

BIG SKY OWNERS ASSOCIATION, INC.
BOARD OF DIRECTORS RESOLUTION
June 20, 2014

RESOLUTION: Trash Restrictions, Bear Feeding and Enforcement Regulation

Date of Board Adoption: June 20, 2014 Resolution No.: 2014-01

Effective Date: June 20, 2014 Dates Revised: _____

RESOLUTION

WHEREAS, the Big Sky Owners Association, Inc. (“Association”) jurisdiction spans over 8,000 acres surrounded by wilderness in both Gallatin and Madison Counties;

WHEREAS, wildlife is important to the Big Sky Community and the Association and preserving wildlife is integral for maintaining property values in the Association’s Jurisdiction;

WHEREAS, curbside trash collection is an attractant to wildlife, increasing the risk of human-wildlife conflicts, and compromises the health and safety of humans and wildlife;

WHEREAS, the Association has worked with the local trash collection company, (currently Allied Waste Services of Bozeman, but shall include any other designated service provider), to offer to its Members animal-proof trash containers;

WHEREAS, the Association has worked with Keystone Conservation, the Big Sky Natural Resources Council, Bear Smart Big Sky and other public interest groups to educate its Members on the hazards of living in bear country and has engaged in programs to tag trash cans that are placed outside before trash pick-up day to remind Members of trash collection times;

WHEREAS, the Association’s Jurisdiction in Gallatin County is contained within the Gallatin Canyon/Big Sky Zoning District and subject to the Gallatin Canyon/Big Sky Zoning Regulation (“Regulation”), Section 29.3 originally adopted on July 30, 1996 and subsequently amended;

WHEREAS, the Association Design Regulations originally adopted on May 30, 2003, effective July 1, 2003, subsequently amended on March 24, 2011 and May 16, effective May 17, 2013 (“Design Regulations”) require that “all exterior refuse disposal containers (i.e., communal compactors or dumpsters for Commercial or Multi-Family Dwellings) shall be bear proof and screened or concealed from view of other dwellings and common areas. All individual refuse containers (i.e., containers provided by the waste disposal company for personal individual use) shall be stored within the confines of a dwelling or a garage except when placed outside on the day designated for garbage collection”;

WHEREAS, the Association adopted Amended and Restated Bylaws for the Big Sky Owners Association, Inc. on January 18, 2008 at its Board meeting and recorded with the Office of the Gallatin

County Clerk and Recorder (Document #2290050, January 25, 2008) and the Office of the Madison County Clerk and Recorder (Document #124479, February 11, 2008) (“Bylaws”);

WHEREAS, Article 9, “Enforcement Powers and Procedures,” specifically Section 9.1, “Procedure” of the Bylaws state that “each Owner or his/her tenants, guests and/or invitees of Unit, Lot or Tract shall comply with all applicable Governing Documents” and “each Owner shall be responsible to the Association for compliance with the foregoing by his/her tenants, guests and/or invitees”;

WHEREAS, the Board adopted its Enforcement Procedures resolution on April 16, 2010, effective May 1, 2010 at Resolution No. 2010-01; and

WHEREAS, the Board finds it is in the best interest of the Association to adopt a resolution setting forth and clarifying its policy regarding disposal of waste within the Association.

NOW THEREFORE, be it resolved that:

The Board adopts this resolution to enforce the Governing Documents specifically as they pertain to all exterior refuse disposal containers, communal compactors or dumpsters and including all individual refuse containers provided by the waste disposal company for individual use, and the use of animal-proof garbage cans, as well as street side placement of garbage, refuse and trash for collection:

1. Definitions - Unless otherwise stated, use of capitalized terms in this Resolution, otherwise not defined herein, refer to defined terms in the BSOA Bylaws adopted on January 18, 2008 at its Board meeting and recorded with the Office of the Gallatin County Clerk and Recorder (Document #2290050, January 25, 2008) and the Office of the Madison County Clerk and Recorder (Document #124479, February 11, 2008) and the Design Regulations originally adopted on May 30, 2003, effective July 1, 2003 and subsequently amended on March 24, 2011 and effective July 1, 2011. In addition, the following terms shall have the meaning as stated below:
 - a. “Trash” - means all accumulation of waste matters discarded as of no further value to the owner, such as household, kitchen and table waste, wrappings and discarded containers and shall include the terms refuse or garbage.
 - b. “Trash Receptacle” - means any device, including both individual trash cans or communal compactors or dumpsters, used for the placement and/or containment of Trash.
 - c. “Street Side Placement” - means the placement of containers set out for collection.
2. General Trash Receptacle Restrictions - On and after October 31, 2014, all Trash Receptacles shall be animal proof, latched while curbside, and be stored in compliance with the Association Design Regulations.
3. To insure the greatest level of safety for humans and bears, the BSOA supports best practices and encourages that no Owner or his/her tenants, guests and/or invitees (inclusive of any Owner’s agent) shall:
 - (i) place any Trash or Trash Receptacle for curbside trash pick-up prior

to 5:00 A.M. on the day such pick-up is scheduled; or (ii) fail to remove any Trash Receptacle placed for curb-side pick-up later than 8:00 P.M. of the day such pick-up is scheduled by the designated service provider

