

ORDINANCE NO. 43

AN AMENDMENT TO ORDINANCE NO. 43 OF THE UNINCORPORATED TOWN OF PAHRUMP, TO REVISE AND RESTATE THE TOWN'S REGULATIONS CONCERNING THE COLLECTION, TRANSPORTATION, DEPOSIT, AND DISPOSAL OF SOLID WASTE AND RECYCLABLES, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

WHEREAS, current regulations regarding solid waste management within the Town of Pahrump must be updated to reflect, among other things, additional definitions, updated and reformatted rate methodologies, medical and sewage waste rates, minimum container requirements, enhancement of recycling services, overflowing solid waste conditions and charges, adoption of customer service standard; and

WHEREAS, to accomplish this it is appropriate to replace current regulations in their entirety with updated regulations.

NOW, THEREFORE, the Town of Pahrump, Nevada does ordain:

43.000 Declaration of Town Policy.

It is declared to be the policy of this town to regulate the collection, transportation, and disposal of solid waste in a manner that is consistent with the Nevada Revised Statutes and that will:

- (1) Protect the public health and welfare;
- (2) Prevent water, air, and land pollution;
- (3) Prevent the spread of disease and the creation of nuisances;
- (4) Prevent unlawful dumping and disposal of solid waste;
- (5) Enhance the beauty and quality of the environment;
- (6) Conserve natural resources; and
- (7) Provide for such other activities as may be required to carry out Town's solid waste goals and objectives.

43.010 Short Title.

The title by which this ordinance shall be known is the "Solid Waste and Recycling Franchise Ordinance."

43.020 Definitions.

In the construction of this chapter, the following definitions shall apply, unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; and words in the singular number include the plural number; the words "shall" and "will" are mandatory, and "may" is permissive.

“Agricultural waste” means all putrescible and nonputrescible waste material in solid or semisolid form that is generated by the rearing of animals other than household pets, or the production and harvesting of crops or trees, for profit, in a zoning district where such activities are permitted, and that has not been discarded or abandoned by its owner.

“Bulky waste” shall mean large items of solid waste, such as appliances, furniture, large auto parts, automobiles, trailers, trees, branches, stumps, and other oversized waste materials.

“Buy-back center” means a facility operated a licensed commercial recycler or registered charitable organization where persons may bring recyclables in exchange for payment.

“Commercial recycler” means any licensed entity, to include any licensed franchisee, that is in the business of purchasing, accepting donations of, collecting, storing, transporting or processing source-separated recyclable materials.

“Compacted solid waste” means solid waste reduced by mechanical equipment, in volume but not weight, by a minimum of three to one.

“Compensation” means payment of any kind in exchange for a service provided, including the giving of an equivalent or substitute of equal value for any service rendered, whether in payment, salary, fee, or any other measure of value, offered in exchange or otherwise conferred.

“Construction or demolition waste” means waste resulting from the construction or demolition of buildings and other structures, including, but not limited to, wood, plaster, metals, asphaltic substances, bricks, block, and concrete and excavation dirt, rock, stone, and gravel. The term “construction or demolition waste” does not include uncontaminated soil, rock, stone, gravel, unused brick and block and concrete if they are separated from other construction or demolition waste and are to be used as clean fill, but does not include landscaping and native vegetation resulting from the construction or demolition of buildings and other structures.

“CPI” means the Consumer Price Index, All Urban Consumers for All Items, U.S. City Average (1982-84 = 100), as published by the U.S. Department of Labor, Bureau of Labor Statistics, Washington D.C.

“Curbside recyclables collection” means a collection program operated by a franchisee in which source-separated recyclables are collected from residential customers on a regularly scheduled basis as part of the franchisee’s solid waste business.

“Customers” means any solid waste disposal service customer of franchisee, including single-family residences, duplexes, mobile homes, and business within the franchise service area.

“Dead animals” means all dead animals or parts thereof (including condemned meats) that are not intended to be used as food for man or animal.

“Dirt” means loose earth, ashes, and manure, but exclusive of sand and gravel that is to be used in construction work.

“Disposal Facility” shall mean a solid waste disposal facility which has all applicable permits and authorizations needed to accept solid waste for transformation, recovery, recycling, transfer, processing or disposal.

“Drop-off center” means a collection site where source-separated recyclables may be taken by persons and deposited into designated containers.

“Duplex” means a building or dwelling containing residential dwelling units for two separate families or occupants, each receiving individual solid waste curbside collection.

“Franchise Service Area” shall mean the district or area for collection purposes which shall include all commercial and residential areas within the unincorporated Town of Pahrump, including any areas annexed to that unincorporated Town of Pahrump during the term of the solid waste franchise agreement. To the extent permitted by law, all state and federal agencies having facilities within, or doing business within the Town limits, shall be deemed to be within the franchise service area, and shall be subject to that certain Solid Waste and Recycling Franchise Ordinance.

“Franchisee” means any person who has contracted with the Town for collection, transportation and disposal of solid waste and/or the performance of curbside recyclables collection.

“Franchise fee” means the fee required by a franchise agreement based upon a percentage of a franchisee’s gross receipts collected from the collection, transportation and disposal of solid waste and/or curbside recyclables collection services in the Town.

