

OFFENSES

Chapter 127

OFFENSES

- §127-1. Harassment.
- §127-2. Disturbance of Peace.
- §127-3. (Reserved)
- §127-4. Discharge of Weapons.
- §127-5. Urination and Defecation in Public.
- §127-6. Obstruction of Public Way.
- §127-7. Public Consumption of an Alcohol Beverage and Possession of an Open Container of an Alcohol Beverage.
- §127-8. Report of Disorderly Conduct by Liquor Licensees.
- §127-9. (Reserved)
- §127-10. Injury or Destruction of Public or Private Property.
- §127-11. Open Fires and Fireworks
- §127-12. - 127-15. (Reserved)
- §127-16. Littering on Public or Private Property.
- § 127-17. Receptacles Required – Placement and Removal of Garbage Cans and Receptacles
- §127-18. Vehicles Injurious to Pavement.
- §127-19. Trespassing.
- §127-20. - 127-23. (Reserved)
- §127-24. (Reserved)
- §127-25. (Reserved)
- §127-26. Interference with Person with Police Authority.
- §127-27. - 127-36. (Reserved)
- §127-37. (Reserved)
- §127-38. Operation of Snow Removal Equipment by Private Operators.
- §127-39. Construction of Obstructions on Town Right-of-Way Prohibited.
- §127-40. Idling of Motor Vehicles.
- §127-41. Legislative Intent.
- §127-42. Definitions.
- § 127-43. General Smoking Restrictions.
- § 127-44. Exceptions to Smoking Restrictions.
- § 127-45. Optional Prohibitions.
- § 127-46. Other Applicable Regulations of Smoking.
- § 127-47. Unlawful Acts – Penalty – Disposition of Fines and Surcharges.
- §127-48.-49. (Reserved)
- § 127-50. Open and Public Consumption of Marijuana Prohibited.
- § 127-51. Panhandling and Solicitation.
- § 127-52. Unmanned Aircraft Systems

OFFENSES

[HISTORY: Adopted by the Board of Trustees (now Mayor and Town Council) of the Town of Frisco 08-27-79, Ord. 79-20. Section 127-37 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic Beverages—See Ch. 53.

Dogs—See Ch. 79.

Excavations—See Ch. 87.

Nuisances—See Ch. 124.

Snowmobiles—See Ch. 153.

§ 127-1. Harassment. [Added 11-23-04, Ord. 04-19]

- A. It shall be unlawful to commit harassment. A person commits harassment if, with intent to harass, threaten or abuse another person, that person:
1. Strikes, shoves, kicks, or otherwise touches a person or directly or indirectly subjects him or her to harmful, painful or offensive contact;
 2. In a public place directs obscene language or makes an obscene gesture to or at another person;
 3. Follows a person in or about a public place;
 4. Initiates communication with a person, anonymously or otherwise by telephone, in a manner intended to harass or threaten bodily harm or property damage or makes any comment, request, suggestion, or proposal by telephone that is obscene;
 5. Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;
 6. Repeatedly insults, taunts, challenges, or makes communications in offensively coarse language to another in a manner likely to provoke a violent or disorderly response;
 7. Delivers or causes delivery of written, printed, or graphic material or any object that threatens bodily injury or property damage to or against another person; or
 8. Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property.

OFFENSES

- B. As used in this section, unless the context otherwise requires, the term “obscene” means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether the ultimate sexual acts are normal or perverted, actual or simulated, including but not limited to masturbation, cunnilingus, fellatio, analingus, or excretory functions. Any act prohibited by subsection A. (5) of this section may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received.¹

§ 127-2. Disturbance of Peace. [Amended 02-05-91, Ord. 91-01]

It shall be unlawful for any person to disturb the peace of another by violence, offensive or unruly conduct, loud or unusual noises or use of any language calculated to provoke a disturbance of the peace; or for any person to permit any such disturbance of the peace upon any premises owned or possessed by that person or under his management or control, when within his power to prevent, so that others in the vicinity are or may be disturbed thereby.

§ 127-3 (Reserved)²

§ 127-4. Discharge of Weapons

It shall be unlawful for any person, other than a law enforcement officer acting in the line of duty, to discharge or cause to be discharged any firearm within or into the limits of the town. Notwithstanding the foregoing, the Town Manager is authorized to approve the use and discharge of firearms on public property for biathlon events conducted under the auspices of the Colorado Biathlon Club or military salutes during funeral services. During such events, the discharge of firearms may occur only at those locations specifically authorized by the Town Manager. It shall be unlawful for any person (s) participating in a biathlon event or gun salute to discharge any firearm anywhere within or into the limits of the town other than on the property specifically permitted by the Town Manager for such event. For biathlon events, the Town Manager shall cause such property to be posted “Area Closed Due to Firearms Discharged for Biathlon Event” and prior to each biathlon event, a permit for the use of the public land must be approved by the Town Manager.

