

BILL NO. 2017-14

NYE COUNTY ORDINANCE NO. 516

SUMMARY: An Ordinance amending Nye County Code Title 8, Health and Safety, by amending Chapter 8.24 Solid Waste Management; and other matters properly related thereto.

TITLE: AN ORDINANCE AMENDING TITLE 8 OF THE NYE COUNTY CODE, TITLED HEALTH AND SAFETY, CHAPTER 8.24, TITLED SOLID WASTE MANAGEMENT, BY AMENDING 8.24.020 DEFINITIONS; AMENDING 8.24.030 AUTHORITY OF BOARD OF COUNTY COMMISSIONERS; AMENDING 8.24.040 AUTHORITY TO ISSUE CITATIONS; AMENDING 8.24.050 LICENSE REQUIRED FOR SOLID WASTE HAULERS; AMENDING 8.24.060 LICENSE APPLICATION; AMENDING 8.24.080 VEHICLE INSPECTIONS; AMENDING 8.24.090 INSURANCE REQUIREMENTS; AMENDING 8.24.100 REVIEW OF RECORDS AND OPERATIONS; AMENDING 8.24.110 CONTRACTORS SUBJECT TO RULES AND REGULATIONS; AMENDING 8.24.120 UNLAWFUL DISPOSAL OF SOLID WASTE; AMENDING 8.24.140 BURNING OF SOLID WASTE OR RECYCLABLES; AMENDING 8.24.160 SOLID WASTE RECEPTACLES; AMENDING 8.24.170 PLACEMENT OF SOLID WASTE IN RECEPTACLES; EXCEPTIONS; AMENDING 8.24.180 LOCATION OF SOLID WASTE RECEPTACLES; AMENDING 8.24.190 INTERFERING WITH OR REMOVAL OF RECEPTACLES; AMENDING 8.24.200 REMOVAL OF SOLID WASTE FROM RECEPTACLES; AMENDING 8.24.210 DEPOSIT OF SOLID WASTE AT AUTHORIZED DISPOSAL SITES; AMENDING 8.24.220 DEPOSIT OF SOLID WASTE AT AUTHORIZED DISPOSAL SITES; EXCEPTIONS; AMENDING 8.24.230 USE OF UNMANNED DISPOSAL SITES RESTRICTED; AMENDING 8.24.240 FEES FOR DISPOSAL OF SOLID WASTE AT FACILITIES; AMENDING 8.24.250 WAIVER OF USE FEES; AMENDING 8.24.280 AUTHORIZATION; 8.24.290 FRANCHISE AGREEMENT; AMENDING 8.24.310 RIGHTS OF FRANCHISEE; AMENDING 8.24.330 PERFORMANCE BOND; AMENDING 8.24.350 PRIVATE COLLECTION; PURPOSE; AMENDING 8.24.360 PRIVATE COLLECTION; EMERGENCY DECLARATION; AMENDING 8.24.370 PRIVATE COLLECTION; REGULATIONS; AMENDING 8.24.440 APPLICATION, MONITORING AND LOAD FEES; AMENDING 8.24.450 BONDING; AMENDING 8.24.460 ANNUAL REVIEW AND RENEWAL OF PERMIT; AMENDING 8.24.470 REVIEW OF RECORDS AND OPERATIONS; AMENDING 8.24.580 APPLICATION, MONITORING AND LOAD FEES; AMENDING 8.24.660 PENALTY FOR VIOLATION; AMENDING 8.24.670 INJUNCTIVE RELIEF; AMENDING 8.24.680 RECYCLABLE MATERIALS; RIGHTS OF OWNERS; AND OTHER MATTERS PROPERLY RELATING THERETO; 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 444.748, 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, the Nevada Division of Environmental Protection has adopted regulations regarding the design and operation of solid waste facilities located within Nevada; and

WHEREAS, pursuant to NRS 444.510 and the regulations adopted by the Nevada Division of Environmental Protection, the Nye County Board of Commissioners has developed a Solid Waste Management Plan for Nye County; and

WHEREAS, pursuant to NRS 444.520, the Board of County Commissioners is authorized to enact an ordinance providing for the levy and collection of fees and charges and the issuance of licenses as may be appropriate and necessary to meet the Board of County Commissioners' responsibilities, as enumerated in NRS 444.460 to 444.610, inclusive; and

WHEREAS, pursuant to NRS 444.530, the Board of County Commissioners must enact an ordinance establishing regulations for the operation of Nye County's solid waste management system.