“Garbage” means putrescible animal and vegetable wastes, other than source-separated recyclables, that result from the handling, storage, sale, preparation, cooking, and serving of food and that have been discarded or abandoned.

“Generators” shall mean all individuals, businesses and other entities, including federal, state, county, and local governmental agencies, as well as the Town, located within the franchise service area that generates solid waste of recyclable materials within the franchise service area.

“Gross receipts” means all cash receipts derived from the collection of solid waste, construction or demolition waste, and curbside recyclables collection services and includes, by way of illustration and not limitation, all cash, credits, property or other consideration of any kind derived directly or indirectly by a franchisee (or any of its authorized agents or affiliates) for the collection, transportation and disposal of solid

waste, including all revenue received from residential service (including any charges attributable to curbside recyclables collection services), commercial and industrial service, medical waste service, container rentals, packaging, shipping and late fees, but excluding revenues from: (i) the sale of recyclables; and (ii) any taxes on services furnished by a franchisee that are imposed by other governmental entities, or environmental surcharges on services furnished by a franchisee that are imposed to provide for environmental activities or programs, that are passed through to and collected from the franchisee's customers.

"Hazardous waste" means any waste or combination of wastes, including without limitation, solids, semisolids, liquids or contained gasses, which:

1. Because of its quantity or concentration or its physical, chemical or infectious characteristics may:
 - a. Cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness; or
 - b. Pose a substantial hazard or potential hazard to human health, public safety or the environment when it is given improper treatment, storage, transportation, disposal or other management;
2. Is identified as hazardous waste by the Nevada Department of Conservation and Natural Resources as a result of studies undertaken for the purpose of identifying hazardous wastes. The term includes, but is not limited to, toxins, corrosives, flammable materials, irritants, strong sensitizers and materials which generate pressure by decomposition, heat or otherwise.

"Materials recovery facility" means a facility that provides for the extraction from construction or demolition waste of those recyclable materials that may be found in construction or demolition waste. The term does not include:

1. A facility that receives only recyclable materials that have been separated at the source of waste generation;
2. A salvage yard for the recovery of used motor vehicle parts;
3. A facility that receives, processes or stores only concrete, masonry waste, asphalt, pavement, brick, uncontaminated soil or stone for the recovery of recyclable materials; and
4. A facility that recovers less than twenty-five percent by weight of recyclable material from the solid waste received.

"Medical waste" means items other than a culture or stock of an infectious substance that contain an infectious substance and are generated in:

- A. The diagnosis, treatment or immunization of human beings or animals;
- B. Research pertaining to the diagnosis, treatment or immunization of human beings or animals; or
- C. The production or testing of biological products.
- D. The term "medical waste" does not include the following if the items as packaged do not contain any material otherwise subject to the requirements of 49 CFR Part 173, App. G, as amended:
 - a. Biological products;

- b. Diagnostic specimens;
- c. Laundry or medical equipment that conforms to 29 CFR 1910.1030 of the regulations of the Occupational Health Administration of the United States of Labor;
- d. A material, including waste, that previously contained an infectious substance and has been treated by steam sterilization, chemical disinfection or other appropriate method, so that it no longer poses the hazard of an infectious substance;
- e. Any waste material, including garbage, trash and sanitary waste in septic tanks, derived from households, including but not limited to single and multiple residences, hotels and motels;
- f. Corpses, remains and anatomical parts that are intended for ceremonial interment or cremations; or
- g. Animal waste generated in animal husbandry or food productions.

“Mining waste” means residues which result from the extraction of raw materials from the earth and which are dumped on land owned by the mining operation that extracted them.

“Motel” means a building or group of buildings whose main function is to provide temporary lodging and which does not offer conference rooms, restaurants or similar amenities to its customers in addition to sleeping quarters.

“Multiple dwellings” means any premises on which there are three or more residential dwelling units which are grouped together under the management of one person and which do not require separate individual collection of solid waste.

“Non-residential customer” means any solid waste disposal service customer of franchisee except for customers at single-family residences, duplexes or mobile home residences that receive individual curbside collection of solid waste and do not share containers with other residents.

“Overflow” or “overflowing solid waste” means solid waste of non-residential customers that is deposited on the ground outside of a solid waste container, or excess solid waste that has been piled onto a solid waste container that is already full to such an extent that the excess solid waste will spill onto the ground in the emptying process, requiring more than minimal manual cleanup of waste from the ground.

“Place of business” means any place of business in the Town or franchise service area, other than multiple dwellings, motels or mobile home parks, to conduct or carry on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.

“Premises” means a commercial or residential lot, together with any buildings, improvements, and personal property located thereon.

“Public building” means office buildings, clubs, churches, schools, hospitals or other places of similar character, but does not include Town-owned buildings that primarily accommodate government functions.

“Putrescible” means capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odor or gasses.

“Recyclable materials” or “recyclables” shall mean a source-separated commodity which is sold for compensation, or given away, but which is not discarded into the residential or commercial waste stream. A recyclable material which is discarded into the residential or commercial waste stream loses its character as recyclable material and becomes solid waste, subject to this ordinance.

“Recycling center” means a facility designed and operated to receive, store, process, or transfer recyclable material which has been separated at the source from other solid waste.

“Refuse” means those discarded materials that have no useful physical, chemical, or biological properties after serving their original purpose and that cannot be reused or recycled for the same or other purposes.

