

Chapter 124 - PUBLIC HEALTH AND SAFETY

Footnotes:

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State Law reference— *Alcoholic Beverages, Ch. 53; Dogs and Other Animals, Ch. 79; Insertions, Ch. 87; Ordinances, Ch. 127; Signs, § 180-20; Snowmobiles, Ch. 153; Zoning, Ch. 180.*

ARTICLE I. - NUISANCES

§ 124-1. - Definitions.

As used in this article, the following terms shall have the meanings indicated:

Nuisance means any substance, act, occupation, condition or use of property declared a nuisance by this article or declared a nuisance by the State of Colorado, or by any court or agency thereof, or known as a "nuisance" at common law or which is of such nature and duration as to:

- A. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- B. In any way render the public insecure in life or in the use of property.
- C. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway or other public place or way.

(Ord. No. 79-18, 8-27-79; Ord. No. 80-16, 6-3-80; Ord. No. 90-15, 11-6-90)

§ 124-2. - Nuisance prohibited.

No person shall make or cause any nuisance to exist and no person being the owner, agent or occupant or having under his control any building, lot or premises or unimproved real estate within the town limits of the Town of Frisco, Colorado, shall maintain or allow any nuisance to be or remain therein.

(Ord. No. 79-18, 8-27-79; Ord. No. 04-02, 2-10-04)

§ 124-3. - Authority to declare nuisances.

Any act, condition, substance, occupation or use of property which substantially meets the criteria of a nuisance as defined in Section 124-1 above may be declared a nuisance by the Town Council, and nothing in Section 124-4 below shall be construed to limit the power of the town to make such declaration. The Director of the Community Development Department or an authorized representative is hereby appointed to administer and implement this article.

(Ord. No. 79-18, 8-27-79; Ord. No. 85-05, 6-18-85; Ord. No. 90-15, 11-6-90)

§ 124-4. - Enumeration of nuisances.

The following are declared a nuisance:

- A. Unwholesome businesses. Any offensive, unhealthy or immoral businesses or establishment within the town or within one mile beyond the outer limits of the town as such outer limits are now, or may be hereafter, constituted.
- B. Discharge of liquid waste. The discharge out of or from any place of foul or nauseous liquids or substances of any kind whatsoever into or upon any ground or upon any street, alley or public place.
- C. Idling of motor vehicles. The idling of a motor vehicle of any kind for more than 45 minutes within the Town of Frisco limits, except for emergency vehicles, vehicles engaged in traffic operations, vehicles being serviced, vehicles that must idle to operate auxiliary equipment and vehicles in traffic congestion.
- D. Abandoned telecommunication facility.
- E. Removal of dead animals. The body of any animal which has not been properly disposed of within 24 hours after death.
- F. Stagnant pond. Any cellar, vault, drain, sewer, pond or water or other place in this town that shall be nauseous or offensive to others or injurious to public health through an accumulation or deposit of nauseous, offensive or foul water or other substances.
- G. Open wells and cisterns. Any well or cistern on any property, whenever a chemical analysis or other proper test or the location of the same shows that the water of said well or cistern is probably contaminated, impure or unwholesome. Open wells and cisterns shall be adequately covered with a locked lid or other covering weighing at least 60 pounds.
- H. Sinkholes or other depressions in the surface of land which have subsided or collapsed due to inadequate underground support.
- I. Handbills, posters, placards, and garage sale signs. Any handbill, poster, placard, painted or printed matter, or garage sale sign which shall be stuck, posted or pasted upon any public or private house, store or other buildings or upon any fence, power pole, telephone pole or other structure without the permission of the owner, agent or occupant thereof.
- J. Unused appliances. Any unused refrigerator, washer, dryer, freezer or other appliance within any yard or lot or carport or residential area without the door of the same being removed.
- K. Vacant buildings. Any uninhabited building that is not properly secured to prevent normal entry.
- L. Reserved.
- M.

Inoperable vehicle. Any automobile, truck, trailer or self-propelled vehicle designed for carrying passengers which is incapable of moving under its own power and is not completely enclosed by a fitted vehicle cover, completely enclosed by a building or solid fenced enclosure six feet in height, or on the premises of a business enterprise when the keeping of such vehicle is related to the operation of such business enterprise.

- N. Accumulation of garbage, trash or junk. Any accumulation of garbage, trash or junk, including but not limited to building and construction materials that endanger the public health, safety and welfare.
- O. Fire, smoke, and odor from burning. Any fire, smoke or odor that endangers the health, safety or welfare of the community.
- P. Standing dead trees. Any standing dead tree that is either (i) greater in height (as measured in feet) than the distance (as measured in feet) between any part of the trunk and the nearest point of any property line of the real property on which it is located; or (ii) located within 15 feet of any building as measured on a horizontal line between any part of the tree and the nearest point of any building.
- Q. Mountain pine beetle and beetle-infested trees. The mountain pine beetle (*Dendroctonus ponderosae*) is hereby declared to be a public nuisance. All species and varieties of live pine trees infested by the mountain pine beetle; all species and varieties of pine trees that are dead or dying and all dead pine wood to which the bark is attached which, because of their condition, may serve as a breeding place for the mountain pine beetle.

(Ord. No. 79-18, 8-27-79; Ord. No. 80-16, 6-3-80; Ord. No. 82-07, 4-5-82; Ord. No. 90-04, 3-13-90; Ord. No. 90-15, 11-6-90; Ord. No. 93-03, 3-2-03; Ord. No. 02-15, 7-2-02; Ord. No. 04-02, 2-10-04; Ord. No. 08-14, 10-28-08)

§ 124-5. - Complaints.

Complaints of nuisances may be made to the Police Department, Building Inspector or any other town official. Whenever possible any complaint shall state the nature of such nuisance, the location, including the street address, the name of the owner, agent or occupant of the building or lot, if known, and the name and address of the complainant.

(Ord. No. 79-18, 8-27-79)

§ 124-6. - Inspections.

- A. Whenever necessary to make an inspection to enforce this article, or whenever an authorized representative of the town has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a nuisance, the Building Inspector, police officer or other authorized representative of the town shall first present proper credentials and shall request entry. If entry is refused, such person shall give the owner or occupant, or if the

owner or occupant cannot be located after a reasonable effort he shall leave at the building or premises, a written notice of intent to inspect not sooner than 24 hours' written notice of intention to inspect after the time specified in the notice of intention to inspect. The notice shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by the Municipal Judge of the Town of Frisco or a judge of any other court having jurisdiction.

- B. In addition to, or in lieu of, the procedures described in subsection A above, the Building Inspector, a police officer or other authorized representative of the town may appear before the Municipal Judge of the Municipal Court of the Town of Frisco and, presentation of an affidavit upon showing probable cause, shall obtain a search warrant entitling him, the Building Inspector, a police officer or some other authorized representative of the town to enter said building or upon such premises. For purposes of this section, probable cause exists when the supporting affidavit alleges sufficient facts to warrant a person of reasonable caution to believe that a nuisance, as defined by this Article, is located or maintained on the premises to be searched. In determining whether probable cause for issuance of a search warrant exists, the Municipal Court Judge shall consider the totality of the facts and circumstances known to the affiant, and due consideration shall be given to the affiant's experience and training in evaluating the existence or probable existence of a nuisance. In determining whether probable cause exists for issuance of the search warrant, the Municipal Court Judge shall make a practical, commonsense decision as to whether, given the totality of the circumstances set forth in the affidavit, there is a fair probability that evidence of a nuisance will be found in a particular place.
- C. After obtaining a search warrant, the Building Inspector, police officer or other authorized representative of the town may enter the subject building or premises using such reasonable force as may be necessary to gain entry. It shall be unlawful for any owner or occupant of said building or premises to resist reasonable force used by any authorized agent acting pursuant to this article.
- D. Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this article, the Building Inspector, police officer or other authorized representative of the town, upon a presentation of proper credentials or identification in the case of an occupied building or premises, or possession of said credentials in the case of an unoccupied building or premises, may enter into any building or upon any premises within the jurisdiction of the Town of Frisco. In said emergency situation, such person may use such reasonable force as may be necessary to gain entry into said building or upon said premises. It is unlawful for any owner or occupant of the building or premises to deny entry to the Building Inspector, or to any police officer or other authorized representative of the town, or to resist reasonable force used by such person acting pursuant to this subsection.

E.

For purposes of the above Subsection D, an emergency situation shall include, but not be limited to, any situation where there is imminent danger of loss of life, limb or property.

(Ord. No. 79-18, 8-27-79; Ord. No. 84-02, 3-2-84; Ord. No. 06-17, 4-11-06)

§ 124-7. - Abatement.

