AN ORDINANCE AMENDING CHAPTER 19 OF THE STEAMBOAT SPRINGS REVISED MUNICIPAL CODE REGARDING SOLID WASTE, COMMERCIAL RECYCLING, AND WILDLIFE-RESISTANT CONTAINERS; PROVIDING AN EFFECTIVE DATE AND REPEALING ALL CONFLICTING ORDINANCES.

WHEREAS, the City has adopted the Routt County Climate Action Plan ("CAP") and increased access to and efficiency of recycling is also a CAP goal; and

WHEREAS, the CAP seeks to reduce community-wide Greenhouse Gas (GHG) emissions from waste by 2% by 2030 and 9% by 2050 through increasing increase waste diversion to 46% of solid waste diverted from the landfill by 2040 and 85% diverted from the landfill by 2050; and

WHEREAS, the City undertook a recycling study ("study") in coordination with Staff, stakeholders, and a professional consultant, the results of which were submitted in final form in January 2022 and presented to the City Council; and

WHEREAS, one finding of the study was that implementing a commercial recycling program in the city would increase diversion of materials out of the landfill and help the City meet its CAP goals; and

WHEREAS, City staff, consultants, and council members have met with stakeholders to discuss proposed changes including adding commercial recycling and received input from said stakeholders and integrated their comments into this ordinance; and

WHEREAS, City staff has reviewed the wildlife-resistant container ordinance and determined that certain minor changes regarding valet-served customers and application to all wildlife not only bears should be made; and

WHEREAS, the City Council finds that increasing recycling in the City is critical to the City’s progress in reaching its sustainability and CAP goals.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. Chapter 19, Article I, Section 19-1; Article II, Sections 19-26, 19-27, 19-28, 19-29, and 19-30; and Article III, Sections 19-100, 19-101, 19-102, 19-103, 19-
104, 19-105, 19-106, 19-107, and 19-108 of the City of Steamboat Springs Revised Municipal Code shall be amended as follows:

ARTICLE I. – IN GENERAL.

Sec. 19-1. - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them, except where they are otherwise defined or where the context clearly indicates a different meaning:

**Attractant solid waste** materials includes any waste that could reasonably attract wildlife which includes but is not limited to kitchen organic waste, food, food packaging, toothpaste, deodorant, cosmetics, spices, seasoning and grease but excludes recyclables that have been rinsed and cleaned;

**Collector** shall be defined as any business licensed to haul solid waste within the city under Article II, Division 2;

**Commercial customers** shall be defined as any resident residing in triplexes or larger units and any non-residential customer including but not limited to stores, hotels, markets, offices, restaurants, warehouses, institutions, and community and government operations receiving curbside waste collection services unless otherwise defined in this Chapter 19;

**Commingled recyclables** shall be defined at a minimum as the following materials separated for diversion - glass, tin, aluminum, plastic resin #1 and #2 containers, corrugated cardboard, paper bags, office paper, junk mail, paperboard, magazines, catalogues, phone books, and newspaper or other added or deleted materials as determined by the city manager;

**Construction/demolition debris** shall include salvageable waste generated from construction, remodeling, repairs or demolition of buildings, pavements and other structures including but not limited to lumber, bricks, carpets, ceramics, sheetrock, metals, drywall, window glass, metal and plastic piping, paint and any other non-hazardous materials from construction and demolition operations, other incidental materials, and other materials as determined by the city manager;

**Diverted materials** shall include commingled recyclables and other solid waste materials separated for diversion that can be reused, remanufactured, reclaimed or recycled;

**End user** means any party that accepts diverted materials for use as a component in a manufacturing process or as an effective substitute for natural or commercial products in a manner that does not pose a threat to human health or the environment and may include parties that use processed glass in the production of road materials but shall exclude parties that avoid material processing or disposal cost without reuse, remanufacture, reclamtion or recycling;

**Materials collection facility** shall include any facility or part of a facility that accepts, aggregates and/or temporarily stores diverted materials generated elsewhere for transport to a processing facility or end user;
Materials processing facility shall include any facility or part of a facility used for the sorting and aggregating of diverted materials for additional processing and/or transport to end users;

Organic materials shall include any decomposable materials separated for diversion and used in the production of compost or chipped and ground materials including but not limited to food scraps, compostable paper and products, yard waste, clean wood, biosolids and other materials that may be determined by the city manager;