NOW, THEREFORE, the Board of County Commissioners of the County of Nye, State of Nevada, does hereby ordain as follows:

NYE COUNTY CODE IS HEREBY AMENDED AS FOLLOWS, with shown in strike-through red font, and additions and modifications shown in underscored blue font:

8.24 SOLID WASTE MANAGEMENT

8.24.020: DEFINITIONS:

In construction of this chapter, the following definitions shall apply, unless the context clearly requires otherwise:

ASBESTOS: Any substance or material which contains the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite, or actinolite.

ASHES: The residue from the burning of wood, coal, coke, or other combustible solid waste.

BOARD: The Board of County Commissioners

BUSINESS DAY: Weekdays, Monday through Friday, excluding Saturday, Sunday and all state and federal holidays.

CALENDAR DAY: A period from midnight on a given day of the week to midnight on the day of the week.

COLLECTION: The act of removing solid waste from storage at the place of waste generation.

COMMERCIAL RECYCLER: A licensed solid waste hauler that is permitted to collect and transport recyclables pursuant to Section 8.24.310F below.

COMMERCIAL SOLID WASTE: All types of solid waste generated by stores, offices, and other commercial sources excluding residences, and excluding industrial wastes.

COMPACTED: Reduced in volume by two-thirds ($\frac{2}{3}$) or more, but not weight, by mechanical equipment.

COMPOSTING: A controlled process of biological degradation of solid waste to an inoffensive humus-like product.

CONSTRUCTION OR DEMOLITION DEBRIS: Solid waste resulting from the construction, remodeling, repair, and/or demolition of buildings and other structures, those solid wastes including, but not limited to, wood, plaster, metals, asphaltic substances, bricks, block, and concrete and excavation dirt, rock, stone and gravel. The term does not include uncontaminated soil, rock, stone, gravel, unused brick and block and concrete if they are separate from other solid waste construction or demolition debris and are to be used as clean fill.

DISPOSAL: The deposit, discharge, or injection of any solid or liquid waste at an approved location intended for final disposition of that waste.

DISPOSAL SITE: Any land area used for the final disposal of solid waste, provided that the term does not include land used for the disposal of solid waste from a single-family residence, store, office or other commercial source, an occupant of which is the owner, occupant or lessee of the land.

FRANCHISEE: Any person who has contracted with the County or any municipality within the County for the exclusive collection of solid waste and/or recyclables.

FRIABLE ASBESTOS: Any material containing more than one percent (1%) asbestos by weight that hand pressure can crumble, pulverize, or reduce to powder when dry. (Only Permitted Landfills)

GARBAGE: Putrescible animal and vegetable wastes resulting from the handling, storage, sale, preparation, cooking and serving of food.

GENERATOR: The person, business, corporation or facility that is directly responsible for the generation of a waste material.

HAZARDOUS WASTE: Those wastes that can cause injury, disease or property damage including, but not limited to, explosives, pathological wastes, radioactive materials and chemicals, and/or meet the criteria for Hazardous Waste in Nevada Administrative Code (NAC) 444.8632 (includes radioactive wastes)(or anything considered Hazardous Waste by the state of origin).

INCINERATOR: An engineered waste burner specially designed and constructed for the sole purpose of burning solid waste.

INDUSTRIAL WASTE: Solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of the Resources Conservation Recovery Act "RCRA".

