in accordance with section 6.5.105.

C. In an appeal of a notice and order issued pursuant to section 6.4.108, the following defenses shall be available:

1. An owner whose residential property is leased or rented to an occupant within the Bear Management Area may present evidence to the Municipal Court Referee that the owner provided a sufficient and functioning bear resistant container, secured structure, or secured dumpster enclosure in compliance with section 6.4.107 (A). If the Municipal Court Referee determines the owner provided the occupant with the required bear resistant container, secured structure, or secured dumpster enclosure; that the occupant failed to properly secure the attractant waste creating the violation; and that the owner has taken appropriate steps to prevent further violations, then the enforcement action against the owner shall be dismissed. Dismissal of an enforcement action against an owner shall not preclude the issuance or continued enforcement action by the Administrator against an occupant for a violation of section 6.4.107. The Municipal Court Referee shall consider the number of violations by an owner including enforcement actions dismissed pursuant to this section, in determining if an owner has taken appropriate steps to prevent further violations.

2. An owner or occupant of residential property may present evidence to the Municipal Court Referee that a violation of section 6.4.107 (B) occurred due to employment circumstances that required the owner or occupant to not be present at the property, and which:

- a. Caused a non-bear resistant waste container to be placed at a designated collection location earlier than 5:00 A.M. on a scheduled collection day; or

b. Caused a failure to remove a non-bear resistant waste container from a designated collection location by 7:00 P.M. on a scheduled collection day.

c. If the Municipal Court Referee determines the owner or occupant provided sufficient evidence of an employment circumstance preventing compliance with section 6.4.107 (B), then the enforcement action against the owner or occupant shall be dismissed.

Section 2. Any person convicted of a violation of this Article 4 (Public Health and Sanitation - Garbage, Refuse, and Rubbish) of Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs 2001, as amended, shall be subject to the remedies as provided in Section 106 (Failure to Comply With Order to Abate) of Article 5 (Public Health and Sanitation - Enforcement) and Section 109 (Administrative Fees) of Article 4 (Public Health and Sanitation - Garbage, Refuse, and Rubbish) of Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs, 2001, as amended.

Section 3. This ordinance shall be in full force and effect on March 1, 2020 following its final adoption and publication as provided by Charter.

Section 4. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2019.

Finally passed: _____

Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk