

PAHRUMP TOWN ORDINANCE NO. 71

SUMMARY: An ordinance amending Pahrump Town Ordinance Chapter 20, titled Solid Waste, Article III, titled Franchises, Section 20-50, titled Definitions by amending the definition of CPI to provide for the specific CPI rate relating to garbage and trash.

TITLE: AN ORDINANCE AMENDING PAHRUMP TOWN ORDINANCE CHAPTER 20, TITLED SOLID WASTE, ARTICLE III, TITLED FRANCHISES, SECTION 20-50, TITLED DEFINITIONS BY AMENDING THE DEFINITION OF CPI TO PROVIDE FOR THE SPECIFIC CPI RATE RELATING TO GARBAGE AND TRASH, AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, NRS 444.440, the Nevada Legislature has declared it to be the policy of Nevada to regulate the collection and disposal of solid waste in a manner that will: (1) Protect public health and welfare; (2) Prevent water or air pollution; (3) Prevent the spread of disease and the creation of nuisances; (4) Conserve natural resources; and (5) Enhance the beauty and quality of the environment; and

WHEREAS, pursuant to NRS 444.440 to 444.645, inclusive, Nye County is authorized and required to provide for a solid waste management system which adequately provides for the management and disposal of solid waste within the boundaries of the county, whether generated within or outside of the boundaries of the area; and

WHEREAS, pursuant to NRS 244.119 and 269.155, the Nye County Board of Commissioners (Board) is authorized to amend the Pahrump Town Ordinance.

NOW, THEREFORE, pursuant to NRS 244.110, the Board of County Commissioners of the County of Nye, State of Nevada, does ordain:

Sec. 20-50. 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 [by] 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, Garbage and trash collection, 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 25 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:

- (1) The diagnosis, treatment or immunization of human beings or animals;
- (2) Research pertaining to the diagnosis, treatment or immunization of human beings or animals; or
- (3) The production or testing of biological products.
- (5) 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 article.

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:
 - a. Utilization of its collection equipment (i.e., changes in vehicle emission requirements and/or collection standards);
 - b. 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), "wet 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.

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

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CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 4th day of January, 2021.

Adopted on the 15th day of December, 2020

Vote: Ayes: Commissioners: Koenig, Strickland, Wichman, Blundo, Cox
 Nays: Commissioners: Ø
 Absent: Commissioners: Ø

BY: Louinda A. Wichman 12.10.20
John Koenig, Chairman
Nye County Board of
County Commissioners

ATTEST: Becky L. Sidman
Sandra K. Merlino
Clerk and Ex-Officio
Clerk of the Board