INFECTIOUS WASTE: Waste materials derived in whole or in part from:

- A. Cultures and stocks of infectious agents and associated biological materials;
- B. Pathological wastes;
- C. Contaminated animal carcasses and body parts;
- D. All sharps;
- E. Human blood and blood products;
- F. Byproduct waste such as, but not limited to, dressings, bedding, swabs, pads and gloves; and/or
- G. Invasive disposable equipment which has been, or may have been, in contact with known infectious materials.

LANDFILL: An area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile.

LICENSING AUTHORITY: The Board of County Commissioners.

MINING WASTE: Solid waste residues which result from mining operations and which are dumped in permitted landfills on the land owned or leased by the mining operation that extracted them. For purposes of this Chapter, these residues do not include overburden, heap leach materials, waste rock or soil, and other earth deposits resulting from extractive operations.

MULTIPLE DWELLINGS: Apartments and any other collection of two (2) or more residences which are grouped together under the management of one person and which do not require separate individual collection of solid waste.

MUNICIPAL SOLID WASTE LANDFILL: Any landfill or landfill unit that receives household solid waste, commercial waste, nonhazardous industrial waste, dried sewage sludge, or construction/demolition debris.

MUNICIPALITY: Any city or town within the County, whether incorporated or unincorporated.

NUISANCE:

- A. Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property;
- B. A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog;
- C. A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog, and:
 - 1. Which has not been deemed safe for habitation by the State Board of Health; or
 - 2. From which materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 calendar days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance immediate precursor or controlled substance analog; or
- D. A building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of crimes by the criminal gang.

OPEN BURNING: Any fire from which the products of combustion are emitted directly into the atmosphere without passing through an approved control device.

PATHOLOGICAL WASTES: Human and animal remains, consisting of carcasses, organs and solid organic waste from hospitals, laboratories, abattoirs, animal pounds and similar sources.

PERSON: Any individual, partnership, firm, private corporation, other entity, trust, estate, commission, board, public or private institution, utility or cooperative, and includes the State of Nevada and the United States, to the extent authorized by State and Federal law.

PLACE OF BUSINESS: Any place of business in the County, other than multiple dwellings, to conduct or carry on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.

PUBLIC BUILDING: Office buildings, clubs, churches, schools, hospitals or other places of similar character.

PUTRESCIBLE: Capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases.

RECREATION: The process or means of refreshing or entertaining oneself by some pleasurable activity.

RECYCLABLE MATERIALS OR RECYCLABLES: Those materials in or out of the solid waste stream that have useful physical, chemical or biological properties after serving their original purpose and that can, therefore, be reused or recycled for the same or other purposes. Reusable materials and salvageable materials are considered to be recyclables for the purpose of this Chapter. When separated from the solid waste stream, garbage for use as food for animals and restaurant grease are classified as recyclables.

Material that is otherwise recyclable shall be regulated and managed as solid waste, even if destined or intended for recycling, (i) when commingled with other solid wastes, or (ii) when a charge or fee, in any form or amount, is directly or indirectly imposed on, charged or assessed to, or paid by, the generator in exchange for the collection, removal, transportation, processing, conversion, digestion, handling or disposal of such material. Any such "fee for service" recycling shall constitute solid waste handling for purposes of this Chapter.

REFUSE: All putrescible and nonputrescible solid wastes, including garbage, rubbish, street cleanings, dead animals, yard clippings and market and industrial wastes.

RUBBISH: Nonputrescible solid waste, consisting of both combustible and noncombustible wastes, including, but not limited to, wood, leaves, dead trees or the branches of trees, chips, shavings, sawdust, woodenware, printed matter, paper, cardboard, grass, rags, straw, abandoned automobiles, tin cans, wood, glass, bedding, crockery and similar materials not included in this Chapter under the term "garbage".

SALVAGE YARD: Any approved and licensed place/location where salvaged material is accumulated and/or regularly dismantled, stored or offered for sale, and may include a recycling facility.