- A. Each and every nuisance declared or defined by any ordinance of the town or otherwise is hereby prohibited. If any nuisance is found to exist upon property owned by the town, the town shall abate such nuisance as soon as is practicable.
- B. If any nuisance found to exist on public or private property shall cause such imminent danger to life, limb, property or health as to require immediate abatement, any such nuisance may be summarily abated by action of the Building Inspector, Chief of Police or such other authorized representative of the town. The costs of such abatement shall be charged and recovered as provided by section 124-8.
- C. Upon the discovery of any nuisance on public or private property in the town that is not abated pursuant to subsections A or B above, the Chief of Police, Building Inspector, or other authorized representative of the town, may, in the exercise of his discretion, notify in writing, the owner of the property on which the nuisance is discovered and require said owner to abate the same in such reasonable time and manner as prescribed. The reasonable time for abatement shall not exceed 14 days, unless extended for good cause at the reasonable discretion of the person issuing the notice. Such notice shall be signed by the official issuing the same, state that if the nuisance is not abated within the time period stated in the notice, then the town will seek an abatement order from the Municipal Court and will assess the cost of such abatement, together with an additional five percent assessment for inspection and incidental costs, and an additional ten percent assessment for the costs of collection, as a lien against the property to be collected in the same manner as real estate taxes against the property.
- D. Service of notice. If written notice to abate is given, it shall be served by:
 - 1. Posting a copy of the notice in a conspicuous place on the premises upon which said nuisance exists; and
 - 2. By mailing a copy of the notice by first class United States mail, to the last known address of the owner of said premises as reflected in the Summit County real estate or tax assessment records. At the time of mailing of said notice, the Town shall obtain a certificate of mailing from the United States Post Office.
- E. Abatement Order. If the person notified in accordance with Subsection C and D above shall neglect or refuse to comply with the notice to abate the nuisance within the time specified, such person shall be guilty of a violation of this article and the, Town Attorney may apply to the Municipal Court for an abatement order as follows:

1. The application shall be accompanied by an affidavit or testimony establishing to the satisfaction of the Court, based on a preponderance of the evidence, that a nuisance as defined by this article exists on the subject property, and that the town has complied with the notice requirements of subsection (C) and (D) above, and that the owner has failed to abate the identified nuisance upon the property.
2. The town shall give notice to the owner of the subject premises of its application for the abatement order in the manner as provided above in subsection (D).
3. The notice of application for an abatement order shall include a copy of the town's application and its affidavit or a summary of its anticipated testimony in support of its application, as well as the time, date, and place at which the town will appear before the Municipal Court to request entry of the abatement order.
4. At the stated time, date, and place, the Municipal Court Judge shall hold a hearing to review the application for abatement order, the affidavit, if any, and any testimony or other evidence offered by the town in support of the application, as well as any testimony or other evidence presented by the owner, if present.
5. Thereafter, the Municipal Court is authorized to enter an order authorizing the town to enter upon such property, abate the nuisance and recover its costs as provided by section 124-8.
6. Upon the Municipal Court's issuance of an order authorizing the abatement of a nuisance, the Building Inspector, Chief of Police or other authorized representative of the town shall abate said nuisance or cause the same to be abated, employing such forces and persons as may be necessary to abate said nuisance or cause the same to be abated, including the employees of the town, either by contract or otherwise. All other town officials and employees are authorized and directed to render such assistance to the Building Inspector, Chief of Police or other authorized representative of the town as may be required for the abatement of such nuisance.
7. Any officer or employee of the Town of Frisco who shall be authorized herein to abate any nuisance specified in this article shall have authority to engage the necessary assistance and incur the necessary expenses thereof. The town or any of its representatives shall proceed in all abatement cases with due care and without any unnecessary destruction of property, except that in the case of a mountain pine beetle infested tree or pine tree that is dead or dying and all dead pine wood to which the bark is attached, as described in Section 124-4(Q), abatement of the public nuisance shall necessarily consist of complete destruction of the tree or wood.

(Ord. No. 79-18, 8-27-79; Ord. No. 82-07, 4-5-82; Ord. No. 84-02, 3-2-84; Ord. No. 06-17, 4-11-06; Ord. No. 08-07, 4-8-08)

§ 124-8. - Costs of abatement.

- A. The person or persons responsible for any nuisance within the town shall be liable for and pay and bear all costs and expenses of the abatement of said nuisance. The actual costs of abatement, together with an additional five-percent assessment for inspection and incidental costs and an additional ten-percent assessment for costs of collection, shall be assessed against the owner of any private property upon which a nuisance was abated and such costs and expenses may be collected by the town in any action at law, referred for collection by the Town Attorney or assessed against the property as hereinafter provided.
- B. The Town Treasurer shall mail notice of the assessment by registered mail to such owner at his address as shown in the Summit County tax assessor's records and such costs shall be paid to the Town Treasurer within 30 days thereafter. Service shall be complete upon depositing the notice within the United States mail, postage prepaid for registered mail. The notice shall notify such owner that work has been performed pursuant to this Article, stating the date of performance of the work, the nature of the work and demanding payment of the costs thereof, as certified by the Town Treasurer, including an additional five-percent assessment for inspection and other incidental costs in connection therewith and an additional ten-percent assessment for costs of collection. Such notice shall also state that if said amount is not paid within 30 days after mailing the notice, it shall become an assessment on and a lien against the property of said owner, will be certified by the Town Clerk to the County Treasurer as an assessment against such property, and will be collected in the same manner as a real estate taxes upon the property.
- C. Failure to pay such assessment within such period of 30 days shall cause such assessment to become a lien against such property until paid and shall have priority over all liens, except general taxes and prior special assessments.
- D. The Town Clerk shall certify any assessment not paid when due to the County Treasurer, who shall collect the assessment, including the five-percent assessment for inspection and incidental costs and the additional ten-percent assessment for costs of collection, in the same manner as other taxes are collected.

(Ord. No. 79-18, 8-27-79; Ord. No. 84-02, 3-2-84; Ord. No. 06-17, 4-11-06)

§ 124-8.1. - Reserved.

Editor's note— Ord. No. 90-15, adopted November 6, 1990, repealed § 124-8.1, which pertained to the licensing of pine beetle exterminators required; methods for extermination, and derived from Ord. No. 82-07, adopted April 5, 1982; and Ord. No. 84-02, adopted March 20, 1984.

§ 124-8.2. - Reserved.

Editor's note— Ord. No. 90-15, adopted November 6, 1990, repealed § 124-8.2, which pertained to license fee; expiration and renewal; resolution, and derived from Ord. No. 82-07, adopted April 5, 1982; and Ord. No. 84-02, adopted March 20, 1984.

§ 124-9. - Remedies.

- A. No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including the charge or conviction of a violation of this article in the Municipal Court of the Town of Frisco, shall not preclude or prevent the taking of another action hereunder to abate or enjoin any nuisance found to exist.
- B. Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and when applicable the abatement provisions of this article shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this article that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under the municipal ordinances or any other provision of law.

(Ord. No. 79-18, 8-27-79)

§ 124-10. - Violations and penalties.

- A. Whenever in any section of this article the doing of any act is required, prohibited or declared to be unlawful and no definite or penalty is provided for a violation thereof, any person, firm or corporation who shall be convicted of a violation of any such section shall, for each offense, be punishable as provided in Article 1, General Provisions, Article I.
- B. Any person who shall have possession or control of any private ground or premises, whether he is owner thereof or not, in or upon which any such nuisance shall exist or may be found, whether such nuisance has been heretofore or shall be hereafter created, shall be deemed guilty of a separate offense, as the author of a nuisance, for every period of 24 hours' continuance of such nuisance after due notice is given to abate the same.

(Ord. No. 79-18, 8-27-79; Ord. No. 80-20, 8-5-80; Ord. No. 82-07, 4-5-82; Ord. No. 89-01, 2-7-89; Ord. No. 90-15, 11-6-90)

§ 124-11. - Aquatic Nuisance Species—Declaration; Prohibition; Impoundment and Inspection; Duty to Report.

- A. *Definitions.* As used in this Section, unless the context otherwise requires:
 - 1. *Aquatic nuisance species* means exotic or nonnative aquatic wildlife or any plant species that have been determined by the State of Colorado Board of Parks and Outdoor Recreation in the Department of Natural Resources to pose a significant threat to the aquatic resources or

water infrastructure of the state, including but not limited to the aquatic nuisance species commonly known as the "Zebra Mussel" and "Quagga Mussel."

2. *Conveyance* means a motor vehicle, vessel, trailer, or any associated equipment or containers, including, but not limited to, live wells, ballast tanks, and bilge areas that may contain or carry an aquatic nuisance species.
3. *Decontaminate* means to wash, drain, dry or chemically or thermally treat a conveyance in accordance with rules promulgated by the State of Colorado Board of Parks and Outdoor Recreation in the Department of Natural Resources in order to remove or destroy an aquatic nuisance species.
4. *Equipment* means an article, tool, implement, or device capable of containing or transporting water.
5. *Inspect* means to examine a conveyance pursuant to procedures established by the Marina by regulation in order to determine whether an aquatic nuisance species is present and includes examining, draining, or chemically treating water in the conveyance.
6. *Marina* means the Frisco Bay Marina.
7. *Qualified peace officer* means a Town of Frisco police officer or Code Enforcement officer or a Level Two U.S. Fish and Wildlife Service certified watercraft inspector.