§ 127-5. Urination and Defecation in Public. [Amended 11-23-04, Ord. 04-19]

It is unlawful for any person to urinate or defecate on any public or private property unless into a receptacle that has been provided for that purpose that stores or disposes the wastes in a sanitary manner and that is enclosed from the view of the general public.³

¹Editor's Note: Former § 127-1, Assault and battery, was deleted 2-5-91, Ord. 91-1.

²Editor's Note: Former § 127-3, Drunk and disorderly conduct, 127-4, Assembling to commit unlawful act, and 127-5 Disturbance of religious worship, were repealed 2-5-91, Ord. 91-1.

³Editor's Note: Former § 127-3, Drunk and disorderly conduct, 127-4, Assembling to commit unlawful act, and 127-5 Disturbance of religious worship, were repealed 2-5-91 by Ord. No 91-1.

OFFENSES

§ 127-6. Obstruction of Public Way. [Amended 02-16-82, Ord. 82-03; 02-05-91, Ord. 91-01]

It shall be unlawful for any person to be upon any public way or public place in such a manner as to interfere with the free and unobstructed use of such public way or public place by any other person or persons.

§ 127-7. Public Consumption of an Alcohol Beverage and Possession of an Open Container of an Alcohol Beverage. [Amended 11-23-04, Ord. 04-19]

- A. It shall be unlawful for any person to consume any alcohol beverage in any public place except on a licensed premises permitted by the Town of Frisco Liquor Licensing Authority and in accordance with the Colorado Liquor Code, Colorado Revised Statutes section 12-47-101 et seq., as presently enacted or as may subsequently be enacted; provided, however, that it shall not be unlawful for a person who is at least twenty-one (21) years of age to consume an alcohol beverage while such person is a passenger aboard a luxury limousine, as defined in 40-16-101(3), Colorado Revised Statutes, or a charter or scenic bus, as defined in section 40-16-101(1.3), Colorado Revised Statutes.
- B. It shall be unlawful for any person to possess, or have under his or her control, in any public place except on a licensed premises permitted by the Town of Frisco Liquor Licensing Authority and in accordance with the Colorado Liquor Code, Colorado Revised Statutes section 12-47-101 et seq., as presently enacted or as may subsequently be enacted, any alcohol beverage in a container of any kind or description which is not sealed or upon which the seal is broken. As used in this section, the word "sealed" means the regular seal applied to alcohol beverage containers pursuant to applicable federal and/or state law. Notwithstanding the provisions of this subsection, it shall not be unlawful for a person who is at least twenty-one years of age to: (i) possess, or have under his or her control, an unsealed container of any alcohol beverage while such person is a passenger aboard a luxury limousine, as defined in section 40-16-101(3), Colorado Revised Statutes, as amended, or a charter or scenic bus, as defined in section 40-16-101(1.3), Colorado Revised Statutes, as amended; (ii) possess, or have under his or her control, one unsealed container of vinous liquor that has been removed from a licensed premises pursuant to and subject to the limitations set forth in section 12-47-411(3.5), Colorado Revised Statutes, as amended, and (iii) possess, or have under his or her control, an unsealed container of any alcohol beverage if such unsealed container is located in a locked trunk or other locked compartment of a motor vehicle that is not readily accessible by the driver or passengers of the motor vehicle.
- C. As used in this section, the terms "alcohol beverage" shall be defined as set forth in section 12-47-103, Colorado Revised Statutes, as amended, provided,
-

OFFENSES

however, that such terms shall not include any “fermented malt beverage” as defined in section 12-46-103, Colorado Revised Statutes, as amended. As used in this section, the terms “public place” shall include, without limitation, any place that is in or upon any public street, alley, sidewalk, parking lot, building, park or open space or within any vehicle that is in or upon any public street, alley, sidewalk, parking lot, park or open space, and, in addition, shall include any place that is in or upon those portions of any private property upon which the public has an express or implied license to enter or remain, or within any vehicle that is in or upon those portions of any private property upon which the public has an express or implied license to enter or remain.

§ 127-8. Report of Disorderly Conduct by Liquor Licensees. [Amended 11-23-04, Ord. 04-19]

It shall be unlawful for any person who is the holder of a fermented malt beverage, malt, vinous, or spirituous liquor license, or for any manager or employee of such license holder, to knowingly fail to immediately report to the Frisco Police Department any disturbance of the peace or any other criminal activity occurring on or within the licensed premises.