Person in charge of a property means a tenant, renter, property manager, bank, realtor or other person who is responsible for maintenance of a property;

Refuse shall have the same meaning as trash and garbage;

Residential customers shall be defined as any resident residing in single-family homes or duplexes and receiving curbside waste collection services unless otherwise defined in this Chapter 19;

Solid waste shall include any garbage, refuse, treatment plant sludges, other discarded material and materials separated for diversion – and shall also include solid, liquid, semi-solid, or contained gaseous material from industrial operations, commercial operations, residents or community activities but excludes domestic sewage, agricultural wastes, irrigation return flows, and point-source industrial discharges;

Trash shall include materials managed through landfill disposal or otherwise not reused, remanufactured, reclaimed, recycled, composted, chipped or ground;

Valet customers means those residential customers receiving curbside collection services through manual retrieval and replacement of solid waste containers designated for the collection of attractant solid waste from an enclosed property, garage, home or other location that is not accessible to wildlife;

Wildlife means any non-domestic mammal indigenous to the Yampa Valley including but not limited to bear, deer, elk, moose, raccoon, coyote, beaver, skunk, badger, bobcat, mountain lion, porcupine, and fox;

Wildlife-resistant container means a solid waste container that is certified to be bear-resistant by the Interagency Grizzly Bear Committee (IGBC);

Wildlife-resistant dumpster means a fully-enclosed metal solid waste container with either a tight-fitting metal or hardened plastic lid with metal reinforcement that can be latched into a closed position which prevents access to its content by wildlife;

Wildlife-resistant enclosure means an enclosed structure consisting of four (4) sides and a secure door and cover which shall have a latching device of sufficient design and strength to prevent access by wildlife.

ARTICLE II. – PRIVATE COLLECTORS.

DIVISION I. – GENERALLY.

Sec. 19-26. – Residential recycling program, removing materials from recycling containers.
(a) All collectors operating within the limits of the City of Steamboat Springs shall provide their residential customers within the city with a curbside recycling program for commingled recyclables. The city manager may, upon a showing of unreasonable hardship, waive the requirements as to any particular commingled recyclable. Collectors shall not charge any fee for recycling services other than their fee for general waste collection services.

(1) Each collector may establish such reasonable and industry-accepted requirements for the separation and preparation of diverted materials as are necessary to provide for orderly collection. These requirements shall be provided in writing to the collector’s customers and reported to the office of the city manager. Collectors shall provide written communications to customers once per year with educational materials for the safe and effective separation of recoverable materials.

(2) Recycling containers shall be made available by collectors to their residential customers located within the city limits of Steamboat Springs.

(3) Collectors shall notify their customers in writing of the availability of recycling services for no fee other than that charged for general waste collection services. Notice to new customers shall be made upon the initial provision of solid waste collection services. Collectors shall maintain a website that includes current residential and commercial collection options and list of recyclables accepted.

(4) Collectors offering recycling services pursuant to this section shall collect curbside recyclables from each customer on at least a twice monthly basis and on the same day as trash collection.

(5) All containers provided by collectors shall be labelled with current licensed collector name and contact information - any other information shall be removed or covered. Stickers over existing labels or other form of identification are acceptable. Recycling containers regardless of whether provided by the licensed collector or customer shall include conspicuous and durable signage that describes acceptable and unacceptable recyclables – any outdated information shall be removed or covered. All labels shall be weather-resistant and conspicuously placed and maintained and replaced as needed.

(b) All diverted materials shall be owned by and be the responsibility of the residential customer until placed for collection, and then shall become the property and responsibility of the collector. Except for purposes of inspection to verify compliance with this article, no person or party other than the customer or collector shall take possession of any materials placed for collection. Each violation shall constitute a separate and distinct offense that is punishable as provided in this section.

Sec. 19-27. – Disposal of diverted materials.

(a) It shall be unlawful for a collector providing recycling services pursuant to this section to dispose of diverted materials collected from curbside, drop-site or other collection points at any location other than a lawfully operating materials processing facility or end user.

(1) This subsection shall not apply to the disposal of materials which any customer has improperly prepared for diversion including those materials with a contamination rate of twenty-five percent (25%) or higher.
(2) Materials may also be treated as improperly prepared for recycling only if customer’s preparation of the materials fail to comply with subsections 19-26(a)(1) or 19-29(a)(4).

Sec. 19-28. - Reporting requirements.