B. Powers and duties of the Marina.

1. In order to prevent, control, contain, monitor and, whenever possible, eradicate aquatic nuisance species from the waters of the Town and waters adjacent to the Town, the Marina Manager or his designee is hereby authorized to establish, operate and maintain an aquatic nuisance species check station in order to inspect and decontaminate conveyances pursuant to this Subsection (B) and to Subsection (C) below.
2. Upon a reasonable belief that an aquatic nuisance species may be present, the Marina Manager or his designee may:
 - a. Require the owner or operator of a conveyance to decontaminate the conveyance by use of the Marina's aquatic nuisance species check station pursuant to use policies for the same established by the Marina Manager, which use policies may include the establishment of a fee for decontamination services not to exceed the cost to the Marina of performing the services; or
 - b. Arrange for the impoundment, inspection and decontamination of the conveyance pursuant to Subsection (C) below.
3. The Marina Manager or his designee may monitor the waters of the Town and waters adjacent to the Town for the presence of aquatic nuisance species.

C. *Inspection of conveyances—Impoundment and decontamination.*

1. Every qualified peace officer is authorized to enforce this Section. Each such officer shall have a reasonable belief that a conveyance may contain an aquatic nuisance species before the officer orders the impoundment, inspection and/or decontamination of a conveyance.
2. Every qualified peace officer is authorized to stop, impound, inspect for the presence of aquatic nuisance species, and order or arrange for the decontamination of a conveyance:
 - a. Prior to a vessel being launched onto waters of the Town or onto waters adjacent to the Town through facilities owned or controlled by the Town;
 - b. Prior to departing from the waters of the Town or from waters adjacent to the Town through facilities owned or controlled by the Town, or from a vessel staging area in or about the Marina;
 - c. That is visibly transporting any aquatic plant material; or
 - d. Upon a reasonable belief that an aquatic nuisance species may be present.
3. Any impoundment and inspection and decontamination of a conveyance may continue for a maximum period of two hours to permit the Town adequate time to inspect and decontaminate the conveyance and to ensure that any aquatic nuisance species has been completely eradicated from the conveyance and is no longer living.
 - a. After such two-hour period, the conveyance shall be returned to the person transporting the same with notice that the conveyance is either approved or disapproved to be placed in the waters of the Town or waters adjacent to the Town through facilities owned or controlled by the Town.
 - b. Any person who receives notice, pursuant to subparagraph a above, of disapproval to place a conveyance in Town waters or in waters adjacent to the Town through facilities owned or controlled by the Town may waive the two-hour impoundment/inspection/decontamination time limit and request that the Town continue its decontamination efforts. The Town shall grant or deny such request in its sole and absolute discretion.
 - c. Any person whose vessel has been inspected and decontaminated under this subsection (C) shall pay a fee for such services not to exceed the cost to the Marina and the Town of performing such services.
4. Notwithstanding any provision to the contrary, no motor vehicle shall be impounded or decontaminated pursuant to this Section when such vehicle is merely drawing or towing a conveyance.
5. Compliance with the inspection and decontamination procedures set forth in Subsections B and C of this Section is an express condition of operation of any conveyance on waters of the Town or on waters adjacent to the Town when access to such waters is provided through facilities owned or controlled by the Town.

D. *Prohibition of aquatic nuisance species.* It shall be unlawful to:

1. Possess, import, export, ship or transport an aquatic nuisance species;
2. Release, place, plant, or cause to be released, placed, or planted into the waters of the Town or waters adjacent to the Town an aquatic nuisance species;
3. Refuse to comply with a proper order issued under this Section;
4. Place a conveyance into the waters of the Town, or in waters adjacent to the Town through facilities owned or controlled by the Town, that has not been inspected and approved by the Marina Manager or his designee by use of the aquatic nuisance species check station at the Marina or otherwise granted approval to be placed into such waters, or that has been affirmatively disapproved for placement into Town waters or waters adjacent to the Town pursuant to Subparagraph (C)(3)a. above.

E. *Duty to report.* A person who knows that an aquatic nuisance species is present at a specific location shall immediately report such knowledge and all pertinent information to the Marina Manager or his designee.

(Ord. No. 09-10, 5-12-09)

ARTICLE II. - DISPOSABLE BAGS AND DISPOSABLE BAG FEE

§ 124-12. - Intent.

- A. The Town is concerned about the impact that single-use, plastic bags have on the surrounding rivers, lakes, forests, and wildlife. Paper bags made with no recycled materials have a similar detrimental impact on the environments in which they are produced. This Article's intent is to mitigate the impact of these bags on the Town's environment by banning plastic bags and requiring any paper bags used by Restaurants and Retail stores in Town to be 100 percent postconsumer recycled product.
- B. The Disposable Bag Fee established by this Article is necessary to address the many negative environmental impacts associated with Disposable Bags and to defray the costs imposed upon the Town associated with the use of Disposable Bags. The Town Council intends that the requirements of this Article will assist in offsetting the costs associated with prohibiting Disposable Bags by paying for the mitigation, educational, replacement, and administrative efforts of the Town.
- C. The Disposable Bag Fee established by this Article is not designed to raise revenues to defray the general expenses of Town government, but rather is a fee imposed for the purpose of defraying the costs of the particular Town services and programs described in this Article.

D.

The Disposable Bag Fee imposed by this Article will be paid by those persons who, through the continued use of Disposable Bags, are contributing to the public health and environmental problems the Town is addressing with this Article.

(Ord. No. 19-14, 8-27-19; Ord. No. 21-01, 1-26-21; Ord. No. 23-19, § 1, 8-8-23)

§ 124-13. - Purposes.

The purposes of this Article are:

- A. To protect the public health, safety, and welfare;
- B. To protect the natural environment and wildlife;
- C. To implement both the Town's 2019-2020 Strategic Plan, including its Climate Action Plan, initiatives to promote reusable products, and the Town's Comprehensive Plan.

(Ord. No. 19-14, 8-27-19; Ord. No. 21-01, 1-26-21)

§ 124-14. - Definitions.

As used in this Article, the following words shall have the following meanings. Where terms are not defined, they shall have their ordinarily accepted meanings within the context that they are used.

Customer means any person who makes a retail purchase from a Retail Store.

Disposable bag means, except as provided in Section 124-19, any bag, other than a Reusable Bag, that is provided to a customer by a retailer at the point of sale for the purpose of transporting goods.

Disposable bag fee means the Town fee imposed by this Article that is required to be paid by each Consumer making a purchase from a Retail Store for each Disposable Bag used during the purchase, and imposed for the purpose of mitigating the impacts of Disposable Bags. On and after September 1, 2023, the term "Disposable Bag" means any paper bag that is provided to a customer at a Retail Store or Restaurant that contains 100 percent postconsumer recycled content.

Disposable bag fee public outreach plan means a program to be put in place by the Town to raise awareness and educate both residents and visitors on the Disposable Bag Fee. The program shall at a minimum include informational sessions and communications with Retail Stores to explain the Disposable Bag Fee and the Retail Store's obligations.

Finance director means the Finance Director of the Town of Frisco, or such person's designee.

Paper bag means any bag made of paper product containing less than 100 percent postconsumer recycled product.

Plastic bag means any bag made of a thin, flexible plastic material, especially, but not limited to, one with handles supplied by a store to carry goods purchased there.

Retail store means any public commercial business engaged in the sale of personal consumer goods, household items, or groceries to customers who use or consume such items. "Retail store" does not include temporary vendors at farmer's markets or other temporary events; or restaurants or other businesses (e.g., service providers such as salons and spas) where retail sales are clearly secondary and incidental to the primary activity occurring within the business.

Reusable bag means a bag made of canvas, woven polypropylene, or similar types of durable materials.

Restaurant means an establishment that stores, prepares, or packages food for human consumption or serves or otherwise provides food for human consumptions to consumers directly or indirectly through a delivery service, whether such food is consumed on or off the premises or whether there is a charge for such food.

(Ord. No. 19-14, 8-27-19; Ord. No. 21-01, 1-26-21; Ord. No. 23-19, § 1, 8-8-23)

§ 124-15. - Prohibited disposable bags.

Except where specifically exempted by provisions of this article, the following types of Disposable Bags are hereby prohibited from use in Retail Stores and Restaurants: Plastic Bags, and Paper Bags containing less than 40 percent postconsumer recycled content.

(Ord. No. 19-14, 8-27-19; Ord. No. 21-01, 1-26-21)

§ 124-16. - Disposable bag fee established.

For each allowed Disposable Bag provided to a Customer, each Retail Store shall collect from customers, and customers shall pay, at the time of purchase a Disposable Bag Fee of \$0.25. The Disposable Bag Fee shall be remitted quarterly by the Retail Store to the Town in accordance with Sections 124-17 and 124-18 of this Article. The Town Council may annually evaluate and change by resolution the amount of the Disposable Bag Fee, the amount of the Retained Percent, or both the amount of the Disposable Bag Fee and the amount of the Retained Percent.