SALVAGING: The controlled collection of any material for reuse, sale, or recycling that otherwise would be destined for disposal.

SANITARY LANDFILL: A disposal site at which an engineered method is used to dispose of solid waste on land by spreading the waste in thin layers, compacting the waste to the smallest practical volume and covering the waste with soil each day of operation in a manner that safeguards against environmental pollution.

SCAVENGING: The uncontrolled and/or unauthorized removal of solid waste from a solid waste landfill, or of solid waste or recyclables from an authorized receptacle intended for the collection of such solid waste or recyclables, for any purpose.

SHARPS: Needles, syringes, blades, and related articles.

SINGLE-FAMILY RESIDENCE: A building or dwelling wherein not more than one family resides or dwells, and where no business, except a home-based office employing only family members at the residence, is conducted. A single-family residence also includes a mobile home, apartment or other unit in a multiple dwelling, provided that the person(s) residing in said mobile home, apartment or multiple dwelling is billed and pays personally and individually for solid waste collection services to that residence; that is, contracting and payment for solid waste

collection services for the mobile home park, apartment complex or multiple dwelling is not made collectively, whether by the owner or its tenants.

SOLID WASTE: Any putrescible and nonputrescible refuse in solid or semisolid form that has been discarded or abandoned by its owners, including, but not limited to, garbage, rubbish, junk vehicles and parts, ashes or incinerator residue, dead animals, construction or demolition debris, commercial and industrial waste, and hazardous waste, including explosives, pathological waste, chemical waste and herbicide or pesticide waste, refuse, and recyclables that are commingled solid waste.

SOLID WASTE HAULER: Any person, including a commercial recycler but excluding the franchisee, who collects, transports and/or hauls waste, solid waste and/or recyclables within Nye County, including, without limitation, to a Nye County solid waste facility managed by Nye County or licensed under this Chapter. The waste may originate within Nye County or outside of Nye County.

TERMINATING OPERATIONS: At the time operations cease, either based on the term of the permit or the permit holder stops operation for any reason for more than 6 consecutive months, the termination period will start. The termination process will include all closure activities including cleanup and remediation of the property, reclamation and post-closure monitoring if required. This process should be defined in all permits and include bonding and a Reclamation and Closure Agreement.

TOURIST: A person whose sole purpose for visiting or being present within Nye County is to engage in recreation.

TRANSFER STATION: A solid waste processing site where solid waste is transferred from one vehicle to another vehicle or storage bin for temporary storage until transferred to a sanitary landfill.

VECTOR: A living insect or other arthropod or animal (not human) capable of carrying infectious disease from one person or animal to another.

WASTE: Useless, unwanted, or discarded materials resulting from any activity. (Ord. 164, 1994)

ARTICLE 1: GENERAL PROVISIONS

8.24.030: AUTHORITY OF BOARD OF COUNTY COMMISSIONERS:

The Board may, by contract or otherwise, or in any manner such Board may deem necessary or desirable for the health, safety and welfare of the inhabitants of the County, provide for the collection and disposal of solid waste and recyclables from residences, multiple dwellings, places of business and public buildings, at the expense of the County or otherwise. Notwithstanding any other provision in this Chapter 8.24, all matters relating to the collection, transporting, and/or hauling, but not the processing or disposal, of solid waste and recyclables in any town which has its own Ordinance or Franchise Agreement the Town shall be governed by that Town's

Ordinance or Franchise Agreement to the extent that such Ordinance is inconsistent with the provisions of this Chapter 8.24. (Ord. 164, 1994)

8.24.040: AUTHORITY TO ISSUE CITATIONS:

The Nye County Sheriff and Sheriff's deputies, the County's Code Enforcement Officer are each authorized to prepare, sign and serve misdemeanor citations, pursuant to Nevada Revised Statutes chapter 171, and to act otherwise, in order to enforce the provisions of this Chapter. (Ord. 164, 1994)

8.24.050: LICENSE REQUIRED FOR SOLID WASTE HAULERS:

All solid waste haulers shall be licensed by the County. The license shall be designated a solid waste hauler license. (Ord. 164, 1994)

8.24.060: LICENSE APPLICATION:

Every person applying for a license under this Chapter shall make such application on a form provided by the licensing authority.