§127-9. (Reserved)⁴

§ 127-10. Injury or Destruction of Public or Private Property. [Amended 02-05-91, Ord. 91-01]

It shall be unlawful for any person to willfully, maliciously, wantonly, negligently or in any manner injure or destroy real property or improvements thereto or moveable or personal property belonging to any person or business entity.

§127-11. Open Fires and Fireworks. [Added 06-26-07, Ord. 07-12; Amended 06-26-12, Ord. 12-05]

- A. If the Town Manager finds, based on competent evidence and after consultation with the Sheriff of Summit County, that there exists a significant threat of wildfires due to recent or anticipated weather conditions and/or forest conditions in Summit County, then he shall cause to be posted, at each location designated by resolution of the Town Council in January of each year for the posting of notices of Town Council meetings, a notice that states as follows:

PUBLIC NOTICE

TOWN OF FRISCO STAGE 1 OPEN FIRE AND FIREWORKS BAN IN EFFECT PURSUANT TO SECTION 127-11 OF THE CODE OF THE TOWN OF FRISCO

⁴Editor's Note: Former § 127-7, Unlawful acts around schools, 127-8, Unlawful congregation, and 127-9, Injury or destruction of public property, were repealed 2-5-91 by Ord. No. 91-1.

OFFENSES

- B. If the Town Manager finds, based on competent evidence and after consultation with the Sheriff of Summit County, that there exists a significant and imminent threat of wildfires due to recent or anticipated weather conditions and/or forest conditions in Summit County, then he shall cause to be posted, at each location designated by resolution of the Town Council in January of each year for the posting of notices of Town Council meetings, a notice that states as follows:

PUBLIC NOTICE

TOWN OF FRISCO STAGE 2 OPEN FIRE AND FIREWORKS BAN IN EFFECT PURSUANT TO SECTION 127-11 OF THE CODE OF THE TOWN OF FRISCO

- C. At any time during which a Stage 1 notice is posted in accordance with subsection A above, it shall be unlawful to set, maintain, or allow the setting or maintenance of an Open Fire within the Town of Frisco, and, further, it shall be unlawful to sell or use Fireworks within the Town of Frisco. Notwithstanding the foregoing, the following types of Open Fire and Fireworks are permitted:
1. Fires contained within liquid-fueled or gas fueled stoves;
 2. Fires in fireplaces or stoves within all buildings;
 3. Charcoal fueled fires contained within grills and chimineas;
 4. Fires on private property within permanent fire pits, or within self-contained outdoor fire bowls or outdoor chimney units with screened covers placed on a concrete or asphalt surface, if:
 - a. Such contained fire is under constant supervision;
 - b. Adequate fires suppression apparatus is available at the location of the contained fire;
 5. Pre-approved public fireworks displays;
 6. Fires used to inflate and propel hot air balloons; and
 7. Fires authorized by the Town, a Fire Protection District, the United States Forest Service, or the Summit County Environmental Health Department pursuant to a properly issued permit.
- D. At any time during which a Stage 2 notice is posted in accordance with subsection B above, it shall be unlawful to:
1. Build, maintain, attend or use any outdoor fire, including but not limited to a campfire, or a fire in a charcoal grill, coal or wood burning stove including,

OFFENSES

- without limitation, the use of any such fire, grill or stove within developed camping or picnic grounds;
2. Dispose of any burning object outdoors, including without limitation, any cigarette, marijuana, cigar or match;
 3. Use or sell any fireworks, or to use any explosive requiring a fuse or blasting cap, including without limitation any rocket or exploding target;
 4. Operate a chainsaw without an approved spark arrestor, five (5) gallons of water, a "2A10BC" classified dry chemical fire extinguisher, and a round point shovel with an overall length of at least 36 inches at hand and ready for use; for purposes of this subsection, "at hand and ready for use" shall mean, with respect to the fire extinguisher, that the fire extinguisher is immediately available to the chainsaw operator at all times and, with respect to the water and shovel, that such items are readily accessible by the operator and may be obtained by the operator and brought to the site of operation within one minute;
 5. Weld or operate an acetylene or other torch with an open flame outdoors; or
 6. Inflate or propel a hot air balloon.
- E. The prohibition on fires that is set forth in subsection "D" above shall not include fires contained within (i) a liquid-fueled or gas-fueled stove, or (ii) a fireplace contained within a fully enclosed building. The prohibition on fireworks that is set forth in subsection "D" above shall not include commercial, professional and municipal fireworks displays that have received specific written approval from the Summit County Sheriff.
- F. For purposes of this Section, an "Open Fire" shall be defined as any outdoor fire, including but not limited to campfires, warming fires, bonfires, or the prescribed burning of fence rows, fields, wildlands, trash or debris.
- G. For purposes of this Section, "Fireworks" shall mean any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonations, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, rockets, Roman candles, sparklers, fountains, Day-Glo bombs, cigarette loads and torches, or other fireworks of like construction, and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. "Fireworks" shall not include any toy caps that do not contain more than twenty-five hundredths of a grain of explosive compound per cap; trick matches, trick noisemakers, toy smoke devices and novelty auto alarms; or highway flares, railway fuses, ship distress signals, smoke candles and other emergency signal devices.

