

Larimer County Ordinance for Wildlife Protection through Refuse Disposal

SECTION 1. TITLE

This Ordinance shall be titled Larimer County Ordinance for Wildlife Protection through Refuse Disposal.

SECTION 2. AUTHORIZATION

This Ordinance is authorized pursuant to:

Section 30-11-101(2): Counties have the authority to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues as otherwise prescribed by law.

Section 30-11-107(1)(a)(I)(A): The Board of County Commissioners has the power to adopt ordinances to provide for and compel the removal of trash and garbage from lots and tracts of land within the county, except industrial tracts of ten or more acres and agricultural land currently in agricultural use as defined in 39-1-102(1.6) C.R.S.

SECTION 3. PURPOSE/INTENT.

The purpose and intent of this Ordinance is to protect wildlife by deterring wildlife from intrusion into and onto properties inhabited by humans through management of refuse, trash and garbage.

SECTION 4. APPLICABILITY.

This Ordinance applies in the unincorporated area of Larimer County within the designated Estes Valley, except industrial tracts of ten or more acres and agricultural land currently in agricultural use as defined in 39-1-102(1.6) C.R.S.

SECTION 5. DEFINITIONS.

In this Ordinance, the following words and phrases have the following meanings:

(a) **Wildlife** means any undomesticated animal, including, but not limited to, birds, elk, deer, bighorn sheep, lynx, skunks, magpies, crows, bears, raccoons, coyotes, beavers, porcupines, mountain lions, bobcats and foxes.

(b) **Refuse** means any waste that could reasonably attract wildlife including, but not limited to, kitchen organic waste, food, food packaging, toothpaste, deodorant, cosmetics, spices, seasonings, oil and grease. Refuse shall not include food packaging void of any food, glass, paper, cardboard, metal, plastic, aluminum, textiles, electronics, non-edible yard maintenance waste, construction materials and household items when not commingled with food waste attractants.

(c) **Wildlife Resistant Container** means a fully enclosed container constructed of pliable materials and reinforced to deter access by wildlife and shall have a latching device of sufficient design and strength to prevent access by wildlife. Grease traps shall require sufficient design to prevent tipping.

(d) **Wildlife Resistant Enclosure** means an enclosed structure consisting of four (4) sides, a roof and a secure door or cover, which shall have a latching device of sufficient design and strength to prevent access by wildlife.

(e) **Hard-sided Container** means a container constructed using materials such as polycarbonate, ABS plastic, carbon fiber, wood or aluminum with a lid preventing wildlife from accessing the interior of the container.

(f) **Enclosed Structure** means a residential building, commercial building, accessory dwelling unit, garage or shed. Enclosed Structure shall not include a patio, deck, driveway, or other area located outside of the walls of a residential building, commercial building, shed, garage or accessory dwelling unit.

SECTION 6. STANDARD FOR WILDLIFE RESISTANT CONTAINERS & HARD-SIDED CONTAINERS

(a) Wildlife Resistant containers shall meet the following standards:

(1) Containers shall be of a design that is impervious to wildlife, with drain holes no greater than one (1) inch in diameter.

(2) Container lids shall have a closure mechanism and/or a latching device such as cables, bars, and/or pull handles that prevents opening by wildlife. All lids shall also:

- (i) fully enclose (cover) the container opening.
- (ii) have edges that fit flush.
- (iii) shall not be turned up or bent.
- (iv) shall remain closed when on their side or upside down.
- (v) latching devices shall lock into place with a pin or other mechanism.

(3) Wildlife Resistant Containers shall meet the standards of testing by the Living with Wildlife Foundation and a “passing” rating by the Interagency Grizzly Bear Committee (IGBC) as bear resistant for 60 minutes.

(b) Hard-sided Containers shall meet the following standards:

(1) Container lids shall have latching devices to prevent access by wildlife.

SECTION 7. MAINTENANCE AND OPERATION OF WILDLIFE RESISTANT CONTAINERS, WILDLIFE RESISTANT ENCLOSURES, AND HARD-SIDED CONTAINERS.

(a) Wildlife Resistant Containers, Wildlife Resistant Enclosures, and Hard-Sided Containers shall be kept closed and secure when refuse is deposited.

(b) If a Wildlife Resistant Container, Wildlife Resistant Enclosure or Hard-sided Container is damaged and allows access by wildlife, repairs shall be made within seventy-two (72) hours after the damage.

SECTION 8. RESIDENTIAL REFUSE DISPOSAL AND CURBSIDE PICK-UP.

(a) All refuse located outside an enclosed Structure shall be contained in a wildlife Resistant Container or a Wildlife Resistant Enclosure. Multi-family housing developments and other types of clustered residential housing utilizing centralized refuse containers shall use a Wildlife Resistant Container or wildlife Resistant Enclosure for all refuse.