(Ord. No. 19-14, 8-27-19; Ord. No. 21-01, 1-26-21; Ord. No. 23-19, § 1, 8-8-23)

§ 124-17. - Disposable bag fee requirements.

- A. Retail Stores shall record the number of Disposable Bags provided and the total amount of Disposable Bag Fees charged on the customer transaction receipt as a separate and distinct item.
- B. A Retail Store shall not refund to the customer any part of the Disposable Bag Fee, either directly or indirectly, nor shall the Retail Store advertise or state to customers that any part of the Disposable Bag Fee will be refunded to the customer.
- C.

A Retail Store shall not exempt any customer from any part of the Disposable Bag Fee for any reason except as stated in Section 124-19.

- D. If a Retail Store has paper carryout bags containing at least 40 percent postconsumer recycled content remaining in their inventory on September 1, 2023, it may provide the remaining inventory to customers until the inventory is depleted; provide, however, the Retail Store shall charge \$0.25 per bag provided.

(Ord. No. 19-14, 8-27-19; Ord. No. 21-01, 1-26-21; Ord. No. 23-19, § 1, 8-8-23)

§ 124-18. - Retention, remittance, and transfer of the disposable bag fee.

- A. A Retail Store may retain 40 percent of each Disposable Bag Fee collected, which is the "Retained Percent". If the Disposable Bag Fee collected by a Retail Store in any quarter amounts to less than \$20.00, the store shall retain those fees until the store has more than \$20.00 of collected fees to remit, and shall thereafter remit those fees as part of the next quarterly remittance.
- B. The Retained Percent may only be used by the Retail Store to:
1. Provide educational information about the Disposable Bag Fee to customers;
 2. Provide the signage required by Section 124-18, "Required Signage";
 3. Train staff in the implementation and administration of the fee;
 4. Improve or alter infrastructure or computer programs to allow for the implementation, collection, administration of the fee;
 5. Collect, account for, and remit the fee to the Town;
 6. Develop and display informational signage to inform consumers about the fee;
 7. Encourage the use of Reusable Bags and/or promote the recycling of paper bags; and
 8. Improve infrastructure to increase Disposable Bag recycling.
- C. The Disposable Bag Fee shall be exempt from the Town of Frisco sales tax.
- D. The amount of the Disposable Bag Fee collected by a Retail Store in excess of the Retained Percent shall be paid to the Town and shall be used only as set forth in Subsection G to mitigate the effects of Disposable Bags in Frisco.
- E. Every Retail Store providing Disposable Bags subject to the Disposable Bag Fee shall be liable and responsible for the payment of the amount outlined in Subsection D. above to the Town, and shall file a report each quarter on forms prescribed by the Finance Director before the twentieth day of each quarter for the preceding quarter. All sums of money collected by Retail Stores for the Disposable Bag Fee imposed by this article minus the "Retained Percent" are intended exclusively for use as outlined in Subsection G. Each Retail Store required to collect and remit the Disposable Bag Fee shall hold such monies in trust until paying them to the Town.
- F.

The Disposable Bag Fee shall be administered by the Finance Director. The Finance Director is authorized to adopt administrative rules to implement this Article, prescribe forms and provide methods of payment and collection, and otherwise implement requirements of this Article.

- G. Funds from the Disposable Bag Fee paid to the Town shall be used only for the expenditures that are intended to mitigate the effects of Disposable Bags, including without limitation the following:
1. Administrative costs associated with developing and implementing the Disposable Bag Fee.
 2. Activities of the Town to:
 - a. Plan, promote, or implement any recycling, composting, or other waste diversion programs and related outreach and education;
 - b. Provide Reusable Bags to residents and visitors;
 - c. Educate residents, businesses, and visitors about the impact of Disposable Bags on the Town's environmental health, the importance of reducing the number of Disposable Bags entering the waste stream, and the impacts of Disposable Bags on wildlife and the environment;
 - d. Fund programs and infrastructure that allow the Frisco community to reduce waste associated with Disposable Bags;
 - e. Purchase and install equipment designed to minimize bag pollution, including, recycling containers, and waste receptacles associated with Disposable Bags;
 - f. Fund community cleanup events and other activities that reduce litter associated with Disposable Bags;
 - g. Maintain a public website that educates residents on the progress of waste reduction efforts associated with Disposable Bags; and
 - h. Fund the administration of the Disposable Bag Fee program.
- H. No Disposable Bag Fees collected in accordance with this Article shall be used only for general municipal or governmental purposes or spending.
- I. Disposable Bag Fees collected in accordance with this Article shall be continually available for the uses and purposes set forth in subsection G. of this section without regard to fiscal year limitation. No Disposable Bag Fee funds shall be used for any purpose not authorized in this Article.

(Ord. No. 19-14, 8-27-19; Ord. No. 21-01, 1-26-21; Ord. No. 23-19, § 1, 8-8-23)

§ 124-19. - Required signage.

Every retail store required to collect the Disposable Bag Fee shall display a sign in a location outside or inside of the store, viewable by customers, alerting customers to the Town of Frisco's Disposable Bag Fee.

(Ord. No. 19-14, 8-27-19; Ord. No. 21-01, 1-26-21)

§ 124-20. - Exemptions.

The Disposable Bag Fee imposed by this Article does not apply to:

- A. A bag brought into a Retail Store by a customer and used to transport goods from the Retail Store.
- B. A bag that was previously used and made available to customers at a Retail Store.
- C. A bag provided to a customer at no charge if the customer provides evidence that he or she is a participant in a federal or state Food Assistance Program.
- D. Bags used by consumers inside Retail Stores to:
 - 1. Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items like nails, nuts, and screws;
 - 2. Contain or wrap frozen or fresh foods, meat, or fish;
 - 3. Contain or wrap flowers, potted plants, or other items where dampness may be a problem; and
 - 4. Contain unwrapped prepared foods or bakery goods.
- E. A non-handled bag used to protect purchased items from damaging or contaminating other purchased items when placed in a Disposable Bag or a Reusable Bag.
- F. Bags used for loose small retail items, including, but not limited to, jewelry, buttons, beads, ribbon, herbs and spices, medical marijuana or adult-use marijuana if sold by the holder of a permit issued pursuant to applicable law, and similar items.
- G. Bags provided by pharmacists to contain prescription drugs.
- H. Newspaper bags, door-hanger bags, laundry-dry cleaning and garment bags, and bags sold in packages containing multiple bags for uses such as food storage, garbage, pet waste, or yard waste.
- I. Disposable Bags provided at Farmers Markets, temporary vendors, Restaurants, and any other business that is not defined as a Retail business.

(Ord. No. 19-14, 8-27-19; Ord. No. 21-01, 1-26-21)

§ 124-21. - Audits, and collection of the disposable bag fee.

- A. Each Retail Store shall maintain accurate and complete records of the Disposable Bag Fees collected, the number of Disposable Bags provided to Customers, the form and recipients of any notice required pursuant to this Article, and any underlying records, including any books, accounts, invoices, or other records necessary to verify the accuracy and completeness of such

records. It shall be the duty of each Retail Store to keep and preserve all such documents and records, including any electronic information, for a period of three years from the end of the calendar year of such records.

- B. If requested, each Retail Store shall make its records available for audit by the Finance Director during regular business hours for the Town to verify compliance with the provisions of this Article. All such information shall be treated as confidential commercial documents.
- C. If any person fails, neglects, or refuses to collect or pay the Disposable Bag Fee, or underpays the Disposable Bag Fee, the Finance Director shall make an estimate of the fees due, based on available information, and shall add thereto penalties, interest, and any additions to the fees. The Finance Director shall serve upon the delinquent Retail Store personally, by electronic mail or by first class mail directed to the last address of the Retail Store on file with the Town, written notice of such estimated fees, penalties, and interest, constituting a Notice of Final Determination, Assessment, and Demand for Payment, (also referred to as "Notice of Final Determination") due and payable within 30 calendar days after the date of the notice. The Retail Store may request a hearing on the assessment as provided in Section 124-21 of this Article.
- D. If payment of any amount of the Disposable Bag Fee due to the Town is not received on or before the applicable due date, penalty and interest charges shall be added to the amount due in the amount of:
 - 1. A penalty of ten percent of total due; and
 - 2. Interest charge of one percent of total penalty per month.

(Ord. No. 19-14, 8-27-19; Ord. No. 21-01, 1-26-21)

§ 124-22. - Hearings.

- A. A Retail Store may request a hearing on any proposed fee imposed under this Article after receiving a Notice of Final Determination, by filing a written request for hearing within 30 calendar days of the date of mailing of the Notice of Final Determination. The request for hearing shall set forth the reasons for and amount of changes in the Notice of Final Determination that the Retail Store seeks and such other information as the Finance Director may prescribe.
- B. The Finance Director shall notify the Retail Store in writing of the time and place of the hearing at least ten days before it is scheduled, unless the Retail Store agrees to a shorter time. The hearing shall be held within 60 days of the date of receipt of the request for a hearing, unless the Retail Store agrees to a later date.