OFFENSES

§ 127-12. - 127-15. (Reserved)⁵

§ 127-16. Littering on Public or Private Property. [Amended 02-05-91,Ord. 91-01]

- A. It shall be unlawful for any person to allow or to deposit, throw or leave any rubbish, waste material, refuse, garbage, trash, debris or other foreign substance on any public or private property or in any waters.
- B. It shall be unlawful for any person to deposit any rubbish, waste material, refuse, garbage, trash, debris or other foreign substance in any private dumpster, receptacle or container without permission of the owner or lessee.

§ 127-17. Receptacles Required – Placement and Removal of Garbage Cans and Receptacles [Added 02-12-08, Ord. 08-04]

- A. It shall be the duty of every person in charge of private real property to provide and keep one or more garbage cans in which all garbage shall be kept and to maintain and store such can(s) in accordance with the requirements of subsection B of this section.
- B. All garbage cans provided and kept in accordance with the requirements of subsection A of this section shall have a lid that prevents access to the contents of the can by birds and small animals. Except during those times when a garbage can is in immediate, active use for filling or emptying, the lid of the can shall be maintained in a completely closed position.
- C. Any person in charge of real property within the town that is served by curbside garbage pickup shall place a garbage can or similar refuse receptacle at the curb only on the day of pickup. After pickup, the garbage can or similar refuse receptacle must be removed from the curb and secured in accordance with subsection B of this section by not later than 10:00 p.m. on the day of pickup.
- D. Any other provision of this section notwithstanding, in the event that a person violates or fails to conform to any requirement of subsection C of this section during a week in which curbside garbage pickup is occurring on a day other than the normal, regularly scheduled pick up day for the subject location, this section shall be enforced only by the provision of a verbal or written warning by a law enforcement officer.
- E. For purposes of this section, the terms “person in charge of private real property” shall mean and include any person owning or having or being entitled to possession or control of any private real property, leasehold, residence, building or

⁵Editor's Note: Former § 127-11, Damage to ditches, 127-12, Destruction of advertisements, 127-13, Throwing of posters and circulars on public places, 127 14, Circulars invoking violence and hostility, and 127-15, delivery of handbills and circulars restricted were repealed 2-5-91, Ord. 91-1.

OFFENSES

premises, or any part thereof, within the town, including the agent or agents of such person. For purposes of this section, the term “garbage” shall mean all putrescible animal or vegetable matter resulting from the processing, preparation, cooking, serving, sale or storage of meats, fowl, fish, fruits or vegetables. For purposes of this section, a “can” shall mean a water-tight receptacle made of galvanized metal or other non-absorbant material.

§ 127-18. Vehicles Injurious to Pavement.

It shall be unlawful for any vehicle injurious to pavement to be permitted upon any public thoroughfare unless the operator of such vehicle shall first plank and protect such paved streets from damage.

§ 127-19. Trespassing. [Amended 02-05-91, Ord. 91-01]

It shall be unlawful for any person to enter upon the property of another without the consent of the owner, occupant or person in charge thereof.

§ 127-20. - 127-23. (Reserved)⁶

§ 127-24. (Reserved). [Amended 04-16-91, Ord. 91-08; 08-07-01, Ord. 01-16; Repealed 04-19, 11-23-04]

§ 127-25. (Reserved)⁷

§ 127-26. Interference with Person with Police Authority. [Amended 02-05-91, Ord. 91-01⁸]

It shall be unlawful for any person to resist any person duly empowered with the authority to enforce any ordinance or Charter provision of the town.

§ 127-27. - 127-36. (Reserved)⁹

§ 127-37. (Reserved)¹⁰

⁶Editor's Note: Former § 127-20. Weapons, 127-21, disposition of confiscated weapons, 127-22, Throwing of stones and missiles, and §127-23, Sale of weapons to intoxicated person or minors, were repealed 2-5-91, Ord. 91-1.

⁷Editor's Note: Former § 127-25, Indecent acts; filthy language, was repealed 2-5-91, Ord. 91-1.

⁸Editor's Note: This ordinance also repealed former Subsections B and C, which prohibited assisting or rescuing persons in the custody of the police and which subsections immediately followed this subsection.