Each collector must accurately and completely account for and record, and report to the City using a form provided by the City on a quarterly basis [to be submitted no later than April 30 (for the first quarter of the year), July 31 (for the second quarter of the year), October 31 (for the third quarter of the year), and January 31 of each year (for the fourth quarter of the year) Collectors’ first report shall be submitted by January 31, 2023 for the months of October, November and December of 2022.], the following:

(a) For the purpose of this Sec. 19-28 only:

*Residential customers* shall be defined as any customer with individual trash carts;

*Commercial customers* shall be defined as any customer with trash dumpsters (including multi-family developments);

*Other customers* shall be defined as any customers that do not meet the definition of residential or commercial customer for this Section 19-28 and may include collection with roll-off or other containers.

(b) Quarterly reports shall include:

(1) The number of residential, commercial, and other customers including those in group accounts by each material category who received collection services for:

i. Trash
ii. Recyclables
iii. Organics
iv. Construction and demolition debris

(2) The number of residential (trash carts), commercial (dumpsters) and other customer tons (roll-offs) by material category:

i. Trash
ii. Recyclables
iii. Organics
iv. Construction and demolition debris

(3) Material weights shall be documented using scale measurements except for the following:

i. For loads that contain trash, recyclables, organics or construction and demolition debris collected both within the City and outside the limits of the City, the collector shall make its best estimate of the percent by volume or by weight that was collected within City limits and convert said volume estimate to weight estimates using conversion factors provided by the Colorado Department of Public Health and Environment;

ii. Construction and demolition debris materials may be reported by volume if scale weights are not reasonably available.
(4) The percentage by weight of contamination in residential and commercial recyclables (aggregated) collected during the reporting period as obtained from recycling processing facilities or materials recovery facilities, whether such facilities are owned by or contracted with collectors, or under any other arrangement;

(5) Name and address of facilities where trash, recyclables, organics and construction and demolition debris are delivered for disposal, recycling, composting or reuse. If the collector uses multiple facilities, collector shall report the total tonnage delivered to each facility during the reporting period. All facilities shall be compliant with local, state, and federal regulations.

(c) A collector shall make available for review by the City such records in its possession as may be relevant to the investigation of any complaint regarding such collector that has been submitted to the City or is under investigation by the City.

(d) Failure by a collector to comply with the provisions of this section are subject to enforcement by the City. Fines for such violations shall be assessed as follows:

1) First violation - $250
2) Second violation - $500
3) Third violation - $999

Any failure to report that exceeds thirty days or more than three total violations of any length shall be considered grounds for non-renewal of a collectors’ license under Section 19-55. Ongoing or continuous violations shall be subject to all of the City’s available remedies under Chapter 1, Section 15 of the Municipal Code.

Sec. 19-29. – Commercial recycling program, removing materials from recycling containers, city waivers.

(a) All collectors shall provide their commercial trash customers within the City of Steamboat Springs with a curbside recycling program for the collection of commingled recyclables including the provision of recyclable containers. Nothing shall prevent collectors providing services pursuant to this section from charging a separate fee for recycling service.

(1) Collectors shall provide commercial trash customers with recycling service capacity that is at least equal to fifty percent (50%) of trash service capacity when container size, number and collection frequency are considered. When trash compactors are used, recycling service shall be at least equal to the compactor charge box or eight (8) cubic yards collected at the same equivalency of compacted trash, whichever is smaller. All containers provided by collectors shall be labelled with current licensed collector name and contact information - any other information shall be removed or covered. Stickers over existing labels or other form of identification are acceptable. Recycling containers regardless of whether provided by the licensed collector or customer shall include conspicuous and durable signage that describes acceptable and unacceptable recyclables – any outdated information shall be removed or covered. All labels shall be weather-resistant and conspicuously placed and maintained and replaced as needed.
(2) Collectors shall provide recycling service to at least thirty-three percent (33%) of their commercial trash customers by July 31, 2023; sixty-six percent (66%) by December 31, 2023; and one hundred percent (100%) by July 31, 2024. Customers with modifications or waivers issued by the city shall be excluded from this requirement. Each day in which a collector fails to meet this schedule as documented pursuant to subsection (a) (3) shall constitute a separate and distinct offense that is punishable as provided in this section.

(3) Collectors shall provide a written report to the city by August 31, 2023; January 31, 2024; and August 31, 2024 identifying the number of commercial trash customers for which recycling service has been provided and the percentage of their total commercial trash customers represented.

