



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL
FROM: KATIE KENT, COMMUNITY DEVELOPMENT DIRECTOR
RE: WORK SESSION RE. PROPOSED AMENDMENTS TO THE CODE OF ORDINANCES, SECTION 180-6.17 REFUSE MANAGEMENT
DATE: SEPTEMBER 24, 2024

Summary:

Before the Town Council at the September 24, 2024, work session is a discussion regarding screening requirements for recycling facilities installed as a result of Ordinance 22-04 regarding Universal Recycling. Through Ordinance 22-04, all commercial customers, including Homeowner Associations (HOAs), must have recycling containers onsite on or before June 1, 2025. Per Frisco Town Code, Chapter 180, these recycling containers must be kept in an enclosure that contains four walls and a roof.

The discussion is being brought before the Town to address concerns raised by existing developments (primarily HOAs) regarding the requirement to add screening for these recycling facilities. The addition of recycling is not a concern, it is the cost of designing and constructing an enclosure that contains four walls and a roof that is required per Frisco Town Code, Chapter 180. Some developments have also voiced concerns over the added space they need to find to provide the required recycling and screening facilities. Whereas the Code allows a development to convert up to three (3) parking spaces for refuse/recycling facilities, developments have stated they cannot just give up parking spaces due to all spaces being assigned and necessary for residential unit parking and/or commercial unit customer parking.

Staff requests the Town Council review the information provided and provide feedback. Options may include:

- 1) No Changes. Continue to require and enforce Chapter 180 of the Code that requires full screening (four walls and a roof) for these recycling enclosures by June 1, 2025.
- 2) Amend the Code. One proposed code amendment could allow existing developments to be exempt from screening requirements as they install recycling facilities. The developments would still be required to have recycling containers, but they would not be required to screen them. The recycling containers would still need to be wildlife resistant. Another proposed code amendment could allow partial screening (ex: four walls but no roof), with the proposed structure still meeting all building and safety codes. Additional code amendment recommendations may come up during the Council work session. These proposed code amendments would apply to developments already in existence, and not necessarily new developments.

This topic is before Town Council because pursuant to sub-section §180-2.4.3.D, an amendment to the text of the UDC is a legislative decision by the Town Council. Prior to the Town Council's consideration of an Ordinance to amend the text of the UDC, the Planning Commission must first review the proposed amendment and forward a recommendation to the Town Council. The Planning Commission will be reviewing the proposed modifications on September 19, 2024, and forwarding a recommendation to Town Council. Planning Commission comments, and associated recommendations, will be provided at the September 24th Town Council work session. If the Council chooses to have Staff move forward with the code amendment, it will return to Town Council for a first reading at a future meeting.

Background:

In March of 2022, the Town Council adopted Ordinance 22-04, an Ordinance Amending Chapter 124 Concerning Public Health and Safety, by Adding a New Article III thereof to:

- (I) Establish Comprehensive Regulations to Require the Collection of Recyclable Materials by Trash Haulers;
- (II) To Require Trash Hauling Service Pricing Mechanisms (Known as "Pay As Your Throw") that are Designed to Reduce the Creation of Solid Waste and Increase the Recycling of Recoverable Materials; and
- (III) Setting Forth Penalties for the Violation Thereof.

Through Ordinance 22-04, Section 3, it shall be unlawful for a Hauler to fail to deliver at least fifty percent (50%) of Recyclables Containers or fail to initiate Recyclables collection services to the Commercial Customers of each Hauler on or before June 1, 2024, or to fail to deliver one hundred (100%) of Recyclables Containers to the Commercial Customers of the Hauler on or before June 1, 2025.

Frisco Town Code, Chapter 180 outlines screening requirements for refuse and recycling. Through this section, which is administered and enforced by Community Development, screening is required for new refuse and recycling facilities. Therefore, if a property owner is to add a new recycling collection area, as required through Ordinance 22-04, it shall be screened in compliance with Chapter 180 which includes four walls and a roof.

There are no screening requirements for legal nonconforming refuse and recycling facilities installed prior to the code requirements. If an HOA or commercial business already has trash and recycling onsite, there is no requirement for them to screen these containers as they are deemed legal nonconforming. When a modification is made, such as adding recycling to the site, then the property is required to be brought up to Town Code, including adding screening.

Frisco Town Code, Chapter 124, Article III

Frisco Town Code, Chapter 124, Article III, includes the following of note to the Town Council discussion:

- "Commercial Customer" is defined in Town Code, 124-24 as:

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.

- “Residential Customer” is defined in Town Code, 124-24 as:

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.

- “Dumpster Enclosure” is not defined or referenced in Chapter 124.
- Section 124-27.A. states residential customers shall have a trash container and recyclable container.
- Section 124-27.C. states commercial customers shall have a trash container and recyclable container.
- Section 124-27.F. states that recyclables containers shall be clearly distinguishable from trash containers and shall be located proximal to and as convenient as trash containers.
- Section 124-28.B. allows adjacent customers to share trash, recyclables, or glass collection service with a written agreement between the customers and the licensed hauler.
- Section 124-28.D. requires that bins for collection of commingled recyclables shall be located proximal to trash bins.
- Section 124-28.G. provides an option for a variance or waiver from the recycling requirements of this Article to be granted upon receipt of a request form and approval by the Town Manager. A variance/waiver may be granted for up to two years, with an additional six-month extension permitted. *It is important to note that this request allows a development to request not to provide recycling facilities. It is not an option to be exempt from screening as Chapter 180 was not included or mentioned within Section 124-28.*
 - Through this section, any development can submit a request to be exempt from compliance of this Article for up to twenty-four (24) months with an option for an additional six (6) month extension.
 - There are no clear parameters by which criteria the Manager may grant the request. It appears that if a property requests the waiver/variance for a reason stated in the Code, then it will be granted. Town Staff would then need to track each request and follow-up for compliance within two (2) years.