⁹Editor's Note: Former §§ 127-27, Duty to aid law enforcement officer, 127-28, Impersonating an officer, 127-29, False fire alarm, 127-30, Wrongs to persons under age of eighteen, 127-31, Sale of beer to minors, 127-32, Possession of beer by minors, 127-33. False statements or documents by persons under twenty-one, 127-34, Unlawful use of services by minors, 127-35, Unlawful purchases by minors, and 127-36, Aiding and abetting, were repealed 2-5-91, Ord. 91-1.

OFFENSES

§ 127-38. Operation of Snow Removal Equipment by Private Operators. [Amended 04-03-90, Ord. 90-06]

- A. It is the duty of the occupant, owner or tenant of any lot, tract or parcel of real estate, whether vacant or occupied, within the Town of Frisco to keep sidewalks continuous thereto reasonably free from accumulation of snow and ice and to remove the same with dispatch.
- B. It shall be unlawful for any person, business or corporation to push or deposit snow or ice upon any street, sidewalk, alley, right-of-way or other public property or any portion thereof.
- C. The Chief of Police or the Director of Public Works, or such other officer or employee as either may designate, may notify and require any person who violates or causes another to violate these provisions to remove such snow or ice within twenty-four (24) hours after being notified to do so.
- D. The person or persons responsible for any offense within the town shall be liable for and pay and bear all costs and expenses of the abatement of said offense.
- E. Snowplow operate shall not deposit snow in any area where such deposit would impede the vision of anyone driving a motor vehicle on a public street or right-of-way.
- F. Snowplow operators shall not deposit snow or ice on any other private property without the written permission of the property owner to which the snow will be deposited and approval from the town.
- G. Snowplow operators shall have proper lighting on the vehicle when they are engaged in plowing operations, i.e., headlights, taillights and any other safety lighting that is required by law.

§ 127-39. Construction of Obstructions on Town Right-of-Way Prohibited. [Added 04-03-90, Ord. 90-06]

- A. It is the duty of the occupant, as well as the owner, of any lot, tract or parcel of real estate, whether vacant or occupied, within the Town of Frisco to keep landscaping or any other obstruction of any kind out of the town right-of-way and on private property.
- B. It shall be unlawful for any person, business or corporation to construct or cause to be constructed any obstruction of any kind in town rights-of-way. This includes but is not limited to the following: fences, walls, trees or shrubs, irrigation systems,

¹⁰Editor's Note: Former § 127-37, Use of town logo, added 9-7-1982 by Ord. No. 82-12. which ordinance also redesignated former § 127-37, Violations and penalties, as § 127-50, was repealed 2-5-91, Ord. 91-1.

OFFENSES

boulders or rock-type structures or any structure which prohibits the town from servicing its rights-of-way.

- C. The Chief of Police or the Director of Public Works, or such other officer or employee as either may designate, may notify and require any person who violates or causes another to violate these provisions to remove such obstruction from the right-of-way within twenty-four (24) hours after being notified to do so.
- D. The person or persons responsible for any offense within the town shall be liable for and pay and bear all costs and expenses of the abatement of said offense.
- E. Each and every offense declared or defined by any ordinance of the town or otherwise is hereby prohibited, and the Chief of Police, Public Works Director and any other authorized representatives of the town are hereby authorized to cause the same to be summarily abated in such a manner as they may direct.
- F. These provisions shall also apply to all easement or use agreements between the Town of Frisco and any utility company, governmental entity or other parties having been granted the same, in writing, by the town.

§ 127-40. Idling of Motor Vehicles. [Added 03-02-93, Ord. 93-03]

- A. The unreasonable and prolonged idling of motors of any motor vehicle of any kind whatsoever is hereby declared to be a public safety and health hazard.
- B. It shall be unlawful for any person to idle or permit the idling of any motor vehicle of any kind whatsoever for more than fifteen (15) minutes within the limits of the Town of Frisco.
- C. The idling restriction of this section shall not apply to emergency vehicles; to vehicles engaged in traffic operations; to vehicles which are being serviced; to vehicles that must idle to operate auxiliary equipment, including but not limited to pumps, compressors, hydraulic equipment, and refrigeration units; or to idling vehicles stopped due to traffic congestion.
- D. Verification that a motor vehicle has idled for a period of fifteen (15) minutes or longer shall be prima facie evidence that said vehicle was idling for a prolonged and unreasonable period of time.