“Residual solid waste” means an insubstantial amount of non-permitted material, as determined by the solid waste management authority, that remains or is left after the separation and removal of legitimate recyclable materials, that cannot be recycled and that must be disposed of as solid waste.

“Rubbish” means nonputrescible wastes, other than source-separated recyclables, that have been discarded or abandoned such as paper, cardboard, automobiles, cans, wood, glass, bedding, crockery and similar materials.

“Sewage waste” means any solid or semisolid waste, including biosolids, sludge, screenings and grit, excluding septic waste and grease trap waste.

“Single-family residence” means a building or dwelling designed or used for single family residential occupancy, where only a licensed home occupation business may be conducted, and includes a mobile home, apartment and other unit in a multiple dwelling which receives individual and heavy and bulky item collection.

“Solid waste” means all putrescible and nonputrescible materials in solid or semisolid form that have been discarded or abandoned by their owner, including garbage, rubbish, junk vehicles and parts, ashes or incinerator residue, street refuse, dead animals, construction or demolition waste, medical waste, sewage waste, recyclable materials that are not commingled with solid waste, and other refuse. The term “solid waste” does not include any of the following:

1. Hazardous waste managed pursuant to NRS 459.400 through 459.600, inclusive.
2. Agricultural waste or mining waste.

“Solid Waste Franchise Agreement” means that certain exclusive agreement between the Town and its franchisee by which such franchisee is authorized to collect, transport, and dispose of solid waste and perform curbside recyclables collection services in the Town.

“Solid Waste Management Authority” has the same meaning as defined in NRS 444.495, as amended.

“Transfer Station” shall mean any of the in-county facilities operated by franchisee, where solid waste or recyclable materials are disposed of, processed, recycled, or transferred for disposal or recycling, including a materials recovery facility.

“Town” means the unincorporated Town of Pahrump, Nevada, including its Town manager and Town Board.

“Town Board” means the duly elected and/or appointed members of the Town Board of the unincorporated Town of Pahrump, Nevada.

“Unforeseen economic circumstance” means

1. A percentage change in the CPI for a given consecutive twelve-month period that is greater than ten percent or below zero (a decrease);
2. An adverse economic occurrence beyond a franchisee’s reasonable control, including but not limited to, adoption of laws, rules, or regulations impacting franchisee’s:
 - i) utilization of its collection equipment (i.e. changes in vehicle emission requirements and/or collection standards);
 - ii) ability to provide additional collection services as required by the Town or other governmental entity; or
3. A finding by the Town Board or other governmental entity that there have been economic occurrences during that period that have caused specific additional economic costs upon a franchisee which are unexpected and not recoverable, nor properly reflected or accounted for in changes to the CPI during that period. As approved by the Town Board and set forth in the solid waste franchise agreement, franchisee shall be permitted to pass through such anticipated fuel costs to its customers in accordance with the fuel rate standards adopted and published by the Energy Information Administration (EIA), “west coast,” which surcharge shall be reflected as a separate and distinct line item on all customer billings and invoices. Price adjustments shall not be permitted to be assessed more than one time per month upon submission by franchisee and approval of same from the Town manager.

43.030 Provisions for collection and disposal of solid waste in franchise area.

The Town Board of the Town of Pahrump may, by contract or franchise agreement, or in any manner such Town Board members may deem necessary for the protection of the health, safety, and welfare of the inhabitants of the Town, provide for the collection and

disposal of solid waste and recyclables from residences, multiple dwellings with or without kitchen facilities, places of business and public buildings, at the expense of the Town or otherwise.

43.040 Franchisee subject to rules and regulations.

A. Grant of Exclusive Franchise

A franchisee entering into an exclusive solid waste franchise agreement or contract with the Town to the collect, transport, process, or dispose of solid waste, hazardous waste or recyclable materials, shall be subject to the ordinances, rules, and regulations of the Town, the State of Nevada, by and through the Nevada Department of Environmental Protection, and the federal government. Franchisee shall pay a quarterly franchise fee based on its gross receipts derived from the collection of solid waste for the preceding calendar quarter, as approved by the Town Board and specified in the solid waste franchise agreement.

B. Solid Waste Handling and Medical Waste Collection

The franchisee entering into a solid waste franchise agreement or contract with the Town for collecting, transporting, processing, or disposal of solid waste shall have the exclusive right to provide all solid waste handling and medical waste collection services within the franchise service area. Franchisee shall provide curbside collection of solid waste to all generators, including residences and business establishments within the franchise service area. Except as otherwise specifically provided in this chapter, no other person or entity shall collect solid waste within the franchise service area in return for any compensation. Franchisee shall also have the exclusive right to provide debris boxes/roll offs for the collection of solid waste materials (including, but not limited to, construction or demolition debris) from construction sites, commercial sites, residential sites, and agricultural sites. The Town and/or its franchisee shall take all required corrective actions against any violation of franchisee's exclusive rights conferred under this chapter and/or solid waste franchise agreement.

C. Curbside Recycling Collection

Franchisee shall have the sole and exclusive right to provide curbside recycling collection within the franchise service area, and collect recyclable solid waste within the franchise service area in exchange for compensation from the generator. This subsection shall not limit franchisee from collecting recyclable materials for no compensation, nor shall it prohibit franchisee from purchasing recyclable materials. Except as otherwise provided in this chapter, no other person or entity shall collect or recycle curbside recyclable materials within the franchise service area in return for compensation.