8.24.070: ISSUANCE OF LICENSE:

A solid waste hauler license shall be issued for a one year period, upon submission of a completed license application; payment of the license fees provided for in subsection 8.24.240A of this Article; inspection of the vehicles, as provided for in Section 8.24.080 of this Article; and demonstration of insurance coverage, as provided for in Section 8.24.090 of this Article. The license shall be valid from July 1 to June 30 of the following year. There shall be no prororation of license fees. (Ord. 164, 1994)

8.24.080: VEHICLE INSPECTIONS:

All vehicles used by a licensed solid waste hauler for activities within Nye County will be inspected annually by a Law Enforcement agency or authorized and licensed vehicle inspector prior to issuance or reissuance of a license. The Law Enforcement agency or the authorized and licensed vehicle inspector will confirm that the vehicle is properly licensed by the Nevada Department of Motor Vehicles, and will inspect it to ensure that it is in good operating condition. (Ord. 164, 1994)

8.24.090: INSURANCE REQUIREMENTS:

- A. The applicant for a solid waste hauler license shall demonstrate that he or she carries insurance on all vehicles which will be used for collecting and/or hauling solid waste within Nye County. The insurance coverage must be sufficient in the view of the Nye County Department of Public Works, appropriate to commercial vehicle operation and comply with State and Federal regulations.

- B. In addition to motor vehicle insurance, the applicant shall carry liability insurance sufficient in the view of the Nye County Department of Public Works to reimburse Nye County for cleanup of any load spills on public highways or roads.
- C. Failure of a solid waste hauler to secure and maintain the required insurance coverages shall be grounds for immediate revocation of the solid waste hauler license held by that person. (Ord. 164, 1994)

8.24.100: REVIEW OF RECORDS AND OPERATIONS:

- A. Every solid waste hauler licensed pursuant to this Article shall allow the Nye County Department of Public Works to review and inspect its records and operations, for purposes of auditing the quantity and point of origination/generation of the solid waste disposed of within Nye County, and the solid waste hauler's compliance with the requirements of this Chapter.
- B. The Nye County Department of Public Works shall request access to the records and/or operations of a solid waste hauler no later than two (2) business days prior to the planned inspection; and all such inspections shall be completed during the normal working hours of the business.
- C. A solid waste hauler's failure or refusal to allow the Nye County Department of Public Works to inspect its records and/or operations shall be grounds for immediate revocation of the solid waste hauler license held by that person. (Ord. 164, 1994)
- D. This Section is intended to provide the Nye County Department of Public Works with a limited right of access to, and inspection and review of, certain records of the licensed solid waste hauler, which is to be exercised and undertaken at the licensee's premises. This Section does not confer upon the County a right to remove, or retain, any of the licensee's records without the prior express, written permission of the licensee, which may be granted or withheld, at any time, in the licensee's sole and absolute discretion. Despite an agreement by a licensee to authorize the County to remove or retain any such records, the records may be considered public records pursuant to NRS 23.010, and open to public inspection and copying. Nye County will have a duty to disclose unless a particular record is confidential by law or a common law balancing of interests.