OFFENSES

§ 127-41. Legislative Intent. [§127-41 - §127-29 repealed and replaced in their entirety 08-08-06, Ord. 06-25; Amended 01-14-14, Ord. 13-11]

The Town Council finds, determines and declares that it is in the best interest of the people of this Town to protect nonsmokers from involuntary exposure to environmental smoke in most indoor areas open to the public, public meetings, food service establishments, and places of employment. Therefore, the Town council hereby declares that the purpose of Sections 127-42 through 127-47 is to preserve and improve the health, comfort, and environment of the people of this Town by limiting exposure to environmental smoke.

§ 127-42. Definitions. [Amended 01-14-14, Ord. 13-11; 02-10-15, Ord. 15-01]

The following words, terms and phrases, when used in Sections 127-41 through 127-47 of this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Auditorium means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways, or lobbies adjacent thereto.

Bar means any indoor area that is operated and licensed under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

Cigar-tobacco bar means a bar that, in the calendar year ending December 31, 2005, generated at least five percent (5%) or more of its total annual gross income or fifty thousand dollars (\$50,000) in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent (5%) of its total annual gross income or fifty thousand dollars (\$50,000) in annual sales from the on-site sale of tobacco products and the rental of on-site humidors shall not be defined as a "cigar-tobacco bar" and shall not thereafter be included in the definition regardless of sales figures.

Employee means any person who:

1. Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or
2. Provides uncompensated work or services to a business or nonprofit entity.

Employee includes every person described in paragraph (a) of this subsection (5), regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

OFFENSES

Employer means any person, partnership, association, corporation, or nonprofit entity that employs one (1) or more persons. *Employer* includes, without limitation, the legislative, executive, and judicial branches of state government; any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission or agency; or any other separate corporate instrumentality or unit of state or local government.

Environmental smoke or secondhand smoke means gases, particles and vapors released into the air as a result of the combustion, electrical ignition, vaporization or heating of any substance, including but not limited to tobacco, nicotine or a marijuana product, also known as "sidestream smoke," and such gases, particles and vapors that are exhaled by the smoker.

Food service establishment means any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops, and short-order cafes.

Indoor area means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate.

Place of employment means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

Public building means any building owned or operated by:

1. The state, including the legislative, executive, and judicial branches of state government;
2. Any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, a special district, an authority, a commission, or an agency of any of the same; or
3. Any other separate corporate instrumentality or unit of state or local government.

Public meeting means any meeting open to the public pursuant to Part 4 of Article 6 of Title 24, C.R.S., or any other law of this state.

OFFENSES

Smoke-free work area means an indoor area in a place of employment where smoking is prohibited under this Chapter.

Smoking means the burning, heating, electrical ignition or vaporization of a ~~lighted~~ cigarette, cigar, pipe, or any other similar product, device, matter or substance that contains tobacco, nicotine, or marijuana, or any other substance or combination thereof, and the inhaling and exhaling of environmental smoke created thereby.

Tobacco means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. *Tobacco* also includes cloves and any other plant matter or product that is packaged for smoking.

Tobacco Business means a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental.

Work area means an area in a place of employment where one or more employees are routinely assigned and perform services for or on behalf of their employer.

§ 127-43. General Smoking Restrictions. [Amended 01-14-14, Ord. 13-11]

- A. Except as provided in Section 127-44, and in order to reduce the levels of exposure to environmental smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:
1. Public meeting places;
 2. Elevators;
 3. Government-owned or operated means of mass transportation, including, but not limited to, buses, vans, and trains;
 4. Taxicabs and limousines;
 5. Grocery stores;
 6. Gymnasiums;
 7. Jury waiting and deliberation rooms;
 8. Courtrooms;

OFFENSES

9. Child day care facilities;
10. Health care facilities including hospitals, health care clinics, doctor's offices, and other health care related facilities;
11. (I) Any place of employment that is not exempted.

(II) In the case of employers who own facilities otherwise exempted from this Chapter, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.
12. Food service establishments;
13. Bars;
14. Limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted;
15. Indoor sports arenas;
16. Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;
17. Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy-five percent (75%) of the sleeping quarters within a hotel or motel that are rented to guests;
18. Bowling alleys;
19. Billiard or pool halls;
20. Facilities in which games of chance are conducted;
21. The common areas of retirements facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;
22. Public buildings;
23. Auditoria;
24. Theatres;
25. Museums;
26. Libraries;

OFFENSES

27. To the extent not otherwise provided in Section 25-14-103.5, C.R.S., public and nonpublic schools; and

28. Other educational and vocational institutions

- B. A cigar-tobacco bar shall not expand its size or change its location from the size and location in which it existed as of December 31, 2005. A cigar-tobacco bar shall display signage in at least one (1) conspicuous place and at least four inches (4") by six inches (6") in size stating: "Smoking Allowed. Children under eighteen (18) years of age must be accompanied by a parent or guardian."