D. Transportation and Disposal of Collected Materials

Franchisee shall have the sole and exclusive right and obligation to collect solid waste and recyclable materials for compensation, and franchisee shall have the sole and exclusive right and obligation to transport all solid waste and recyclable materials from the point of collection to any appropriate transfer station, storage, sorting, processing, or buy-back facility or properly designated disposal facility for compensation. Except as otherwise provided in this chapter, no other person or entity shall transport or dispose of solid waste or recyclable materials within the franchise service area in return for compensation.

E. Additional Services

Franchisee shall have the right of first refusal to provide any other exclusive services concerning solid waste, recyclable materials, or any other classification of wastes or recyclable/reusable materials not granted specifically under this chapter or solid waste franchise agreement. Any request for such new services to be provided by franchisee shall be made by Town pursuant to this chapter and the solid waste franchise agreement.

F. Annual Clean Up Week

For either one week during the month of either March, April, or May during a week mutually satisfactory to Town and franchisee, or other Town sponsored clean-up events, franchisee shall collect without additional charge up to one (1) cubic yard (seven 32 gallon cans or equivalent) of solid waste from each residential customer within the Town, provided that such items are placed at curbside in thirty-two (32) gallon cans, company-issued carts, bags, or bundled.

Franchisee will make special arrangements with the waste generator for collection of non-hazardous bulky waste materials which cannot be collected at curbside.

43.050 Franchise Service Area

The exclusive solid waste franchise agreement granted by this chapter shall be applicable to all residential and commercial areas within the current boundaries of the unincorporated Town of Pahrump, and any geographical expansions thereto. Should the Town, at any point, incorporate or otherwise change its entity status, such change in status shall not in any way impair the exclusive rights, privileges, and obligations conferred upon franchisee under this chapter and the solid waste franchise agreement, which rights, privileges, and obligations shall remain in full force and effect.

43.060 Mandatory Subscription, Collection of Delinquent Charges, Fees, Penalties, and Exclusions.

A. Except as otherwise provided in subpart F(4) below, it shall be mandatory for any person owning, occupying or managing any premises in the Town which is connected to electrical service to subscribe to solid waste collection service provided by the Town or its authorized franchisee, and to pay the charges set forth in the solid waste

franchise agreement and as specified in this chapter if any complaints from neighbors are received by the Town or franchisee.

- B. All charges for regular or periodic service provided by the Town, its franchisee, or their duly appointed agents, pursuant to this chapter, shall be billed on the first business day of the quarterly or monthly billing period, as applicable, and shall be due and payable on the last day of the billing month; provided, however, that charges for on-call service may be billed at the time of service. All charges for services under this chapter, including the penalties for delinquent payment, shall constitute a debt and obligation of the legal owner of the premises, and such person shall be liable therefore in a civil action commenced by the Town or its franchisee in any court of competent jurisdiction for the recovery of such charges and penalties.
- C. If any person fails to pay the charges authorized by the day they become due and payable, a penalty shall be added thereto of three (\$3.00) dollars per quarter (or fraction thereof) for residential accounts and two percent per month (or fraction thereof) of the delinquent amount for commercial accounts.
- D. A customer shall be entitled to a refund of any advance payment for service he or she has made upon presenting proof that a connection to electrical service did not exist at the customer's premises during the entire billing period for which the advance payment was made, or upon presenting proof that he or she has self-hauled solid waste from his or her premises at least once every twenty-one (21) days for the collection period in which an exemption is sought. All refunds from the franchisee to a customer shall be paid within thirty days from the date of the customer's request for reimbursement or date of franchisee's knowledge that a refund is owed.
- E. This Ordinance shall not apply to nor prohibit:
 - 1. Gardeners and landscapers from collecting and/or transporting green waste directly resulting from such gardening or landscaping activities;
 - 2. Any person from selling recyclable materials or giving away free of charge recyclable materials to persons or entities other than franchisee; provided however, in either instance:
 - a. The recyclable materials must be source-separated by the generator and not co-mingled with other solid waste; and
 - b. The seller/donor may not pay the buyer/donee any consideration, directly or indirectly, for the collection, processing, and/or transferring of such recyclable materials. Any rebate, discount, or reduction of price for collection, disposal and/or recycling services of any form of source-separated or co-mingled recyclable solid waste is not a sale or donation of recyclable materials within the meaning of this exclusion.
 - 3. Any person from self-hauling solid waste generated at his or her own single family residence or generated at his family's, friend's or neighbor's single family residence, provided that such person does not receive compensation for such hauling;
 - 4. Any person from not subscribing to solid waste collection service for his or her single-family residence if:
 - a. Such single-family residence is not inhabited either full-time or part time, or

- b. Such person is self-hauling all solid waste generated at his or her single-family residence to a duly licensed and permitted disposal facility.
 - ↳ In order to not subscribe to solid waste collection service pursuant to this section, a person must be free of any complaints levied against them by neighbors to the Town relating to solid waste or provide proof that the premises is not inhabited, such as proof that no electrical service to the premises is provided, or provide proof for the collection period in which an exception is sought that the person has self-hauled all solid waste from his or her premises at least once every twenty-one (21) days to a duly licensed and permitted solid waste disposal facility. A reasonable fee, as approved by the Town Board and set forth in the solid waste franchise agreement may be charged to establish or re-establish service to a premises when service is requested.
5. Any business entity from recycling within its operation any internally used or produced item, which in the normal course of business would be transferred from one branch, subsidiary, or agent to another branch, agent, or subsidiary, and does not involve co-mingling of said recyclables with recyclable materials generated outside of the normal business operation, or being co-mingled with other solid waste;
6. Nothing in this chapter is intended to or shall be construed to excuse any person or entity from obtaining all appropriate authorizations and/or permits from the Town, or as otherwise required by law.