(4) Each collector may establish such reasonable and industry-accepted requirements for the separation and preparation of diverted materials as are necessary for orderly collection. Such established requirements shall be provided to all commercial customers in written form and reported to the office of the city manager. Collectors shall provide written communications to customers once per year with educational materials for the safe and effective separation of recoverable materials.

(5) Collectors shall notify commercial trash customers in writing of the provision of recycling service within not more than ninety (90) days of the effective date defined in Section 4. Notice to new customers shall be made upon the initial provision of solid waste collection service.

(b) All diverted materials shall be owned by and be the responsibility of the commercial customer until collected, and then shall become the property and responsibility of the collector. Except for purposes of inspection to verify compliance with this article, no person or party other than the customer or collector shall take possession of any materials placed for collection. Each violation shall constitute a separate and distinct offense that is punishable by a fine of not less than twenty-five dollars ($25) and not more than one hundred dollars ($100).

(c) The city manager may, upon submittal of written documentation showing unreasonable hardship by either the collector or the commercial trash customer, modify or waive the requirements of this subsection for a maximum of two (2) years. Hardship waivers may be extended for successive one year periods in the sole discretion of the city manager. Hardship conditions may include:

(1) Extreme space constraints or excessive cost to address space constraints.

(2) Sharing recycling service with another nearby commercial customer or subscription for use of a recyclables collection facility owned by the City of Steamboat Springs provided that the minimum recycling capacity defined in subsection 19-29(a)(1) is met.

(3) Use of an alternative recycling option.
(d) The city manager may temporarily waive collector compliance requirements for commercial trash customers who refuse recycling service despite the collector’s documented efforts to provide. The inability to provide recycling service to these customers will not count against the collector’s requirements of subsection (a)(2).

(e) Commercial trash customers who refuse recycling service and do not obtain a modification or waiver to this Section may be fined up to $100 per day beginning March 1, 2025, August 1, 2024.

Sec. 19-30. – Collector violations and penalties.

(a) Collectors who do not comply with the requirements of Article II shall be subject to enforcement by the city. Fines for such violations shall be assessed as follows:

(1) First violation - $250

(2) Second violation - $500

(3) Third violation - $999

Any failure to remedy any violation in a timely manner shall also be considered grounds for non-renewal of a collector’s license under Section 19-55. On-going or continuous violations shall be subject to all of the city’s available remedies under Chapter 1, Section 15.

ARTICLE III. – WILDLIFE-RESISTANT CONTAINERS.

Sec. 19-100. (reserved).

Sec. 19-101. – Wildlife-resistant container, dumpster or enclosure required.

(a) No owner or person in charge of a property shall cause or allow the creation of or maintain a non-wildlife-resistant container or dumpster that is designated for the collection of attractant solid waste on that property or the adjacent right-of-way at any time.

(b) Any solid waste container left outside of a house, garage or other enclosed building which is accessible by wildlife, regardless of size, that receives attractant solid waste shall be either:

(1) A wildlife-resistant container; or

(2) A wildlife-resistant dumpster; or

(3) Enclosed by a wildlife-resistant enclosure.

(c) Any collector who provides a solid waste container designated for the collection of attractant solid waste to any customer within the City of Steamboat Springs shall only provide wildlife-resistant containers or wildlife-resistant dumpsters for non-valet customers. The collector may offer different container sizes and charge a fee for providing the container or dumpster.
(d) Any owner or person in charge of a property shall use the provided wildlife-resistant containers or dumpsters from their preferred collector or an existing certified wildlife-resistant container provided the container is acceptable to the collector.

(e) The collector must furnish of wildlife-resistant containers and dumpsters no later than March 31, 2023.

(f) For public reference, the city clerk shall maintain an official list of wildlife-resistant containers approved by the IGBC. The city manager may remove an IGBC-certified container from the list upon finding that the container is:

1. Incompatible with local collector equipment, practices or procedures or
2. Is not resistant to local wildlife

Sec. 19-102. – Maintenance and operation of wildlife-resistant containers, dumpsters and dumpster enclosures.

(a) Wildlife-resistant containers, dumpsters and dumpster enclosures must be closed and secured when attractant solid waste is not being deposited.

(b) If a wildlife-resistant dumpster or enclosure is damaged, allowing access to wildlife, repairs must be made within seventy-two (72) hours after written notification by a city-designated official to the owner or person in charge of the property.