(Ord. No. 19-14, 8-27-19; Ord. No. 21-01, 1-26-21)

§ 124-23. - Violation and penalties.

A. On and after September 1, 2021, it is unlawful and a misdemeanor offense for an employee of a Retail Store to:

1. Sell, provide, distribute, or give away to a customer a plastic bag except as provided in Section 124-20; or

For any employee of a Retail Store or Restaurant to:

2. Sell, provide, distribute, or give away to a customer in a Retail store or Restaurant a paper bag that does not contain at least 40 percent postconsumer recycled content.

On and after September 1, 2023, it is unlawful and a misdemeanor offense for an employee of a Retail Store or Restaurant to sell, provide, distribute or give away to a customer a paper bag that does not contain at least 100 percent postconsumer recycled content.

B. It is unlawful for any person to violate any provision of this Article.

C. Every person found liable for such a violation shall be punished as provided in Section 1-14 of this Code.

(Ord. No. 19-14, 8-27-19; Ord. No. 21-01, 1-26-21; Ord. No. 23-19, § 1, 8-8-23)

ARTICLE III. - WASTE REDUCTION AND RECYCLING

§ 124-24. - Definitions.

As used in this Article, the following words shall have the following meanings. Where terms are not defined, they shall have their ordinarily accepted meaning within the context that they are used.

Base Unit Rate means the residential rate established by a Licensed Hauler for the combined service level including the Small Trash Container and any Recycling Container and shall be the basis of the Licensed Hauler's Volume-Based Service Rate for all other service levels.

Bin means any bin, can or similar vessel with or without a lid or closed top used by Commercial Customers for the collection of Solid Waste in employee spaces, lodging units, common or other areas prior to placement in Trash, Recyclables or Organic Containers for service by a Licensed Hauler.

Commercial Customer means any property located in the Town of Frisco where Multi-Family Property operates 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 and public facilities regardless of container type.

Common Area means areas, rooms, spaces or elements inside or outside of a Multi-Family Property, business, industrial or institutional property that are made available to tenants, occupants or guests of the property.

Container means any rigid cart, dumpster or other Container with a lid or closed top that is provided by or to customers for Solid Waste for collection by Licensed Haulers. "Containers" shall be further defined as:

1. "Small" if their volume capacity ranges from not less than 30 to not more than 39 gallons.
2. "Medium" if their capacity ranges from not less than 60 to not more than 69 gallons - two Small Containers may provide the equivalent of a Medium Container.
3. "Large" if their capacity ranges from not less than 90 to not more than 99 gallons - a mix of Small and Medium Containers may provide the equivalent of a Large Container.
4. "Other" if they are a dumpster or other Container for the collection of Trash or Recyclables with more than 99-gallon capacity.

County Manager means the County Manager of Summit County or the manager's designee.

Drop-Off Center means public drop sites owned and operated by Summit County for the free collection of Recyclables, Organics and other materials as established by the County Manager. The drop-off centers are part of the Summit County Resource Allocation Park; the depositing of Solid Waste at such centers shall be treated as depositing such Solid Waste at the SCRAP.

Glass means those glass materials established as acceptable Recyclables by the County Manager but that shall only be accepted as a discrete materials stream collected in a separate Container and not mixed with other Recyclables.

Group Account means any group of Residential Customers that have individual Trash Containers but receive Solid Waste collection under a subscription or contract that collectively serves multiple residences. If a Group Account changes to shared Trash Containers, it shall be considered a Commercial Customer.

Hauler means any person or company in the business of collecting, transporting or disposing of Solid Waste for a fee or other compensation to a transfer station, recycling facility, disposal site or other like facility.

Hazardous Materials shall have the meaning as defined in the United States Hazardous Materials Transportation Act (49 USC Section 5101).

Hotels and Motels means any property in which lodging is provided to transient guests for compensation but excludes boarding or rooming facilities, tourist homes or Short-Term Rentals.

Landfill means the Summit County Resource Allocation Park landfill located at 639 Landfill Road in Summit County and shall not be construed to reference other regional disposal facilities.

Licensed Hauler means any Hauler with a current operating license issued by the Town of Frisco.

Multifamily Property means any property or properties that include(s) residential units located in the Town of Frisco that share one or more Trash Containers and for which collection is provided under a discrete service subscription or contract for that property or multiple properties.

On-Call Collection Customer means any Residential or Commercial Customer that receives Trash collection service on an irregular or unscheduled basis.

Qualified Facility means a facility that arranges for or causes the recovery of one or more Recyclable or Organic materials including items for reuse, remanufacturing, reclaiming, recycling, mulching, composting or other action that allows the resource to be recovered, and is compliant with any local, state and federal standards that may be established to regulate or designate such facilities.

Recoverable Material means any material that can be reused, remanufactured, reclaimed, recycled, mulched, composted or other action that allows the resource to be conserved. Recoverable Materials shall include those Recyclables designated by the County Manager but may exclude any Recyclables with 15 percent or more contamination by volume.

Recyclable means Solid Waste from any residential, commercial or other source that is collected separately from Trash for the purpose of such material being re-processed into new or different products or packaging materials. Recyclables shall include those materials designated by the County Manager including:

1. Commingled materials that Licensed Haulers shall collect from any customer at the customer's location - commingled materials may be collected in single- or multiple streams but do not include Glass or other separated materials.
2. Glass and other separated materials accepted for collection as a discrete materials stream in a separate Container from other Recyclables.

Residential Customer means an individual or individual residential property located in the Town of Frisco that has a discrete Trash Container and collection provided under a discrete service subscription or contract for that property or for multiple residents if a Group Account.

Short-Term Rental means an arrangement for one party living in or using a property owned by another party for any period of time less than 30 consecutive days.

Solid Waste means all putrescible and non-putrescible materials discarded from any source including Recyclables. Solid wastes shall exclude liquid wastes, sewage, sewage sludge, septic tank or cesspool pumping's; sand, asphalt, concrete, gravel, rock, dirt or other segregated construction materials to be used or reused in any construction project; timber, wood chips or vegetative matter hauled from the property where it is cut; agricultural wastes, solid or dissolved materials in irrigation return flows; industrial discharges which are point sources subject to licenses under the provisions of the Colorado Water Quality Control Act; materials handled at facilities licensed pursuant to the provisions on radiation control in Article 11 of Title 25, C.R.S.; waste material under the jurisdiction of and regulated by the Mined Land Reclamation

Board except such non-hazardous wastes as may be deposited at a commercial solid waste facility; exploration and production waste as defined in C.R.S. § 34-60-103(4.5), except such non-hazardous wastes as may be deposited at a commercial solid waste facility; excluded scrap metal that is being recycled; shredded circuit boards that are being recycled; discarded or abandoned vehicles or parts thereof; residential appliances; materials used as fertilizers or for other productive purposes; household hazardous wastes; and hazardous materials as defined in the rules and regulations adopted by the Hazardous Materials Transportation Act of 1987.

Summit County Resource Allocation Park is also known as "SCRAP" and means the publicly owned and operated non-hazardous waste facility for the management of Trash and Recoverable Materials.

Town Manager means the Town Manager of the Town of Frisco or the manager's designee.

Trash means any Solid Waste accepted at the Summit County Resource Allocation Park excepting Recoverable Materials.

Valet Collection Customers means those Residential Customers who receive regular, scheduled Trash collection service but require manual retrieval or replacement from an enclosed property, garage, home or other location.

Volume-Based Service Rates means residential collection rates based on the Trash Container size and intended to provide equitable service pricing and an incentive for landfill diversion. Residential Volume-Based Service Rates include the cost of both Trash and Recyclables collection in a single, bundled rate.

§ 124-25. - General requirements and exemptions.