8.24.110: ALL PERSONS SUBJECT TO RULES AND REGULATIONS:

Any person (including, without limitation, a solid waste hauler) collecting, transporting, hauling, processing, or disposing of solid waste or recyclable materials within Nye County shall do so subject to the rules and regulations of the County and all applicable Federal and State laws and County ordinances. (Ord. 164, 1994)

8.24.120: UNLAWFUL DISPOSAL OF SOLID WASTE:

- A. It is unlawful for any person to throw or deposit, or cause to be thrown or deposited, in any road, street, alley, or other thoroughfare within the limits of the County, any solid waste or recyclables.
- B. No person shall throw, or cause to be thrown, or deposited, any solid waste, or recyclables upon the property or premises (without written permission of the legal owner, or into the receptacles of, any other person within the limits of Nye County.
- C. No person shall place, deposit, or accumulate, or cause to be placed, deposited or accumulated, any solid waste or recyclables in such a manner, or permit the same to remain on his 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. No person shall throw, dump or deposit or cause to be thrown, dumped or deposited any solid waste or recyclables in any areas, including vacant lots, yards and any desert areas, located within Nye County not authorized or licensed for deposit of these materials. (Ord. 164, 1994)
- E. No person shall knowingly arrange for solid waste hauling service from any person who does not possess the requisite authorization (license or franchise) from the County of Nye to operate as a solid waste hauler.
- F. No person shall place a roll-off container, front load bin, or other container for the storage and removal of any solid waste from any real property within the limits of the County who does not possess the requisite authorization (license or franchise) from the County of Nye to operate as a solid waste hauler.
- G. Any person or persons convicted of violating any portion of Section 8.24.120 may be convicted of a misdemeanor: carrying up to six months in jail and/or \$1,000 in fines.

8.24.130: IDENTIFICATION OF VIOLATOR:

- A. Identification of the owner of any solid waste which is disposed of in violation of this Chapter creates a reasonable inference that the owner is the person who disposed of the solid waste.
- B. The fact that the disposal of the solid waste was not witnessed does not, in and of itself, preclude identification of its owner. (Ord. 164, 1994)

8.24.140: BURNING OF SOLID WASTE OR RECYCLABLES:

It is unlawful for any person, for the purpose of disposal of solid waste or recyclables by burning, to kindle or maintain any bonfire, or knowingly to furnish the materials for such fire, or to authorize any such fire to be kindled or maintained in any solid waste or recyclables receptacle, or on any road, street, alley, road, land or other thoroughfare, public grounds or upon any private property, within Nye County, unless a written permit so to do shall first have been secured from the appropriate municipal fire department, (Ord. 164, 1994) or except as permitted for energy recovery and or incinerator permits.

8.24.150: TRANSPORTATION OF SOLID WASTE:

It is unlawful to use any cart, trailer, or other vehicle for the conveyance or removal of solid waste or recyclables unless such cart or vehicle is staunch, tight or otherwise appropriately constructed and closely covered with a wooden, metal, wire, canvas or tarp cover or otherwise covered or contained, so as wholly to prevent leakage, sifting, spilling, drifting or blowing of such solid waste or recyclables or odors from such solid waste or recyclables or any portion thereof, in or upon the roads, streets, alleys or other thoroughfares through which such cart, trailer, or vehicle may be driven or pulled. (Ord. 164, 1994)

8.24.160: SOLID WASTE RECEPTACLES:

- A. It shall be the duty of every tenant, lessee, manager, owner or occupant of any place of business, public building, multiple dwelling or single-family residence to provide, without expense to the County, and at all times to keep within the dwelling, residence or business or on the lot upon which the building is situated, suitable and sufficient watertight cans or receptacles with suitable bales or handles, each having a tight-fitting cover for receiving and holding, without leakage or escape of odors, all garbage which would ordinarily accumulate on the premises in one week's time. All garbage shall be placed in such receptacles. Covers shall not be removed except when necessary to place solid waste therein. Each receptacle and its cover shall be kept clean from accumulating grease and decomposing waste.
- B. It shall be the duty of every tenant, lessee, manager, owner or occupant of any place of business, public building, multiple dwelling or single-family residence to provide, without expense to the County, and at all times to keep within the dwelling, residence or business or on the lot upon which the building is situated, boxes, barrels or other proper receptacles sufficient to hold the rubbish and other nonputrescible refuse which would ordinarily accumulate on the premises in one week's time. All rubbish and other nonputrescible refuse shall be placed in such boxes, barrels or other proper receptacles. No such box, barrel or other receptacle shall, with its contents, weigh more than seventy five (75) pounds, unless that receptacle is specially equipped to be mechanically manipulated by the franchisee.
- C. It is unlawful for any person to place ashes in any receptacle other than one constructed entirely of metal. (Ord. 164, 1994)