43.070 Prohibited Methods of Disposal.

It is unlawful for any person to:

- A. Throw or deposit, or cause to be thrown or deposited, in any street, alley, gutter or highway within the Town, any solid waste, hazardous waste or recyclables.
- B. Throw or deposit, or cause to be thrown or deposited, any solid waste, hazardous waste or recyclables upon the public or private property or premises or into the container any other person, business, or entity within the Town, unless the container is designated for public use except as may be provided for in this chapter.
- C. Place, deposit or accumulate, or cause to be placed, deposited or accumulated, any solid waste, hazardous waste or recyclables in such a manner, or permit the same to remain on his or her premises in such condition so that the same may be blown or carried over to public or other private property by any means whatsoever.
- D. Allow solid waste and hazardous waste to accumulate upon the premises under his or her control in an amount which is detrimental to the public health or safety or which results in unsightly or unsanitary conditions.
- E. Throw or deposit, or cause to be thrown or deposited, any solid waste, hazardous waste or recyclables in any areas of the Town not designated, authorized or licensed by Town for deposit of these materials.
- F. Hire, contract, or pay compensation for the services of any unlicensed hauler to collect, transport, or dispose of solid waste.
- G. Identification of the owner of any solid waste which is disposed of in violation of this section creates a reasonable inference that the owner is the person who disposed

of the solid waste. The fact that the disposal of the solid waste was not witnessed does not, in and of itself, preclude the identification of its owner.

43.080 Burning of Solid Waste or Recyclables.

It is unlawful for any person, for the purpose of disposal of solid waste, hazardous waste or recyclable materials by burning, to kindle or maintain any bonfire, or knowingly to furnish the materials for any such fire, or to authorize any such fire to be kindled or maintained in any solid waste, hazardous waste or recyclables container, or on any street, alley, road, land or other public grounds or upon any private property, within the Town, unless a written permit to do so shall first have been secured from the Town fire department; provided, however, that solid waste and infectious waste may be burned in an incinerator duly approved by the fire chief, the building inspector, and the air pollution control officer.

43.090 Collecting or Transporting of Solid Waste or Recyclables.

Except in case of an emergency declared by the Town Board under section 43.100, it is unlawful for any person, other than the Town, its franchisee or their duly appointed agents, to collect or transport any solid waste, or provide curbside recyclables collection service; provided, however, that:

- A. Any duly licensed and permitted septic tank or grease trap pumpers, licensed yard maintenance services and tree trimmers may transport those materials accumulated in or generated by the performance of licensed services to a transfer station or a disposal site operated by the Town or its franchisee.
- B. Any person may directly deposit his or her own solid waste or that of their family, friends, or neighbors to a duly permitted transfer station or a disposal site operated by the Town or its franchisee as long as that person is not compensated in any manner for doing so.
- C. Any person may directly transport source-separated recyclables of his or her family, friends or neighbors to recycling centers or drop-off centers as long as that person does not receive any compensation for doing so.
- D. A commercial recycler or a charitable organization qualified under the Federal Internal Revenue Code may collect source-separated recyclables from any premises at the express request of the owner, tenant or occupant and may transport those recyclables to drop-off centers or recycling centers.

43.100 Emergency Collections.

- A. In the event of an interruption in the collection, transportation or disposal of solid waste and recyclable materials by the Town or its franchisee, problems affecting the public health, safety and welfare may arise. These problems may include increases in pathogens, vectors, fire hazards, unsightly litter, odor and traffic hazards from the accumulation of solid waste and recyclables. The purpose of this section is to provide for the temporary collection, transportation and disposal of solid waste and

recyclables by private citizens, during such declared emergency, in order to minimize the adverse impact on the public health, safety and general welfare arising from an interruption in the collection, transportation and disposal of solid waste and recyclables.

- B. In the event of an interruption in the collection, transporting or disposal of solid waste and recyclables by the Town or its franchisee, the Town Board may declare an emergency, upon adoption of such declared emergency by a four-fifths (4/5) vote.
- C. If the Town Board declares an emergency under subsection B of this section, the provisions of section 43.090, which relate to collecting and transporting of solid waste and recyclables, shall be suspended and the following provisions shall apply until the date specified in the declaration of emergency or in a subsequent declaration:
 - 1. The Town manager may designate, establish, operate, and maintain temporary; emergency collection areas for solid waste and recyclables;
 - 2. Any person may transport his or her own solid waste and recyclables or that of their family, friends, or neighbors generated at such residence and/or business to a designated temporary emergency collection area; and
 - 3. Until hauled to a designated temporary emergency collection area, all putrescible solid waste shall be stored indoors in securely tied plastic bags or outdoors in containers which will not permit access by flies or animals or constitute a fire hazard.