- A. *Recoverable Materials Management.* It shall be unlawful for an individual, entity or Licensed Hauler to mix Recoverable Materials that have been collected separately from Trash with other Solid Waste or to dispose of Recoverable Materials by any means other than at a Qualified Facility.
- B. *Permanent Exemptions.* The following individuals or entities are exempted from the provisions of this Article, but may be required to provide documentation to verify eligibility for this exemption provided that all Recoverable Material is delivered to a Qualified Facility:
 - 1. Residential or Commercial Customers who self-haul only the Trash that customer generates, or who transports Solid Waste for another individual without compensation;
 - 2. On-Call Collection Customer with Trash collection less than once per calendar month - when Trash collection service increases to more than once in any calendar month, On-Call Customers shall be subject to the recycling requirements as described in this Article;
 - 3. A civic, community, benevolent or charitable non-profit organization whose primary business is not the collection of Solid Waste that collects, hauls and markets Recoverable Materials solely for raising funds for a charitable, civic or benevolent activity;

4. A property owner or agent thereof who hauls Solid Waste left by a tenant upon such owner's property so long as such property owner does not provide collection service for compensation for tenants on a regular or continuing basis;
 5. Furniture or appliance vendors and their delivery agents who deliver furniture or appliances sold by such vendor and dispose of the purchaser's used furniture or appliances being replaced by such purchase;
 6. A demolition, construction or landscaping contractor who produces and transports Solid Waste in the course of its performance of a project, where the Solid Waste produced is incidental to the particular demolition, construction or landscaping work being performed by such contractor;
 7. Haulers engaged solely in the transport of discarded materials that are expressly excluded from the definition of Solid Waste in this ordinance and regulations promulgated hereunder; and
 8. Any other similarly situated individuals or entities determined to be exempt, in writing, by the Town Manager.
- C. *Recyclables Only Exemption.* An individual or entity that generates only Recyclables placed curbside for pick up by a Licensed Hauler is exempt from Volume-Based Service Rates and Trash collection requirements. Any self-hauled Recyclables shall be delivered to a Qualified Facility.
- D. *Containers.* All Solid Waste Containers shall be of a sufficient capacity and collected at a frequency to allow Container lids to fully close, to prevent material overflow outside of the Container and to prevent any public health danger, fire danger or inhibition of the public right-of-way. Containers shall be maintained in a clean and sanitary condition. It shall be unlawful for any individual or entity to knowingly designate or represent any Container as having a volume different from said Container's capacity and to place said Container for collection.
- E. *Wildlife-Resistance.* Solid Waste may be placed for collection only when fully contained within a Container. No Solid Waste may be placed in a paper or plastic bag, or other object that is not a Container. Any container placed for curbside Solid Waste pick-up shall be kept closed and secured with no gap between the Container and the lid until it has been emptied by a Licensed Hauler and moved back to its normal location. Receptacles may be placed for collection only after 6:00 a.m. on the day of pick up. After pick-up, each Container must be moved back to its normal location by 10:00 p.m. of the same day.
- F. *Recyclable Ownership.* All Recyclables placed for collection shall be owned by and be the responsibility of the Residential Customer or Commercial Customer until placed for collection, and then shall become the property and responsibility of the Licensed Hauler. Except for purpose of inspection to ensure compliance with the requirements of this Article, no person other than the customer or Licensed Hauler shall take possession of any Recyclables placed for collection.

- G. *Illegal Dumping or Accumulation.* It shall be unlawful for any individual or entity to dump, allow to be deposited or accumulate any Solid Waste upon any public or private property, in any public right-of way, or upon the alleys behind or the sidewalks or roadways in front of any property, including construction sites.
- H. *Litter and Odor.* Every owner or occupant of premises within the Town of Frisco shall keep the area within a reasonable vicinity of their Solid Waste storage facility free of Solid Waste materials except as may be contained within a Container. Any person or entity transporting Solid Waste within the Town of Frisco shall prevent any Solid Waste from falling or blowing from any Container or collection vehicle and shall use a watertight vehicle with a cover, tarp or other containment to prevent litter and offensive odors in accordance with C.R.S. § 42-4-1407.
- I. *Ashes.* Any solid residue left from burning combustible materials shall be placed in a suitable container separate from other Solid Waste.

§ 124-26. - Hauler licensing and reporting requirements.

- A. *License Required.* No Hauler shall engage in the collection of Solid Waste within the Town of Frisco without first obtaining and having in full force and effect a business license from the Town pursuant to the Article I of Chapter 110 of this Code. Compliance with the requirements and limitations of this Article shall be conditions of license renewal; non-compliance shall be considered grounds for license suspension or revocation in accordance with Article I of Chapter 110 of this Code in addition to any penalties established by this Article.
- B. *Bi-Annual Reporting.* Each Hauler that operates within the Town of Frisco shall provide the reports required by this Section. The reporting periods shall be January 1 through June 3 and July 1 through December 31 of every year. Reports shall be submitted within 30 days of the end of each reporting period. The first report under this Section shall be submitted for the period ending June 30, 2023. Reporting shall be completed on-line using the reporting form provided by the Town of Frisco and shall provide the following information:
 - 1. Weight-based totals for Solid Waste quantities collected within the Town of Frisco, including regular collections, Valet Collection Customer and On Call Trash Customer quantities on the following basis:
 - a. Residential Trash, Recyclables without Glass, Glass (if any), Organics (if any) and other Recoverable Materials;
 - b. Commercial Trash, Recyclables without Glass, Glass (if any), Organics (if any) and other Recoverable Materials;
 - c. Acceptable estimations for generating weight-based totals include:
 - d. Residential may be defined as cart or rear-load collection and commercial may be defined as non-cart or front-load collection for the purposes of reporting only.

- e. Volume-to-weight conversions based on factors established by the Colorado Department of Public Health and Environment or others approved by the Town of Frisco.
 - f. Licensed Hauler estimate of residential and commercial quantities in mixed loads.
 - g. Licensed Hauler estimate of Town of Frisco quantities in mixed loads including both Town of Frisco and non-Town of Frisco generated Solid Waste.
2. Customer account totals:
 - a. All Residential Customers including regular customers, Valet Collection and On Call Trash Customers with Trash, Recyclables without Glass, Glass (if any) and Organic (if any) accounts;
 - b. All Commercial Customers with Trash, Recyclables without glass, Glass (if any) and Organic (if any) accounts;
 - c. For purposes of this reporting, Residential may be defined as cart or rear-load collection and commercial may be defined as non-cart or front-load collection for the purposes of reporting only;
 3. Residential Customer service and pricing options including Group Account options;
 4. A list of Qualified Facilities where Recoverable Materials are delivered for recycling or other management and any transfer station or landfill facilities used if other than the SCRAP facilities; and
 5. A copy of required customer service notices.
- C. *Quarterly Reporting.* Each Hauler that operates within the Town of Frisco shall provide the reports required by this Section. The reporting periods shall be January 1 through March 31, April 1 through June 30, July 1 through September 31, and October 1 through December 31 of every year. Reports shall be submitted within 30 days of the end of each reporting period. The first report under this Section shall be submitted for the period ending June 30, 2023. Reporting shall be completed on-line using the reporting form provided by the Town of Frisco and shall provide the following information:
1. Customer accounts that refuse service as required by this Article; and
 2. Residential streets or neighborhoods, Group Accounts, commercial clusters or other areas of multiple customers with repeated Recyclables contamination and/or Trash overflows.
- D. *Copy of License.* Licensed Haulers shall maintain a copy of the Town of Frisco license in each collection vehicle and at the company location listed on the license application.
- E. *Operational, Service or Rate Changes.* Licensed Haulers shall provide written notification to the Town Manager prior to the implementation of any change to customer account types, services provided to any account type, rates or Service Surcharges (if any) for its Residential Customers or Commercial Customers. Notification of any change in Qualified Facilities shall also be made.

- F. *Inspections.* All Licensed Hauler vehicles are subject to inspection by the Town of Frisco to verify compliance with these Regulations.
- G. *Records.* All Licensed Haulers shall maintain accurate and complete records of any data necessary for reporting under this Article or to determine compliance with the requirements of this Article for a period of three years from the end of each calendar year.
- H. *Audits.* All Licensed Haulers shall make its records available to the Town Manager for audit during regular business hours for the verification of compliance with this Article.

§ 124-27. - Hauler service requirements.

- A. *Residential Collection Service.* With the exception of On-Call Collection Customers and Valet Collection Customers whose regular Trash collection service is less frequent than every other week, Licensed Haulers shall provide, or verify that each Residential Customer has provided, a Trash Container and Recyclables Container.

In addition:

1. In offering or arranging for service, Licensed Haulers shall provide each customer with a reasonable description of the full range of Trash and Recyclables Container options, Volume-Based Service Rates and Service Surcharges (if any) and any other costs for extra service;
2. Residential Customer collections may include separate Glass collection at the Licensed Hauler's discretion;
3. For each Residential Customer, a Licensed Hauler shall:
 - a. Offer at least three Trash Container sizes and service for Small, Medium and Large Trash Containers for customer selection - if a customer does not make a selection the Licensed Hauler shall provide a Medium Trash Container;
 - b. Provide a Medium Recyclables Container unless the customer requests a Small or Large Container prior to Container delivery;
 - c. Provide weekly Trash collection - unless customer requests every-other-week service which shall be assessed at a rate lower than weekly service for the same Container; and
 - d. Provide every-other-week Recyclables collection on the same day of the week as Trash collection - more frequent Recyclables collection may be provided at the Licensed Hauler's discretion;
4. Licensed Haulers may provide additional Large Trash Containers to any Residential Customer with Large Trash service at the customer's request provided that the Licensed Hauler assesses a fee that reflects the full Volume-Based Service Rate for each Large Trash Container; and
- 5.

Licensed Haulers may provide additional Recyclables Containers to any Residential Customer to prevent overflow and mixing Recyclables with Trash.