8.24.170: PLACEMENT OF SOLID WASTE IN RECEPTACLES; EXCEPTIONS:

- A. Except as hereafter expressly provided, all solid waste shall be placed in a receptacle.
- B. Tree trimmings, scrap lumber and other solid waste which can be bundled may be bundled if securely tied. Bundles shall not exceed three feet (3') in length nor weigh more than seventy-five (75) pounds.
- C. Recycling facilities may store bulk recyclable solid wastes in appropriate bins, constructed to control blowing litter or potentially dangerous materials. (Ord. 164, 1994)

8.24.180: LOCATION OF SOLID WASTE RECEPTACLES:

All receptacles for the receiving and holding of solid waste shall at all times be located in such places as to be readily accessible for removing and emptying the matter there from, but they shall not be placed within the limits of any road, street, alley or other thoroughfares, (except on designated trash pickup days), or where they will become a nuisance or in any degree offensive. (Ord. 164, 1994)

8.24.190: INTERFERING WITH OR REMOVAL OF RECEPTACLES:

It is unlawful for any person, other than the owner, the County, a town or city within the County, a franchisee or other solid waste hauler acting pursuant to a services contract, or their duly appointed agents, to interfere in any manner with any receptacles containing un-compacted solid waste or to remove any such receptacle from the location where placed for pickup by the solid waste hauler. (Ord. 164, 1994)

8.24.200: REMOVAL OF SOLID WASTE FROM RECEPTACLES:

No other person other than the tenant, lessee, manager, resident or property owner, the County, a town or city within the County, a franchisee or other solid waste hauler acting pursuant to a services contract, or their duly appointed agents shall remove any un-compacted solid waste or recyclable material from solid waste receptacles maintained by a resident, owner, or a franchisee or solid waste hauler. (Ord. 164, 1994)

From the time of placement of the solid waste receptacles, rigid container or collection bag at the curbside, the contents thereof become the property of the solid waste hauler. Solid waste hauler does not assume ownership of any toxic or hazardous substances or other materials that are not solid wastes.

8.24.210: DEPOSIT OF SOLID WASTE AT AUTHORIZED DISPOSAL SITES:

Except as provided in Section 8.24.220 of this Article, all solid waste collected within the County shall not be deposited at any place within the County limits, except at a sanitary landfill site or transfer station operated by the County, (or a licensed recycling facility) or its authorized contractor. (Ord. 164, 1994)

