



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL
FROM: GILLY PLOG, ENVIRONMENTAL PROGRAMS COORDINATOR
RE: ORDINANCE 21-01 AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 124 OF THE FRISCO MUNICIPAL CODE TO BAN DISPOSABLE PLASTIC BAGS AND DISPOSABLE PAPER BAGS CONTAINING LESS THAN 40 PERCENT POST-CONSUMER RECYCLE MATERIAL
DATE: JANUARY 26, 2021

Summary and Background: This is the second reading of Ordinance 21-01, an ordinance amending Article II of Chapter 124 of the Frisco Municipal Code to ban disposable plastic bags and disposable paper bags containing less than 40 percent post-consumer recycled material.

Beginning January 1, 2020, the Town of Frisco began collecting a \$0.25 fee for every disposable plastic and paper bag that was distributed by retailers with the intent to discourage the use of disposable bags. At the time of adoption of Ordinance 19-14 in 2019, staff predicted that the revenue generated would be minimal. However, as of November 30, 2020 revenue from the fee was approximately \$82,000 and 608,634 bags were counted—despite the fact that the fee was suspended for the majority of Quarter 2 due to the COVID-19 pandemic. There is no data on disposable bag use prior to 2020, but these data indicate a consistently high use of disposable bags within the Town. Additionally, to aid in addressing the increased amounts of solid waste brought about during the COVID-19 pandemic and to maintain consistency with other jurisdictions, restaurants will now be included in the list of businesses that are required to comply with the definition of a disposable bag, but will still be exempt from charging and remitting the \$0.25 bag fee.

On December 8, 2020, Town Council discussed a potential disposable bag ban during the work session to further the Town's sustainability goals related to waste reduction. The proposed amendments to Chapter 124 are being presented to the Council based on the previous work session discussion.

The first reading of Ordinance 21-01 occurred on January 12, 2021. Town Council requested that the following edits be made to §124-23 Violation and Penalties: broaden §124-23.A. to include managers and the businesses themselves, rather than the individual employees.

Analysis: Ordinance 19-14 encourages the use of reusable bags and provides funds for the Town's waste reduction efforts. Prior to the institution of the disposable bag fee, the number of bags distributed by retailers was not tracked. The table below shows total number of disposable bags used by retailers throughout the Town starting January 1, 2020 and extending through September 30, 2020 along with the total year-to-date (YTD) revenue from the bag fee.

Ordinance 19-14 allowed a grace period from January to August of 2020 where businesses could retain up to \$1,000.00 of bag fees collected each calendar month until August 2020. Beginning August 1, 2020, businesses are able to retain up to \$100.00 per calendar month. Fees retained by the businesses are to be used to educate customers on the bag fee.

Quarter	Bags Counted under Ordinance	YTD Revenue (all Quarters)
Quarter 1	306,198	\$81,817.07
Quarter 2	33,558	
Quarter 3	268,878	

This ordinance was temporarily suspended for a period of time during Quarter 2 of 2020 due to concerns related to COVID-19, which accounts for the low number of bags counted under the ordinance in Quarter 2.

The goal of Ordinance 19-14 imposing a fee on disposable bags was to dramatically reduce the use of these bags. Many disposable single-use bags are still used, as shown by the data collected above, and are disposed of in landfills, litter the environment, block storm drains, and endanger wildlife.

Several jurisdictions within Summit County are deliberating a single-use, plastic bag ban and retaining the disposable bag fee only for paper bags. A ban on single-use plastic bags will address the environmental concerns noted above, while still allowing businesses to offer their customers single-use paper bags that are recyclable and more biodegradable than plastic bags. Other jurisdictions within Summit County have considered a requirement for said paper bags to be made of at least 40% post-consumer recycled product. This requirement would reduce the use of virgin paper products and help drive recycling markets in recoverable materials.

The Town of Breckenridge passed an ordinance on first reading at the Town of Breckenridge Town Council meeting on October 27th that bans plastic bags beginning September 1, 2021. On November 3rd, the Town of Dillon Town Council voted to preliminarily approve the bag ban and enforcement will begin in August of 2021. Breckenridge's Ordinance states that the following are exempt from the ban: produce and meat bags, bulk item packaging, prescription drug bags and small bags for loose retail items such as jewelry, spices and marijuana. However, the exemption for plastic bags that are 2.25 millimeters thick no longer applies, nor does the exemption for farmers' markets. Both Dillon and Breckenridge include restaurants in the bag ban, but do not require restaurants to charge for single-use paper bags.

Concerns related to a potential bag ban are focused on a 1993 State of Colorado Statute: [Title 25. Health § 25-17-104](#), Local government preemption. "No unit of local government shall require or prohibit the use or sale of specific types of plastic materials or products or restrict or mandate containers, packaging, or labeling for any consumer products." At the October 27th meeting of the Breckenridge Town Council, the Breckenridge Town Attorney noted that the Colorado Municipal League has [proposed a statutory amendment](#) that would change this law but it has not yet been voted on. Despite this statute, Aspen, Steamboat Springs, and Telluride have banned plastic bags, in addition to the more recent bans enacted by Breckenridge and Dillon.

Summary of Changes to Chapter 124 Article II. The proposal to ban disposable plastic bags and disposable paper bags containing less than 40 percent post-consumer recycled material would be incorporated into Article II of Chapter 124 of the Frisco Town Code. Article II was first created as a result of Ordinance 19-14, and will be modified to include a ban on these types of disposable bags for retail stores. The previously adopted bag fee would remain in effect at retail stores, however it would only be applied to disposable bags containing at least 40 percent post-consumer recycled materials, since other paper bags and plastic bags would be prohibited. The ban on these types of bags would also apply to restaurants, farmers' markets and similar temporary vendors. The proposed disposable bag ban would extend to all bags composed of plastic that are provided to consumers at the point of sale, including compostable plastics which are not currently compostable at the Summit County Resource Allocation Park. The following definitions would also be added or modified as a result of the proposed amendment:

Definitions:

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. On and after September 1, 2021, the term "Disposable Bag" means any paper bag that is provided to a customer at a Retail Store or Restaurant that contains at least forty percent (40%) postconsumer recycled content.

Paper bag: means any bag made of paper product containing less than forty percent (40%) 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.

Restaurant: means an establishment that stores, prepares, or packages food for human consumption or serves or otherwise provides food for human consumption 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.

Financial Impact: The revenue for the Town of Frisco from its Disposable Bag Fee is \$81,817.07 through September 30, 2020. Based on the data for bag usage, as this is the first year the bag fee has been imposed staff estimates that the bag fee will generate approximately \$100,000 annually. If a ban on disposable bags were to be considered, these revenues would likely significantly decrease.

Alignment with Strategic Plan: All actions identified here align with the Town of Frisco Town Council Strategic Plan, Sustainable Environment Strategic Goals and the Town of Frisco Community Plan.

Staff Recommendation: Staff recommends that Council review the proposed changes to Ordinance 21-01 and approve the Ordinance on second reading.

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

Don Reimer, Community Development Director
Bonnie Moinet, Finance Director
Nancy Kerry, Town Manager

Attachments:

Attachment A: Ordinance 21-01