§ 127-44. Exceptions to Smoking Restrictions.

Section 127-43 of this Chapter shall not apply to:

- A. Private homes, private residences, and private automobiles; except that Section 127-43 of this Chapter shall apply if any such home, residence, or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation.
- B. Limousines under private hire;
- C. A hotel or motel room rented to one (1) or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent (25%);
- D. Any retail tobacco business;
- E. A cigar-tobacco bar;
- F. The outdoor area of any business;
- G. A place of employment that is not open to the public and that is under the control of an employer that employs three (3) or fewer employees;
- H. A private nonresidential building on a farm or ranch, as defined in Section 39-1-102, C.R.S., that has annual gross income of less than five hundred thousand dollars (\$500,000); or
- I. The retail floor plan, as defined in Section 12-47.1-509, C.R.S., of a licensed casino.

§ 127-45. Optional Prohibitions.

- A. The owner or manager of any place not specifically listed in Section 127-43, including a place otherwise exempted under Section 127-44, may post signs

OFFENSES

prohibiting smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place or the designated nonsmoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Chapter.

- B. If the owner or manager of a place not specifically listed in Section 127-43, including a place otherwise exempted under Section 127-44, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by Section 127-43(A) (11) (II), the owner or manager shall post a sign or signs in the smoke-free work area as provided in subsection A of this Section.

§ 127-46. Other Applicable Regulations of Smoking.

This Chapter shall not be construed to permit smoking where it is otherwise restricted by any other applicable law.

§ 127-47. Unlawful Acts – Penalty – Disposition of Fines and Surcharges.

- A. It is unlawful for a person who owns, manages, operates, or otherwise controls the use of a premise subject to Sections 127-41 through 127-47 of this Chapter to violate any provision of said sections of this Chapter.
- B. It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to this Chapter.
- C. A person who violates any provision of Section 127-41 through 127-47 of this Chapter is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars (\$200) for a first violation within a calendar year, a fine not to exceed three hundred dollars (\$300) for a second violation within a calendar year, and a fine not to exceed five hundred dollars (\$500) for each additional violation within a calendar year. Each day of a continuing violation shall be deemed a separate violation.
- D. All judges, clerks of a court of record, or other officers imposing or receiving fines collected pursuant to or as a result of a conviction of any persons for a violation of any provision of Section 127-41 through 127-47 of this Chapter shall transmit all such moneys so collected in the following manner: Seventy-five percent (75%) of any such fine for a violation occurring within the corporate limits of the Town shall be transmitted to the treasurer of the Town and the remaining twenty-five percent (25%) shall be transmitted to the state treasurer, who shall credit the same to the general fund.

§ 127-48. (Reserved)

§ 127-49. (Reserved)

OFFENSES

§ 127-50. Open and Public Consumption of Marijuana Prohibited.

It is unlawful for any person to openly and publicly use, consume or smoke marijuana or to permit the same to occur on property owned or controlled by such person. For purposes of this Section:

- A. *Openly* means occurring or existing in a manner that is capable of visual observation;
- B. *Publicly* means occurring or existing in a place owned or controlled by a public entity or to which the public or a substantial number of the public has access, including but not limited to public buildings and facilities; the common areas of private buildings and facilities to which the public has access, such as lobbies, entryways, hallways, shared yards and courtyards; parks; playgrounds; streets; highways; sidewalks; transportation facilities; places of amusement; stores; restaurants; bars; service establishments; and clubs to which any adult member of the public can gain access, whether through membership or otherwise; and
- C. *Marijuana* has the meaning set forth in Section 127-42 of this Chapter.

§ 127-51. Panhandling and Solicitation [Added 07-28-15, Ord. 15-05, Amended 12-08-15, Ord. 15-10]

- A. Legislative Findings. The Town Council finds that the solicitation of occupants of vehicles traveling upon any street or highway presents significant risk of harm to persons and property, and causes delays and dangerous interference with pedestrian and motor vehicle traffic flows.
- B. Definitions: For the purpose of this section, the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

Aggressive Panhandling means:

1. Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting; or
2. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including but not limited to unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact in the course of soliciting; or
3. Using violent or threatening gestures toward a person solicited; or
4. Using profane or abusive language which is likely to provoke an immediate violent reaction from the person being solicited; or
5. Approaching or following a person for solicitation as part of a group of two (2) or more persons, in a manner and with conduct, words, or gestures intended or

OFFENSES

likely to cause a reasonable person to fear imminent bodily harm or damage to or loss of property or otherwise to be intimidated into giving money or other thing of value.

Public Place: A place to which the public or a substantial group of persons has access, including, but not limited to, any street, sidewalk, highway, parking lot, plaza, transportation facility, school, place of amusement, park, or playground.