43.110 Interference with Containers Prohibited.

- A. It is unlawful for any person other than the owner, the Town or its franchisee, or their duly appointed agents, to interfere in any manner with any containers containing solid waste or recyclables or to remove any such container from the location where placed for pickup by the Town or its franchisee.
- B. It is unlawful for any person, other than the operator of a drop-off center, or its duly appointed agent, to interfere with or remove any recyclables from a drop-off center.

43.120 Requirements as to Carts and Vehicles.

It is unlawful to use any cart or vehicle for the transportation or removal of solid waste or recyclables unless such cart or vehicle is appropriately constructed and covered in accordance with NRS Chapter 484 to prevent or minimize odors from or leakage, sifting, spilling, drifting or blowing of such solid waste or recyclables in or upon the streets through which such cart or vehicle may be driven.

43.130 Containers Required.

Every person owning or managing any premises, or any person responsible for obtaining solid waste disposal service at any premises, except as otherwise provided in this chapter, shall receive one or more containers provided by franchisee, sufficient for the depositing of all solid waste from the premises pursuant to the minimum container requirements of

this chapter. The solid waste franchisee may rent or sell solid waste containers to its customers pursuant to the rates approved by the Town Board and specified in the solid waste franchise agreement, but responsibility for placement of such rented containers remains with the person owning or managing the premises.

43.140 Container Requirements.

- A. At any residence that receives individual curbside collection service, each container provided by franchisee shall be designed and be capable of being emptied by mechanical or hydraulic equipment.
- B. Except for manual type drop-box containers listed in this chapter, solid waste containers shall be constructed watertight and shall be equipped with handles and covers appropriate to the container design. Each such container and cover provided by franchisee shall be made of a material approved for such use by the Town. Covers shall not be removed except when necessary to place solid waste therein. Each container and its cover shall be kept clean by customers from accumulating grease and decomposing material.
- C. Any non-residential customer who has a container overflowing with solid waste at the time of collection shall be subject to an overflow charge pursuant to section 220 of this chapter.

43.150 Removal of Contents of Containers Prohibited.

- A. No person other than the owner, Town, its franchisee (or franchisee's agents) may remove any solid waste or recyclables from the solid waste containers or recyclables containers that are intended for pickup by the franchisee as part of its solid waste collection and recyclables collection programs;
- B. No person other than the owner or operator of a drop-off center, or their authorized agents, may remove recyclables from the drop-off center or recyclables that have been bundled, boxed, tied or otherwise collected and placed adjacent to the drop-off center.

43.160 Solid Waste to be Placed in Containers – Exceptions.

- A. All solid waste shall be placed in an appropriately sized container; provided, however, that in a residential district under the zoning and/or land use regulations of the Town, tree trimmings, scrap lumber, and other such solid waste may be bundled in accordance with subsection B, if securely tied and placed at curbside on a scheduled collection day.
- B. Items bundled pursuant to this section shall not exceed three feet in length nor weigh more than fifty pounds.

43.170 Containers in Residential Areas Removed from Public View – Placement for Collection.

- A. It is unlawful in any district classified as residential district, under the zoning regulations of the Town to place, keep, store or locate within the public right-of-way

of a street or sidewalk, any solid waste or recycling container; provided, however, that such container may be placed within such area, but not within vehicle lanes so as to permit unimpeded passage or vehicular traffic, for the purpose of the collection thereof no earlier than two p.m. on the day prior to a designated collection day and must be removed no later than midnight on the designated collection day.

- B. A franchisee shall not be required to pick up solid waste or recyclables from any location that the franchisee, subject to the Town's approval, determines is not safe to access with its disposal vehicles due to space limitations restricting vehicle access or maneuverability, including maneuvers requiring the unsafe backing up of vehicles.

43.180 Storage of Containers in Commercial Areas.

On any multi-family, commercial or industrial premises, it is unlawful to place, keep, store or locate any solid waste or recyclables container within the right-of-way of a street, sidewalk or alley. Containers shall be stored within an enclosure if an enclosure was required in connection with development approval or is otherwise provided on the premises.

43.190 Charges – Residential and Multiple Dwellings.

- A. The charges for collecting, transporting and disposing of solid waste, and collecting and transporting recyclables, at residential premises shall be determined by approval by the Town Board and set forth in the solid waste franchise agreement irrespective of occupancy. The Town manager, its franchisee and specific property owners in designated controlled areas may agree upon alternate collection schedules for specified test periods for the purpose of testing alternate collection/recycling options.
- B. The charges for collecting, transporting and disposing of solid waste at multiple dwellings, and for multiple dwellings up to three dwelling units as the individual living units therein, shall be determined by approval by the Town Board and set forth in the solid waste franchise agreement regardless of whether any of the units are vacant. Multiple dwellings shall provide a minimum of one 95 gallon mobile solid waste container, and shall be allowed no more than two 96 gallon mobile containers, for use by the occupants of the premises.
- C. A multiple dwelling generating solid waste in excess of two 96 gallon mobile containers will be required to replace the two mobile containers with one or more cubic yard type containers sufficient to store the solid waste generated on the premises until its scheduled collection day to prevent overflow. Any overflow shall be subject to overflow charges in accordance with section 220 of this chapter.
- D. All charges for single-family residences, duplexes and multiple dwellings pursuant to this section shall be billed quarterly in advance, subject to applicable CPI rate adjustments made pursuant to this chapter, and in accordance with the solid waste franchise agreement.