- B. *Residential Volume-Based Service Rates.* Licensed Haulers shall assess Volume-Based Service Rates for the total cost of residential Trash and Recyclables collection based on the Trash Container size. Licensed Haulers may establish any Base Unit Rate for the Small Trash service level and shall establish rates that incrementally increase the Base Unit Rate by no less than 80 percent for the Medium service level and by no less than 160 percent for the Large service level.
1. Volume-Based Service Rate example - if the Licensed Hauler Unit Base Rate is \$20.00/month for Trash and Recyclables collection, the Medium Trash Container service level shall be not less than \$36.00/month and the Large Trash Container service level shall be not less than \$52.00/month.
 2. Volume-Based Service Rate example - if a customer opts to have two Large Trash Containers with the pricing used in the example above the monthly rate would be not less than \$104.00 for Trash and Recyclables collection.
 3. The rates assessed by Licensed Haulers for Residential Customer Trash and Recyclables collection shall be bundled as one price and shall not be reduced to exclude the cost of recycling service regardless of customer request or declination of service - each customer bill shall include a statement identifying the requirement for Recyclables collection as a matter of law.
 4. Volume-Based Service Rates shall be inclusive of regular Container and not be assessed at an additional cost.
 5. Customers may provide Trash and/or Recyclables Containers but each Container shall comply with the size restrictions required by these Regulations and any specifications established by the Licensed Hauler for safety and compatibility with collection equipment including cart tippers, gripper arms or others. Licensed Haulers are not required to reduce Volume-Based Service Rates for customers who provide their own Containers.
 6. Service Surcharges assessed to cover fluctuating operating costs outside of the Licensed Hauler's control such as fuel costs or market-based recycling fees shall not exceed 25 percent of the Base Unit Rate, shall be applied to every Residential Customer service level option equally and each charge shall be clearly shown on each customer bill.
 7. For Group Accounts:
 - a. Licensed Haulers shall provide Trash collection service in a manner that results in a selection by each individual resident of a level of service from the range of Volume-Based Service Rate options, and shall negotiate a written contract with the Group Account representative; and
 - b.

For Group Accounts with an existing Licensed Hauler contract for Solid Waste collection services that precedes the effective date of these Regulations compliance with subpart a above may be delayed up to one year or the end of the existing Licensed Hauler contract term, whichever occurs first.

- C. *Commercial Collection Service.* Licensed Haulers shall provide Commercial Customers, On-Call Collection Customers with Trash collection more than once in any calendar month, and Valet Collection Customers with Trash collection less frequent than every other week with a Recyclables Container or Containers such that Containers are not overloaded, and materials are not accumulated outside of Containers. The Recyclables Container volume capacity provided shall be at least one-half of the Trash Container volume capacity based on the size of all Trash Containers and collection frequency in place on the effective date of these Regulations.

Recyclables Container capacity examples:

1. Valet Collection Customer - if customer has 96-gallon Trash Container collected monthly, the Licensed Hauler shall provide at least the equivalent of a 96-gallon Recyclables Container collected every-other-month.
2. Commercial Customer example - if entity has a six-cubic yard Trash Container collected twice/week, the Licensed Hauler shall provide at least the equivalent of a six-cubic yard Recyclables Container collected once/week.

Commercial Trash compactor example - the Recyclables Container capacity shall be at a minimum equal to the volume of the Trash compactor charge box or eight cubic yards collected at the same equivalency of the trash compactor, whichever is smaller.

1. Rates assessed by Licensed Haulers for Trash and Recyclables collection for On-Call and Valet Collection Customers and Commercial Customers may be itemized separately on customer bills but shall not be reduced to exclude the cost of recycling service regardless of customer request or declination of service - each customer bill shall include a statement identifying the requirement for Recyclables collection as a matter of law.
 2. Glass Collection Service - Licensed Haulers shall provide and service a Container for Glass and keep Glass materials separate from other Recyclables upon the request of any Commercial Customer.
 3. Equal Collection Priority - Licensed Haulers shall give the hauling of Recyclables and Organics (if any) to all customers the same priority as is given to the hauling of Trash.
- D. *Trash and Recyclables Container Labelling.* Licenses Haulers shall ensure that:
1. All Containers provided by Licensed Haulers are labelled with current Licensed Hauler name and contact information - any other information shall be removed or covered;
 - 2.

Recyclable Containers, regardless of whether provided by the Licensed Hauler or customer, shall include conspicuous and durable signage provided by Summit County that describes acceptable and unacceptable Recyclables - any outdated information shall be removed or covered; and

3. All labels shall be weather-resistant and conspicuously placed.
- E. *Wildlife-Resistant Trash Containers.* Upon a request from any customer, Licensed Haulers shall provide wildlife-resistant Containers, locking device or similar mechanism. Nothing in these Regulations prevents the Licensed Hauler from assessing additional fees for wildlife-resistant Trash Container rental or service provided such costs are itemized on each customer bill.
- F. *Recyclables Containers.* Recyclables Containers provided for any customer by Licensed Haulers shall be clearly distinguishable from Trash Containers. Recyclable Containers shall be located proximal to and as convenient as Trash Containers.
- G. *Recyclables Contamination.* Licensed Haulers shall dispose of Recyclables only at a Qualified Facility unless the Recyclables are contaminated with at least 15 percent by volume non-Recyclables. Licensed Haulers may refuse to service any Recyclables Container with 15 percent or more contamination by volume and shall not be required to credit the customer for such refused service or may elect to service the Recyclables Container as a Trash Container and bill the customer accordingly. Any Container so managed shall be prominently affixed with a tag identifying it as contaminated at the time of service.
- H. *Trash Overloading.* Licensed Haulers shall not service any overloaded Trash Container that does not fully close or allows trash outside of the Container unless the Licensed Hauler accounts for and bills the customer for all Trash located outside the Container at a rate that is at least equal to the overloaded Container; any Container so managed shall be prominently affixed with a tag identifying it as overloaded at the time of service.
- I. *Vehicle Overloading.* Registered Haulers shall comply with State of Colorado vehicle weight limitations pursuant to C.R.S. §§ 42-4-507 and 42-4-508.
- J. *Customer Education.* Licensed Haulers shall notify all Residential and Commercial Customers of the provisions and guidelines related to this Article. All notification and guidelines shall be distributed by electronic mail or hard copy delivery to the customer account unless otherwise noted below:
1. All customers shall receive a written service notification of Container options including specifications of customer-provided Containers, residential and commercial collection rates, Service Surcharges (if any) and any other costs for extra services upon initial provision of service, within 30 days prior to any rate change and annually by December 31 of each year; and
 2. Licensed Haulers shall maintain a website that includes current residential and commercial collection options and a list of Recyclables accepted at the SCRAP recycling facility; and

3. Licensed Haulers shall deliver to customers up to three communications per year generated by the Town of Frisco or Summit County - these may include guidelines for the safe and effective separation of Recoverable Materials that is developed jointly with Licensed Haulers; and
 4. Notices and guidelines for Group Accounts may be sent to the Group Account representatives provided that such notice identifies the representatives' obligation to notify all individual customers of the service of the provision of Recyclables collection service.
- K. *Other Hauler Regulations.* Nothing in this Article shall be construed as prohibiting Licensed Haulers from also establishing rules regarding the safe maximum weight of Containers or other features necessary to protect the safety of customers, employees or others.
- L. *Other Hauler Charges.* Nothing in this Article shall be construed as prohibiting any Licensed Hauler from assessing separate charges for extra services including overloaded Trash Containers, unscheduled Trash collections, wildlife-resistant Trash Containers, contaminated Recyclables, collecting Organics or bulky items.
- M. *Subcontractors or Agents.* If a Licensed Hauler elects to perform collection of Solid Waste including and Recoverable Materials through subcontractors or agents, such relationship shall not relieve said hauler of the responsibility for compliance with this Article. Any subcontractor or agent shall also be a Licensed Hauler.
- N. *Material Delivery to SCRAP.* Licensed Haulers shall deliver all Trash collected in the Town of Frisco to SCRAP with exceptions established by the County Manager for maintaining an environmentally sound method of Solid Waste management under any extenuating circumstances. It shall be unlawful to deposit Trash at any facility that is not appropriately certified, permitted or licensed. All Recoverable Materials shall be delivered to a Qualified Facility.

§ 124-28. - Residential customer and commercial customer requirements.

- 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 in violation of this Article.
- B. *Collection Service Requirement.* Each owner of real property or other person who causes the accumulation of Solid Waste on a property within the Town of Frisco shall provide Trash and Recyclables collection from a Licensed Hauler and at least one Trash Container and one Recyclables Container for each individual residence or commercial enterprise unless said parties share collection service limited to:
1. Residential Customers located adjacent to one-another may share Trash, Recyclables or Glass (if any) collection service;
 - 2.