4. Construction Site Trash Receptacle Restrictions - On and after October 31, 2014, no Owner or his/her tenants, guests and/or invitees (inclusive of any Owner's agent) shall allow for the placement or maintenance on a construction site any dumpster or other Trash Receptacle used for the placement of construction debris unless, in addition thereto, there is placed and maintained on such site a Trash Receptacle of a design that is animal-proof. Therefore, in addition to construction dumpsters, such animal-proof Trash Receptacle shall be used to discard all food waste and food packaging materials (i.e. construction workers' lunches and beverages) from the construction site and cannot be comingled with construction debris in the construction dumpster. Furthermore, the said animal-proof Trash Receptacle shall be stored within the confines of a dwelling, garage, or other fully enclosed structure except when placed outside on the day designated for garbage collection.
5. Enforcement, Violations and Fines - The Association, acting through its Board of Directors, shall have the right to enforce this Resolution and to issue fines against the Owner for enforcement under this Resolution. For each violation, the Owner shall be provided written notice and documentation of the violation and an opportunity to appear before the Board, at the Owner's request, at a regular or special meeting for the purpose of contesting the fine. If the Owner chooses to contest a fine issued for violation of this Resolution, the matter shall be heard by the Board in accordance with the Enforcement Procedures Resolution then in effect. No fine shall be imposed against an Owner for the Owner's first violation of this Resolution. For each subsequent violation of this Resolution by the Owner or his/her tenants, guests and/or invitees (inclusive of any Owner's agent), the Association will assess a fine in the amount of \$100. In addition to assessing a fine, the Board reserves the right to immediately abate the violation if it deems reasonably necessary by entering onto the property and removing or causing to be removed any Trash or Trash Receptacle placed or maintained on the property in violation of this Resolution, or of any food left outdoors or left unattended in violation of this Resolution. The right to abatement shall be in addition to, and not in lieu of, any fine or other penalty that may be imposed by this Resolution or the Governing Documents. Costs incurred by the Association for enforcing the provisions of this Resolution (inclusive of giving notice of the violation), costs of abatement, if undertaken by the Association, collection costs, attorneys' fees or any fine assessed against the Owner shall be paid by the Owner. Such fine shall be payable to the Association within thirty (30) days from the date of the violation notice. Fines not paid within sixty (60) days of the due date specified in the violation notice may result in the Association bringing an action at law or equity or both, in accordance with Section 7.6 of the Bylaws. Money from fines collected under this Resolution shall be deposited with the Association and may be used at the discretion of the Board.
6. Financial Assistance - The BSOA Board of Directors may, at their discretion, provide financial assistance to a member Owner or his/her tenants to offset the cost of animal-proof refuse containers. Said assistance shall only be applied to the cost of container rental and shall not be applied to the cost of collection service. The BSOA Board of Directors may establish an application and review process to determine the necessity of financial assistance.

7. Written Notice - Written notice as described in this Resolution shall be given either by personal delivery, or deposited in the United States mail both, certified or registered, postage and fees prepaid, return receipt requested and first class mail, addressed to such Owner at the address given to the Association by him/her for the purpose of Association records. Such notice, if mailed, shall be deemed given and received four (4) days after being so deposited in the United States mail in the manner aforesaid.
8. Discretion of Enforcement - In the event the Association, in its discretion, determines not to take enforcement action with regard to a particular case, such a decision shall not be deemed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule, nor shall it preclude any Owner from taking action at law or in equity to enforce the Governing Documents. In the event an Owner decides to take action at law or in equity to enforce the Governing Documents after the Association has issued its written decision not to take action, the Association is not liable to the Owner for any costs or attorney's fees incurred in taking such action.
9. The Board is the sole interpreter of this Resolution and decisions by the Board are final.
10. This Resolution supersedes all other Board Policies/Resolutions with regard to enforcement procedures for Governing Documents specifically as they pertain to garbage, refuse and trash restrictions. However, it is the intent of the Board that each of the enforcement mechanisms and penalties described in this Resolution shall be in addition to and not in lieu of any other enforcement mechanisms or penalties that may be available to the Association, including but not limited to the Enforcement Procedures resolution adopted on April 16, 2010, effective May 1, 2010 at Resolution No. 2010-01. Without limitation of the foregoing, the Association may seek an injunction to restrain a person from any further violation of this regulation, such remedy being in addition to all other remedies available at law, equity or otherwise.

DATED this 20th day of June, 2014.

**BOARD OF DIRECTORS
BIG SKY OWNERS ASSOCIATION, INC.**

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