Soliciting or Panhandling: For purposes of this section are interchangeable and mean any solicitation made in person requesting an immediate donation of money. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a donation for the purpose of this section. Panhandling does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person.

Traveled Portion of a Street or Highway: That portion of a road normally used by moving motor vehicle traffic.

A. Prohibited Acts

1. No person shall engage in aggressive panhandling in any public place.
2. No person shall panhandle on private or residential property after having been asked to leave or refrain from panhandling by the owner or other person lawfully in possession of such property.
3. No person shall panhandle from the occupant of any vehicle located on the traveled portion of a street or highway when such panhandling:
 - a. causes the person performing the activity to enter onto the traveled portion of a street or highway; or
 - b. involves the person performing the activity to be located upon any median area which separates traffic lanes for vehicular travel; or
 - c. involves the person performing the activity to be located such that, or the person conducts the activity such that, vehicles cannot move into a legal parking area to conduct the transaction.

Provided, however, that it shall not be a violation of this subsection 3 for such activity to be conducted exclusively upon a public sidewalk, provided that none of the conditions described in subsections 3a. b. or c. are present or caused to occur.

- ### B. Penalties:
- Every person convicted of a violation of this section shall be punished as provided in section 1-14 of this code.

OFFENSES

C. Construction of Ordinance:

1. This section is not intended to proscribe any demand for payment for services rendered or goods delivered.
2. This section should be held inapplicable in any case where its application would be unconstitutional under the constitution of the state of Colorado or the constitution of the United States of America.

§ 127-52. Unmanned Aircraft Systems [Added -4-12-16, Ord. 16-02]

- A. Purpose and intent. The purpose of this Section is to establish regulations pertaining to any unmanned aircraft system operating within the jurisdictional borders of the Town of Frisco. It is the intent of this Section to be interpreted in conformance with any existing or future federal or state laws or regulations that address the operation of unmanned aircraft systems.
- B. Definitions. As used in this Article, the following terms shall have the meanings indicated:

Aircraft means any contrivance invented, used, or designed to navigate or fly in the air.

Model Aircraft means an unmanned aircraft that is: (1) capable of sustained flight in the atmosphere; (2) flown within visual line of sight of the person operating the aircraft; and (3) flown for hobby or recreational purposes.

Operate means to fly, use, launch, land, employ or navigate an unmanned aircraft system through the air.

Hobby Operator means an individual or entity operating an unmanned aircraft system for strictly recreational or hobby use; without limiting the foregoing, a Hobby Operator does not include any local, state or federal government agency lawfully operating unmanned aircraft systems for a government purpose or function, or any commercial operator authorized by the Federal Aviation Administration ("FAA") to operate a UAS, as evidenced by a valid certificate of authorization or exemption issued by the FAA.

Town Airspace means and includes all airspace above the jurisdictional boundaries of the Town of Frisco, to the full extent such airspace can legally be regulated by the Town.

Unmanned aircraft system or UAS means an aircraft, powered aerial vehicle, or other device without a human pilot on board, the flight of which is controlled either autonomously by on board computers or by remote control of a pilot operator on

OFFENSES

the ground or in another vehicle or aircraft, and all associated equipment and apparatus. It includes model aircrafts and drones.

- C. Operating requirements and limitations. Each person operating an UAS in Town Airspace shall comply with the following operating regulations:
1. An UAS operated by a Hobby Operator must weigh no more than sixteen (16) pounds at the time of operation, inclusive of equipment, payload and fuel.
 2. A Hobby Operator must have a visual line of sight of the UAS at all times. Visual line of sight means the UAS must be visible at all times to the operator, using his or her own natural vision to observe the UAS, including the use of standard eyeglasses or contact lenses.
 3. Without express prior written authorization from the Town Manager or his or her designee, no person may operate a UAS on or over any Town property including but not limited to public streets, alleys, paths, trails, playgrounds, parks, open space, parking lots, and public buildings. The Town Manager may provide such written authorization only for: (1) public purposes, including but not limited to public land management, wildlife management, search and rescue, and public safety; (2) purposes of commercial photography or videography; and (3) special events sponsored and managed onsite by a club, school, educational or other association. The Town Manager may impose reasonable conditions on any such authorization that are intended to promote public safety, including but not limited to requirements for public liability insurance.
 4. No person shall enter, hover, launch, or land an unmanned aircraft system on or over another person's property without the prior consent of the property owner. Such unauthorized entry onto another's property shall be deemed a trespass.
 5. No person shall operate a UAS in a reckless or careless manner so as to endanger or cause reasonable risk of harm or actual harm to persons, property, or any domestic animal.