43.200 Charges – Places of Business and Public Buildings.

- A. Unless specifically excepted in this Ordinance, franchisee shall charge for collecting, transporting and disposing of solid waste from places of business and public buildings a fee determined by the number and type of containers required by each such place of business or public building and by the number of collections each week in accordance with the solid waste franchise agreement. The franchisee shall charge for collecting, transporting and disposing of compacted solid waste, from containers other than compaction-type drop boxes, three times the otherwise applicable charge.
- B. Each place of business or public building premises shall provide a minimum of one 96 gallon mobile container for depositing its solid waste, and shall be allowed no more than two 96 gallon mobile containers. Premises generating solid waste in excess of two 96 gallon mobile containers shall replace the two mobile containers with one or more cubic-yard containers sufficient to store, and prevent overflow of, the solid waste generated on the premises until its scheduled collection day. Any overflow shall be subject to overflow charges in accordance with section 230 of this chapter.
- C. All monthly charges approved by the Town Board and set forth in the solid waste franchise agreement shall be billed as set forth therein. All charges set forth in this section shall be subject to applicable CPI rate adjustments made in accordance with the solid waste franchise agreement.
- D. Rates for contracted solid waste compactor service shall be set in accordance with compactor size and number of pulls per week as approved by the Town Board and set forth in the solid waste franchise agreement and subject to applicable CPI rate adjustments authorized pursuant to this chapter.

43.210 Charges – Container Rentals – One-Time On-Call Collections.

The franchisee shall be permitted to charge for container rentals and special one-time collection for single-family residences, multiple dwellings, places of business and public buildings a fee as approved by the Town Board and set forth in the solid waste franchise agreement and subject to applicable CPI adjustments therewith, depending on the container size rented.

43.220 Charges – Overflowing Solid Waste.

- A. The owner of a premises, other than a premises of a single-family residence, duplex or mobile home park with individual solid waste collection service, whose solid waste container or containers have overflowing solid waste prior to being emptied on collection day, shall be subject to an overflow charge, which may be billed at the time of service as an on-call service, in the amount approved by the Town Board and set forth in the solid waste franchise agreement subject to applicable CPI adjustments authorized under this chapter.
- B. No overflow charges may be assessed:

1. Until written notice of an overflow delivered by regular U.S. mail, e-mail, facsimile or personal delivery has been provided to the owner or manager of the premises, and a subsequent overflow occurs at the premises within ninety days:
 - a. After such notice has been given; or
 - b. After the last overflow charge has been assessed at the premises, and there is significant overflow from the container as defined in this chapter and as evidenced by a photograph, and the overflow actually has been collected by the Town or its franchisee.
 2. For overflow that is caused by a prior collection being missed or being performed improperly, or by containers being repositioned by a franchisee after collection such that a container is inaccessible to tenants of the premises resulting in overuse of and overflow occurring in another container.
 3. For overflow that is caused because the time of day of collection was more than four hours later than the time of day when the last regularly scheduled collection occurred.
- C. Overflow charges assessed pursuant to this chapter may be waived by the Town manager, or his/her designee, or a franchisee if it is determined that the owner or manager of the premises has taken reasonable steps to avoid future overflows, including but not limited to, increasing the container capacity and/or collection frequency on the premises, installing locks on the lids of the containers and/or on access gates to curtail illegal dumping by third parties, or other property-management measures designed to avoid overflows.

43.230 Charges – Medical Waste.

A franchisee's basic and additional service charges per container for preparation, collection, transportation and disposal of medical waste, and the charges for the optional purchase and rental of medical waste containers shall be determined in accordance with the service level utilized, as approved by the Town Board and set forth in the solid waste franchise agreement. All charges for medical waste service, except for on-call service, which will be billed at the time of service, shall be billed monthly in advance.

43.240 Charges – Sewage Waste.

The franchisee shall charge rates as approved by the Town Board and set forth in the solid waste franchise agreement for sewage waste disposal service.

43.250 Charges Not Applicable to Certain Types of Waste.

The charges specified in the solid waste franchise agreement and this chapter for collecting, transporting and disposing of solid waste shall not apply to septic tank waste, grease trap waste, or landscaping or tree-trimming waste handled in accordance with this chapter, and franchisee may set its own rates for the collection, transportation and disposal of such solid waste.

43.260 Charges – Billing – Penalty – Lien.

All solid waste collection charges or fees authorized and established by this chapter, including any penalties assessed under section 43.060, shall constitute a lien upon the real property of the premises served until such charges and fees have been paid. Such lien shall be enforced in the manner specified in NRS 444.520.