(c) A damaged wildlife-resistant container must be replaced or removed by the collector within seven (7) days.

(d) Collectors are required to display their business names on all containers and dumpsters provided within the City of Steamboat Springs.

Sec. 19-103. – Solid waste disposal.

(a) All attractant solid waste that is accessible and edible by wildlife must be stored in a wildlife-resistant container, dumpster or dumpster enclosure.

(b) Non-valet customers with curbside solid waste collection service shall place wildlife-resistant containers at the curb, alley or public right-of-way on the morning of scheduled collection no earlier than 6:00 am. After collection, all containers must be removed from the curb, alley or public right-of-way on the same day.

(c) Other solid waste that is not attractant solid waste as defined in this chapter including, but not limited to, non-edible yard maintenance waste, recyclables and cardboard shall not require the use of wildlife-resistant containers when not comingled with attractant solid waste.

(d) The owner or person in charge of any property on which solid waste is stored in a wildlife-resistant dumpster or in a wildlife-resistant dumpster enclosure that is not fully secured in accordance with its design shall be liable for such violation regardless of whether the owner or person in charge of the property is directly responsible for the failure to secure the dumpster or enclosure in accordance with its design.
Sec. 19-104. – Property maintenance.

(a) It shall be unlawful for the owner or person in charge of a property located within the city, including properties used for special events and properties that are the site of construction activities, to permit the accumulation on the property of solid waste attractive to or edible by wildlife. Attractant solid waste shall be stored on and collected from such properties and stored in accordance with the provisions of section 19-101.

(b) Properties found to be in violation of this section may be deemed to be a nuisance as defined in section 15-2 of this Code and treated accordingly.

Sec. 19-105. – Feeding of wildlife.

(a) It shall be unlawful for any person to knowingly leave or store any trash, food product, pet food, grain, salt or any other materials attractive to or edible by wildlife in a manner which may attract or entice wildlife.

(b) Bird feeders shall be permitted under this section. However, between the dates of April 15 and November 15, all feeders must be removed or suspended on a cable or other device so that they are inaccessible to bears and other wildlife and the area below the feeders must be kept free of the accumulation of seed, seed debris or other attractive or edible materials.

Sec. 19-106. – (reserved).

Sec. 19-107. – Remedies.

(a) The municipal court is hereby authorized to establish a penalty schedule for violations of this article. The penalty schedule may establish mandatory minimum fines for violations of this article and the mandatory minimum fines may increase for repeat and multiple offenders.

(b) Mandatory minimum fines contained in a penalty schedule established per this provision shall not affect the court’s authority to impose a greater fine up to the court’s jurisdictional limit.

(c) Collectors who do not comply with section 19-101 or section 19-102 may have their license granted under division II of this article suspended or revoked pursuant to subsection 19-55(a)(1).

Sec. 19-108. – Presumption.

In any case involving wildlife entry into or removal of contents from a solid waste container, dumpster or enclosure, there shall be a rebuttable presumption that the content of the solid waste container, dumpster or enclosure were attractive to or edible by wildlife.

Section 2. The City Council hereby finds, determines and declares that this ordinance is necessary for the immediate preservation of the public peace, health and safety.

Section 3. Pursuant to Section 7-11 of the Charter of the City of Steamboat Springs, Colorado, the second publication of this ordinance may be by reference, utilizing the ordinance title.
Section 4. The Ordinance shall take effect five days following publication after final passage as provided in Section 7.6(h) of the Steamboat Springs Home Rule Charter.

Section 5. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 6. A public hearing on this ordinance shall be held on February 14, 2023 at any time after the meeting is called to order at approximately 5:00 p.m. in the City Council Chambers at Centennial Hall, at the corner of 10th Street and Oak Street, Steamboat Springs, Colorado, or by remote attendance at https://us02web.zoom.us/j/985289877.

INTRODUCED, READ AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the 7th day of February, 2023.

Robin Crossan, President
Steamboat Springs City Council

ATTEST:

Julie Franklin
City Clerk, CMC

FINALLY READ, PASSED AND APPROVED this 14th day of February, 2023.

Robin Crossan, President
Steamboat Springs City Council
ATTEST:

Julie Franklin
City Clerk, CMC

Digitally signed by Julie Franklin
Date: 2023.03.13
10:24:11 -0600