Frisco Town Code, Chapter 180

Frisco Town Code, Chapter 180, includes the following of note to the Town Council discussion:

- Section 180-6.17, General Standards states that all nonresidential, mixed-use, and multi-family residential development projects containing five or more units shall utilize dumpster enclosures for the storage of all refuse, recycling, grease traps, and compost collection.

- *With this language, the discussion before Planning Commission is regarding the requirement for enclosures for all developments other than those that contain less than five residential units. Those with less than five units are not required to provide enclosures.*
- Section 180-6.17.2.A. states that all refuse and recycling dumpsters and facilities shall be located within a dumpster enclosure.
 - *If refuse and recycling facilities existed prior to screening requirements, they are not required to now add screening.*
 - *If a development is adding new recycling facilities in response to Ordinance 22-04, then they shall provide an enclosure per this section of Code.*
- Section 180-6.17 further defines enclosure design standards, location requirements, exceptions within the Central Core District, and Retrofitting Incentives for Existing Developments.
 - Enclosures shall be wildlife proof and consist of solid opaque materials of at least six feet in height, contain four sides, roof, and gated access.
 - *Staff notes that there is not a maximum height for enclosures. Staff will propose a maximum height for dumpster enclosures with future modifications to Chapter 180-6.17. Additionally, “wildlife proof” will be modified to “wildlife resistant” for accuracy.*
 - Dumpster locations shall not be located in the front yard setback or within a utility easement.
 - *The Town can consider changing the Code to allow dumpster enclosures to be located within the front yard setback but Staff does not support due to visual impacts, site clearances, location of easements, snow removal, etc. that often occur within the front setback.*
 - Within the Central Core District, an applicant may propose recycling in a separate location from trash collection based on a dumpster enclosure sized for refuse, recycling, and compost collection creating and undue hardship for the property owner.
 - *The Town can consider having this provision for all zone districts to allow more flexibility in adding recycling facilities to existing developments. However, it will not solve the current problem that HOAs are expressing regarding not having adequate space on their developed property.*
 - Existing Developments can convert up to three parking spaces in order to accommodate the installation of refuse and recycling areas.
 - *Recent discussions held with various multi-family and commercial properties have noted that they do not want to lose three parking spaces to accommodate the installation of refuse, recycling, and compost collection.*
- Section 180-9 defines “Dumpster Enclosure” as:
Dumpster Enclosure. A structure which is designed and used to house and screen a refuse dumpster and/or refuse containers, recycling bins, grease traps, or trash compactors, and to keep the materials which are deposited in the enclosure from being scattered.

Analysis:

Through Universal Recycling, Frisco Town Code, Chapter 124 requires recycling to be provided on properties. Properties that are already built out with development are having difficulty finding the adequate space to add recycling and the accompanying enclosure required by Frisco Town Code, Chapter 180. Concern has also been expressed about the cost to design and construct enclosures for recycling facilities.

Staff requests the Town Council review the information provided and provide feedback. Options may include:

- 1) No Changes. Continue to require and enforce Chapter 180 of the Code that requires full screening (four walls and a roof) for these recycling enclosures by June 1, 2025.
- 2) Amend the Code. One proposed code amendment could allow existing developments to be exempt from screening requirements as they install recycling facilities. The developments would still be required to have recycling containers, but they would not be required to screen them. The recycling containers would still need to be wildlife resistant. Another proposed code amendment could allow partial screening (ex: four walls but no roof), with the proposed structure still meeting all building and safety codes. Additional code amendment recommendations may come up during the Council work session. These proposed code amendments would apply to developments already in existence, and not necessarily new developments.

Should Council support amending the code, staff would propose modifications to Section 180-6.17 to insert the suggested paragraph. Proposed language mimics existing language in Section 180-6.17 which allows administrative approval to existing developments to retrofit up to three parking spaces for trash and recycling enclosures.

B. Multifamily residential, mixed-use, and non-residential developments which have been constructed and received Certificate of Occupancies by July 1, 2025, may be exempt from screening requirements for recycling facilities to accommodate the installation of a recycling collection area to serve the needs of the development. Screening exemptions may be allowed through administrative approval when the Director finds that the following criteria have been met:

1. Recycling facilities are provided as wildlife resistant; and
2. Adequate space exists for the recycling collection facility to be accessed by service vehicles; and
3. That the homeowner's association has signed an agreement with the Director stipulating that the building will maintain a contract for on-going recycling and service is to be provided in a wildlife resistant facility; and
4. If partial screening is proposed (ex: four walls but no roof), the proposed structure shall meet all building and safety codes.

Proposed language is shown within the entirety of 180-6.17 in Attachment A.

Financial Impact: The financial impact of installing screening to newly required recycling facilities is not a set price since it is dependent on the engineering, design, and construction bids that the development receives. The recently constructed enclosure provided near Emily Lane was valued

at \$50,000. The Town Hall enclosure was over \$100,000. In 2024 the Town budgeted \$64,000 for grant funding for this purpose. In 2025 the Town has budgeted \$79,000.

Staff Recommendation: Staff recommends that the Town Council provide feedback on the subject, including a proposed Code Amendment to Chapter 180, Sections 6-17, regarding refuse management.

Reviews and Approvals: This report has been reviewed and approved by:

Diane McBride, Assistant Town Manager
Tom Fisher, Town Manager
Leslie Edwards, Finance Director

Attachments:

Attachment 1 – Ordinance 24-013_DRAFT for Discussion
Attachment 2 – Planning Commission Staff Report and Attachments, September 19, 2024
Attachment 3 – Planning Commission Staff Report and Attachments, July 18, 2024