Commercial Customers located adjacent to one-another or sharing a Solid Waste enclosure may share Trash, Recyclables or Glass (if required) collection service; and

3. Any sharing arrangement shall require a written agreement between customers and the Licensed Hauler and that all applicable Regulations are met.
- C. *Trash Container Placement.* Placement of Trash Containers for collection and/or the provision and use of a lock or other mechanism shall comply with any wildlife resistance regulations that may be in effect from time to time under Section 127-17 of this Code.
- D. *Commercial Customer Bin Requirements.* Commercial Customers shall provide Bins in accordance with the following requirements for the collection of Recyclables to employees, occupants, tenants, customers 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 for Commercial Customers with a current liquor license issued by the Town of Frisco in which case a Glass Bin shall be provided proximal to every Trash and commingled Recyclables Bin - glass shall be kept separate from other Recyclables; and
 3. Commingled Recyclables and Glass Bins shall be sized and serviced with a frequency that prevents Recyclables and Glass 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 Customer.
- E. *Hotel and Motel Bin Requirements.* 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. *Commercial Customer General Requirements.* Commercial Customers shall ensure that their Trash Containers do not contain Recyclable or Glass materials. Without limitation of this requirement, Commercial Customers shall ensure that:
1. Housekeeping and janitorial contracts established by Commercial Customers shall specify the requirement for preventing Recyclables and Glass from being mixed with Trash;
 2. Commercial Customers 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 30 days of occupancy or start date for any new employee, occupant, tenant, housekeeping or janitorial staff; and
 3. Commercial Customers shall maintain written records of Solid Waste collection services and training activities.

- G. *Customer Recycling Variances and Waivers.* A variance or waiver from the recycling requirements of this Article may be granted upon receipt of completed request form and supporting documentation from a Residential or Commercial Customer or Licensed Hauler and approval by the Town Manager. Variances may be approved to temporarily modify the recycling requirements of this Article and waivers may be approved to temporarily exempt compliance. Variances and waivers will be issued for a maximum period of two years, at which time full compliance shall be required unless a new variance or waiver is requested and approved, the period of which shall not exceed an additional six months. The Town Manager may issue variances or waivers:
1. To an individual Residential Customer or the household that is provided with collection service based on economic hardship when the individual or household currently receives or is eligible to receive benefits from the Colorado Supplemental Nutritional Assistance Program administered by the Colorado Department of Human Services, as such program may be amended from time to time.
 2. To Commercial Customers, including Multi-Family Properties:
 - a. Whose premises have extreme space constraints; and
 - b. Whose available Recyclable Container space is not safely serviceable, meaning that it is significantly less safe to service than the customer's Trash Container; or
 - c. Who would violate another Town of Frisco code or regulation, or state or federal regulation, if required to separate Recyclables or Glass for collection.
 3. To Commercial Customers, including Multifamily Properties, for Common Area recycling where reasonable quantities of Recyclables or Glass is not generated, meaning that less than one Large Recyclables Container is collected once per week for either material; and
 4. To Multi-Family Properties that include more than 70 percent Short-Term Rental units on average over the calendar year, which may be allowed a reduced Recyclables Container volume capacity equal to 25 percent of Trash container capacity.
- H. *Grants in Aid Program.* The Town Manager shall develop and implement a program of monetary grants to assist Residential and Commercial Customers who seek and are granted a variance or waiver under subsection G above. The program shall provide no more in any individual grant than is necessary to account for the increase in the cost of collection service or related expenses that are the result of one or more requirements of this Article. When practicable, the grant shall be designed to cause full compliance with the requirements of this Article upon expiration of the variance or waiver.

§ 124-29. - Violations and penalties.

It is unlawful for any person to violate any provision of this Article. Any person convicted of having

violated any provision of this Article shall be punished as set forth in Chapter 1, Section 1-14 of this Code.

ARTICLE IV. - COMMUNITY RELATIONS TECHNICIANS

§ 124-30. - Community relations technicians.

- (a) The Community Development Department may include one or more Community Relations Technicians. A Community Relations Technician is not required to be certified by the Colorado Peace Officer Standards and Training Board.
- (b) Community Relations Technicians are authorized to enforce all of the laws of the Town, except for:
 - (1) The provisions of Chapter 127 of this Code, concerning general offenses, specifically excluding Sections 127-17, concerning garbage receptacles, and 127-53, concerning noise, which the Community Relations Technician may enforce; and
 - (2) The provisions of Chapter 167 of this Code, concerning vehicles and traffic, specifically excluding Part 12 thereof, concerning parking, which the Community Relations Technician may enforce.
- (c) Community Relations Technicians may execute summonses and complaints into the Municipal Court for all Town laws that they are authorized to enforce.
- (d) Community Relations Technicians shall perform such other duties as may be prescribed from time to time, the Director of the Community Development Department, consistent with the provisions of this Section.

(Ord. No. 23-11, § 1, 6-13-23)

§§ 124-31—124-39. - Reserved.

ARTICLE V. - PROHIBITION ON SALE OR DISTRIBUTION OF SINGLE USE PLASTICS

Footnotes:

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Editor's note— Ord. No. 23-18, adopted August 8, 2023, enacted provisions to be designated as Art. IV, §§ 124-30—124-33. In order to maintain the categorical style of the Code, said provisions have been redesignated as Art. V, §§ 124-40—124-43. Original section numbers have been maintained in history notes following each section.

§ 124-40. - Purpose and intent.

It is the purpose of this Article to protect the public health, safety, and welfare, and to implement both the Town's 2019-2020 Strategic Plan, including its Climate Action Plan and initiatives to promote reusable products, and the Town's Comprehensive Plan. The intent of this Article IV is to address the environmental and public health problems associated with single use plastic items and to relieve Town taxpayers of the costs associated with these items.

(Ord. No. 23-18, § 1(124-30), 8-8-23)

§ 124-41. - Definitions.

As used in this Article, the following words shall have the following meanings. Where terms are not defined, they shall have their ordinarily accepted meanings within the context that they are used.

Expanded polystyrene means blown polystyrene, commonly known as Styrofoam®, and any other expanded or extruded foam consisting of thermoplastic petrochemical materials utilizing a styrene monomer and processed by techniques that may include:

- (a) For expandable bead polystyrene, fusion of polymer spheres;
- (b) Injection molding;
- (c) Foam molding; and
- (d) For extruded foam polystyrene, extrusion blow molding.

Food service-ware means all types of single-use items provided by a restaurant or third-party delivery service, including, but not limited to, utensils, chopsticks, packaged condiments, napkins, straws, stirrers, splash sticks, and cocktail sticks, designed for a single-use.

Plastic means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal.

Retail store means any public commercial business engaged in the sale of personal consumer goods, household items, or groceries to customers who use or consume such items. "Retail store" does not include temporary vendors at farmer's markets or other temporary events; or restaurants or other businesses (e.g., service providers such as salons and spas) where retail sales are clearly secondary and incidental to the primary activity occurring within the business.

Restaurant means an establishment that stores, prepares, or packages food for immediate human consumption or serves or otherwise provides food for immediate human consumption to customers directly or indirectly through a delivery service, whether such food is consumed on or off the premises or whether there is a charge for such food.

Single use means a product designed to be used once and then discarded, and not designed for repeated use or sanitizing.

Single use plastic water bottle means a single use plastic container of less than one gallon containing drinking water.

(Ord. No. 23-18, § 1(124-31), 8-8-23)

§ 124-42. - Prohibition of the sale and distribution of single use plastics and polystyrene.

- A. The sale or provision of single use plastic water bottles and single use plastic cups is prohibited in any building or portion of a building that the Town owns or leases and operates, and at any special event conducted by the Town or any event conducted pursuant to a permit issued by the Town.
 - 1. *Exemption.* This prohibition shall not apply in cases of emergency or other exigencies when the Town Manager finds that relying on single use plastic water bottles is necessary to protect public health, safety, and welfare, and that no reasonable alternative would serve the same purpose, such as a circumstance of a lack of potable water due to a natural disaster or disruption to the Town's water treatment system.
- B. On and after January 1, 2024, it shall be unlawful for a restaurant to sell or offer for sale any product in any container that is made of expanded polystyrene products, also known in certain nomenclature as the trademarked name of Styrofoam®; provided, however, that if a Restaurant purchased expanded polystyrene products before January 1, 2024, the Restaurant may distribute any remaining inventory until depleted.
- C. On and after July 1, 2024, it shall be unlawful for any business or other commercial enterprise to sell or offer for sale any single use plastic water bottles.
 - 1. *Exemption.* This prohibition shall not apply to materials used in packaging or provision of pharmaceutical drugs, medical devices, or dietary supplements or any equipment or materials used to manufacture pharmaceutical drugs, medical devices, or dietary supplements.

(Ord. No. 23-18, § 1(124-32), 8-8-23)

§ 124-43. - Limitation on the provision of food service-ware.

- A. It shall be unlawful for a restaurant or a food delivery service to provide a customer with food service-ware unless the customer requests the service-ware at the point of ordering, whether online, by phone, or in-person; provided, however, that this section shall not apply to:
 - 1. Self-service stations at a restaurant or event that provides food service-ware;
 - 2.

Meals provided as part of a social service to vulnerable populations, including without limitation, meals provided by school systems, homeless shelters and programs that deliver meals to the elderly; and

3. Specific accessories used by food delivery service providers, including cup lids, spill plugs, and trays, to prevent spills and deliver food and beverages safely.

(Ord. No. 23-18, § 1(124-33), 8-8-23)