

**TOWN OF FRASER
ORDINANCE NO. 455
Series 2018**

AN ORDINANCE AMENDING CHAPTER 10 OF THE FRASER MUNICIPAL CODE.

WHEREAS, under Colorado law, the Board of Trustees of the Town of Fraser is authorized to adopt and amend littering regulations applicable within the Town; and

WHEREAS, the Board of Trustees finds and determines that the following amendments are in the best interests of the public health, safety and general welfare of the citizens, residents and taxpayers of the Town of Fraser; and that all applicable requirements of the Code of the Town of Fraser and state statutes have been met with respect to the adoption of said amendments.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FRASER, COLORADO, AS FOLLOWS:

PART 1: AMENDMENT OF MUNICIPAL CODE. Chapter 7 (Health, Sanitation and Animals), Article 2, of the Fraser Municipal Code (herein sometimes referred to as the "Town Code") is hereby amended as follows [Note: additions are shown in **bold underlined** print; deletions are shown as strikethrough print]:

1.1 Chapter 10, Article 2 of the Town Code is amended as follows:

ARTICLE 2 – Public Peace, Order and Decency

Sec. 10-2-40. – Littering of public or private property.

- (a) Any person who deposits, throws or leaves any litter on any public place or private property or in any waters commits littering.
- (b) It shall be an affirmative defense to a charge of littering that:
 - (1) Such property is an area designated by law for the disposal of such material and the person is authorized by the proper public authority to so use the property;
 - (2) The litter is placed in a receptacle or container installed on such property for that purpose; or
 - (3) Such person is the owner or tenant in lawful possession of such property, or has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.

- (c) It is in the discretion of the court, upon the conviction of any person and the imposition of a fine under this Section, to suspend the fine upon the condition that the convicted person gather and remove from specified public property or specified private property, with prior permission of the owner or tenant in lawful possession thereof, any litter found thereon.
- (d) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle in violation is presumed to have caused or permitted the litter to be so thrown, deposited, dropped or dumped therefrom.
- (e) It is unlawful for any person to throw, deposit, or place any waste in any dumpster or waste receptacle located within the Town without the consent of the owner or authorized user of such waste receptacle or dumpster, whether or not such receptacle is on public or private property.**
- (f) This Section does not apply to the disposal of waste in receptacles provided and marked for the public disposal of trash or waste.**
- (g) For purposes of this Section, the term "waste" includes solid or liquid waste, whether organic or inorganic, including without limitation, trash garbage, refuse, debris or litter, rubbish, animal carcasses, offal or manure, paper, ashes, cardboard, cans, yard clippings, tree limbs, compost, glass, rags, discarded clothing or other discarded objects.**
- (h) For purposes of this Section, "waste receptacle" means any container purposed for waste disposal, including without limitation a dumpster, garbage can, trash can, rubbish bin, recycling bin, compost bin, wastebasket and trash barrel.**
- (i) The Town Pay-As-You-Throw (PAYT) Trash and Recycling Drop Off Facility named The Drop shall be for the disposal of designated PAYT trash bags. It is unlawful to dispose of any other type of bag other than Town of Fraser PAYT bags.**

PART 2: PENALTY CLAUSES. The following section of the Code of the Town of Fraser, Colorado, contains penalty clauses applicable to violations of this Ordinance, and such section is herewith set forth in full and hereby enacted:

Sec. 1-4-10. General penalty for violation.

It shall be unlawful for any person to violate, disobey, omit, neglect, refuse or fail to comply with or resist the enforcement of any provision of this Code; and where no specific penalty is provided therefor, the violation of any provision of this Code shall be punished by a fine not exceeding two thousand six hundred fifty dollars (\$2,650.00), by imprisonment for a term not exceeding one (1) year, or by both such fine and imprisonment. Each day such violation continues shall be considered a separate offense.

PART 3: REPEAL. Any and all existing ordinances or parts of ordinances of the Town of Fraser covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed; provided, however, that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

PART 4: SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town of Fraser hereby declares that it would have adopted this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases thereof be declared invalid or unconstitutional.

PART 5: DECLARATION OF EMERGENCY; EFFECTIVE DATE. Because of the need to act promptly to address apparent nuisance conditions existing within the Town, the Board of Trustees hereby finds, determines, and declares that an emergency exists, that this Ordinance is necessary for the immediate preservation of public peace, health, safety and welfare, and that it shall be in full force and effect immediately upon adoption.

PART 6: PUBLICATION. This Ordinance shall be published by title only.

READ, PASSED, ADOPTED AND ORDERED PUBLISHED BY THE BOARD OF TRUSTEES AND SIGNED THIS _____ DAY OF _____, 2018.

Votes in favor: ____

Votes opposed: ____

Votes abstained: ____

BOARD OF TRUSTEES
OF THE TOWN OF FRASER, COLORADO

BY: _____
Philip Vandernail, Mayor

ATTEST:

(S E A L)

Antoinette McVeigh, Town Clerk

Published in the *Middle Park Times* on _____, 2017.