43.270 Charges – Rate Changes.

- A. The rates and charges established pursuant to this chapter shall be adjusted annually, based upon the percentages of change in the CPI.
- B. Rate adjustments shall be made effective July 1 each year, and shall be based upon the percentage change in the annual average of the CPI for the twelve-month period ending December 31 immediately preceding the effective date of the rate adjustment.
- C. In addition to a fuel surcharge, when an unforeseen economic circumstance has occurred during a given twelve-month period, the Town Board may consider and may approve a method for adjusting rates which is not based on changes to the CPI. In any year following a period when the adjustment to rates was based on some other method, rate adjustments shall again be based on changes in the CPI. A minimum of one annual rate adjustment, based upon the CPI method, must occur between annual rate adjustments based on methods other than the CPI method.
- D. In the event the County of Nye imposes tipping fees or dump fees upon franchisee, franchisee may recover those fees actually paid by franchisee to County without petition and/or consent of the Town Board, and may pass through such increases to franchisee's customers in order to recover such costs.

43.280 Customer Service Standards.

- A. Franchisee shall be required to implement a complaint resolution procedures to handle all complaints receive by either the Town or franchisee. The complaint resolution procedure shall include: 1. Franchisee recording all complaints and making every effort to investigate and resolve them within forty-eight hours of receipt.
- B. If the Town is not satisfied with the franchisee's proposed resolution of a complaint, the Town manager shall have the authority to direct the franchisee to resolve the complaint in a manner that is satisfactory to the Town.
- C. Upon request, the franchisee shall provide Town with a written monthly report, in a form satisfactory to the Town, summarizing the complaints received by the franchisee and the resolutions thereof for the preceding month.
- D. Franchisee shall designate a person, and provide contact information, for Town to contact in connection with complaints received by the Town.

43.290 Repair and Replacement Standards for Franchisee's Containers.

- A. If a solid waste container supplied by franchisee to a customer receives damage caused by franchisee's own actions or through normal wear and tear, franchisee

shall, at its own cost, fix or replace the container no later than seven calendar days after franchisee has been notified of the damage.

- B. For purposes of this section, franchisee shall be deemed to have been notified that a container has been damaged when franchisee's collection worker arrives to collect the solid waste from a container and finds the container damaged, or when a premises owner or manager notifies franchisee in writing or by phone that a container is damaged, whichever occurs first.
- C. If franchisee misses or improperly performs a scheduled collection for a non-residential customer, resulting in solid waste that the customer has properly put out for collection not being collected, within twenty-four hours of receiving notice of such missed or improper collection franchisee shall send a second vehicle to the premises to properly collect such solid waste.
- D. If franchisee fails to fix or replace one of its damaged solid waste containers rented by a non-residential customer, or correct a missed or improper collection, or properly position a container for a non-residential customer, in accordance with this section, franchisee shall automatically issue a pro-rata credit to such customer's account until the damaged or misplaced container is serviceable or properly placed, or for the missed or improper collection, based on the charges for regularly scheduled collection service to the premises for the applicable billing period, regardless of whether the customer makes any request for such a credit.

43.300 Solid and Hazardous Waste a Nuisance.

Solid waste and hazardous waste, as defined and for the purposes of this chapter, are deemed a nuisance per se.

43.310 Unauthorized Disposal Prohibited.

No solid waste or hazardous waste collected from the public and private places and premises in the Town shall be deposited at any place within the Town limits except at a properly permitted materials recovery facility or solid waste disposal facility legally authorized by the Town, or such solid waste management authority having jurisdiction over such facility.

43.320 Penalty for Violation.

- A. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and subject to the following penalties:
 - 1. Upon conviction of a first offense shall be sentenced to pay a fine of not less than two hundred (\$200.00) dollars nor more than one thousand (\$1,000.00) dollars, or by imprisonment for not more than six months in the Town jail, or by both such fine and imprisonment.
 - 2. Upon conviction of a second offense shall be sentenced to a pay a fine of not less than five hundred (\$500.00) dollars nor more than one thousand (\$1,000.00) dollars or by imprisonment for not more than six months in the Town jail, or by both such fine and imprisonment.

3. Upon conviction of a third offense shall be sentenced to pay a fine of not less than one thousand (\$1,000.00) dollars and be imprisoned for a minimum of ten days in the Town jail, not to exceed six months.
- B. Every day that a violation occurs, exists, or is allowed to exist or continue, shall constitute a separate offense.

43.330 Injunctive Relief

The Town and/or its franchisee, in addition to the remedies and penalties above named, may seek injunctive relief against any violator of this chapter, with or without prior notice, to prevent or correct any solid waste, hazardous waste or recyclable materials problem.

43.340 Rights of Owners to Dispose of Recyclable Materials.

Nothing in this chapter shall limit the right of any person to donate, sell, or otherwise legally dispose of his or her source-separated recyclable materials.

43.50 Effective Date.

The ordinance codified in this chapter shall be effective on the 31st day after its adoption by the Town Board.

43.360 Severability.

If any section, subsection, subdivision, paragraph, clause or provision of this chapter shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section or subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this chapter.

43.370 No Conflict.

All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Ordinance of the Town of Pahrump, Nevada, in conflict herewith, are hereby repealed and replaced as necessary.

Proposed by Town Board Member VICKY PARKER

Seconded by Town Board Member BILL DOLAN

Adopted on the 9th day of June, 2009.

Vote 4-1

Ayes

Nays

NICOLE SHUPP

MIKE DARBY

VICKY PARKER

BILL DOLAN

FRANK MAURIZIO

ATTEST:

Mike Parker

Town Board Clerk

Nicole Shupp

Town Board Chairperson