(b) Residents with curbside pick-up shall place refuse in a Wildlife Resistant Container or a Hard-Sided Container at or adjacent to the curb, alley, or public right-of-way for pick-up. If a Hard-Sided Container is used rather than a Wildlife Resistant Container, the Hard-Sided Container shall be placed at or adjacent to the curb, alley or public right-of-way, no earlier than 6:00 a.m. on the day of scheduled pick-up and removed prior to 7:00 p.m. on the same day from the area of the curb, alley or public right-of-way. Residents using a Wildlife Resistant Container may place and leave the wildlife Resistant Container at or adjacent to the curb, alley or public right-of-way without restriction.

SECTION 9. CONSTRUCTION SITE REFUSE DISPOSAL.

(a) All food packaging refuse shall be deposited in a Wildlife Resistant Container.

(b) Construction materials are not required to be deposited in a Wildlife Resistant Container or Enclosure.

SECTION 10. COMMERCIAL REFUSE DISPOSAL.

(a) All refuse located outside an Enclosed Structure from commercial establishments and vacation rentals shall be deposited in Wildlife Resistant Containers or Wildlife Resistant Enclosures. This requirement shall not apply to containers 95-gallons or less which are emptied by 10 p.m. each day or are under contract for removal overnight.

(b) Food service establishments shall deposit all oil and grease from their operations within Wildlife Resistant Containers or Wildlife Resistant Enclosures.

SECTION 11. TRASH COMPACTORS.

(a) Trash compactors are compliant with this Ordinance when no refuse is exposed.

(b) Compactor doors must be kept closed at all times, except when loading or removing refuse and the area around the compactor must be kept clean of refuse and debris.

SECTION 12. RESPONSIBILITY FOR ADMINISTRATION.

This Ordinance shall be administered by the Larimer County Community Development Department (Authorized Enforcement Agency) or by its designee.

SECTION 13. VIOLATION.

Violation of any provision of this Ordinance shall be unlawful and subject to the Enforcement provisions set out in Sections 14, 15, 16, and/or 17 of this Ordinance. Any person seeking to report a violation of any provision of this Ordinance shall make such report to the Larimer County Director of Community Development.

SECTION 14. CIVIL ENFORCEMENT ACTION

(a) The Authorized Enforcement Agency may apply to the Larimer County Court or Larimer County District Court for an administrative entry and seizure warrant authorizing the Authorized Enforcement Agency or its contractor to enter the property and take any and all actions necessary to abate the conditions violating this Ordinance and for restoration of any affected the property.

(b) Such application to the Court shall include a copy of this Ordinance, a sworn or affirmed affidavit stating the factual basis for such warrant, evidence that the owner, occupant or person responsible for the property has received the Notice of Violation or that reasonable efforts to serve the Notice have been made to no avail, a general description of the location of the property that is the subject of the warrant, and a list of corrective action needed.

(c) Within ten days after the date of issuance of an administrative entry and seizure warrant, the Authorized Enforcement Agency shall execute the warrant in accordance with directions by the issuing court, deliver or mail a copy of such warrant to the owner, occupant and person responsible for the property by both certified mail return receipt requested and by regular mail, and submit proof of the execution of such warrant to the court, including a written inventory of any property impounded by the Authorized Enforcement Agency.

(d) The Authorized Enforcement Agency shall submit to the person violating the Ordinance an invoice for the costs of the abatement, plus an additional five percent for inspection and other incidental costs in connection therewith. Such costs shall be paid within ten (10) days of the date of the invoice. If not paid, the costs shall be a lien against the property that were the subject of the abatement until paid and shall have priority based on upon the lien's date of recording.

(e) The County Clerk and Recorder may certify the amount of the lien to the County Treasurer who shall collect the amount of the lien, together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collection. The laws of Colorado for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of liens pursuant to this Ordinance.

(f) Nothing in this Section 16.2 shall be construed to limit the authorized enforcement agency's institution of actions for injunction, mandamus, abatement or other appropriate actions to prevent, enjoin, abate or remove a violation of this Ordinance or to enforce this Ordinance.

SECTION 15. CRIMINAL ENFORCEMENT

(a) Any person who violates this Ordinance commits a class 2 petty offense, and upon conviction thereof, shall be punished by a fine of up to two thousand six hundred fifty (\$2,650.00). Each day during which such violation of this Ordinance continues shall be deemed a separate offense.

(b) The penalty assessment procedure set out in Section 16-2-201 C.R.S. shall be followed in enforcing this Ordinance pursuant to this Section 8.

(c) All fines and forfeitures collected by the court for violation of this Ordinance shall be paid to the Larimer County Treasurer within thirty (30) days of receipt and shall be deposited into the General Fund of the County.

(d) In addition to the penalties prescribed in this Section 8, persons convicted of a violation of this Ordinance shall be subject to a surcharge of ten dollars (\$10) that shall be paid to the clerk of the court by the defendant as provided by Section 30-15-402(2)(a) C.R.S.

SECTION 16. REMEDIES NOT EXCLUSIVE

The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Authorized Enforcement Agency to seek cumulative remedies.

SECTION 17. VIOLATIONS DEEMED A PUBLIC NUISANCE.

Any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

SECTION 18. SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.