**8.24.220: DEPOSIT OF SOLID WASTE AT AUTHORIZED DISPOSAL SITES;
EXCEPTIONS:**

- A. Mining waste may be disposed of in a landfill operated by the mine from which the waste is generated; provided, however, that such landfills must meet all applicable State and Federal laws, rules and regulations and, provided further, that the County shall have the right to periodically review planning documents for landfills operated by mines, to certify their compliance with applicable laws.
- B. Junk vehicles will not be accepted at any sanitary landfill or transfer station operated by the County, or its authorized contractor (as it pertains to the landfill permit or NRS).
- C. Commercially generated hazardous waste, industrial sludge and asbestos, shall not be disposed of in any sanitary landfill or transfer station operated by the County, or its authorized contractor. Commercially generated hazardous waste, industrial sludge and asbestos must be disposed of in an approved facility (or permitted landfill as it pertains to the landfill permit or NRS).
- D. Except as hereafter provided, solid waste generated by federal facilities within Nye County, excepting federal public facilities such as parks or national forest facilities, shall be disposed of at landfills established within the boundaries of that facility or another federal facility, and shall not be disposed of at any sanitary landfill or transfer station operated by the County, or its authorized contractor.
 - 1. The Nye County department of public works may approve the disposal of solid waste generated by a federal facility at any sanitary landfill operated by the County, or its authorized contractor.
 - 2. Any person disposing of waste generated by a federal facility, pursuant to subsection D1 of this section, shall pay the fees prescribed by subsection 8.24.240C of this chapter, unless an alternative fee is negotiated with and approved by the Board of County Commissioners.
- E. Nothing in this chapter shall be deemed to prevent the diversion of solid waste from the solid waste stream for use in construction, land stabilization or other recycling endeavors by the generator of the solid waste. Any person other than the generator of the solid waste who uses the solid waste for construction, land stabilization or other recycling endeavors, must possess the requisite authorization (license or franchise) from the County of Nye to operate as a solid waste hauler and must strictly comply with this code. (Ord. 164, 1994)

8.24.230: USE OF UNMANNED DISPOSAL SITES RESTRICTED:

No person not a resident of, or a tourist in, the County shall dispose of solid waste in any sanitary landfill or transfer station operated by the County or its authorized contractor, for which no person is employed to control access to and use of the landfill or transfer station. (Ord. 164, 1994)

8.24.240: PROMULGATION OF REGULATIONS AND FEE SCHEDULE:

- A. The Board shall promulgate regulations to carry out and effect the provisions of this title and, from time to time as deemed necessary or advisable, may amend those regulations. Such regulations or amendments thereto, shall not become effective until the resolution adopting such regulations is published at least one time in a newspaper of general circulation in the county, and the public is noticed of the place where a copy of the regulations or amended regulations may be reviewed or obtained.
- B. The Board, by resolution shall promulgate a schedule of the fees and penalties required by this title; and, from time to time as deemed necessary or advisable, the Board by resolution may amend that schedule of fees and penalties. The resolution adopting the fee or penalty schedule, or any amendments thereto, must be published at least one time in a newspaper of general circulation in the county prior to the fees or penalties going into effect.
 - 1. Waiver Of Fees: The Board of County Commissioners may, at its discretion, grant to a property owner a partial or full waiver of the annual landfill maintenance fees assessed to that property owner, where such a waiver is required to provide equity.
 - 2. Waiver Application: An application for a waiver, including a \$150.00 processing fee for each parcel shall be submitted to the director of the Nye County Public Works Department, who will review the application and present it to the Board of County Commissioners with his or her recommendation to grant or deny the waiver, based on the criteria for granting of a waiver as outlined below.
 - 3. Criteria For Granting Landfill Fee Waiver: In order to grant a waiver of the landfill maintenance fees, the board must find that at least one of the following conditions applies to the subject property:
 - a. Patented Mining Claims: For parcels where the surface rights are either severed or are not being used by the mining claim owner, the board may grant a waiver of the landfill maintenance fees.
 - b. Agricultural Uses: Where separate parcels are used for active agricultural purposes (i.e., grazing, crop production, etc.), the board may grant a waiver of the landfill maintenance fee for those properties, however, any parcel upon which a residential dwelling unit exists shall not be granted a waiver.
 - c. Horse Corrals: Where properties are being used as horse corrals only, where no residential dwelling unit exists, a waiver may be granted.
 - d. Residential Lots Under A Common Use: Where separate, adjoining properties are under the same residential use, a waiver may be approved for all but one of the subject properties. For example, when a primary residential dwelling unit is located on one parcel, and on an adjacent and contiguous parcel, there is an associated

residential structure such as a storage building, garage, workshop, etc. Vacant, undeveloped lots having no buildings constructed thereon shall not qualify for approval of a waiver.

- e. **Commercial Lots Under A Common Use:** For commercial uses, approval may be granted when adjacent and contiguous parcels are under a related business use, for example a hardware store being located on one parcel with an adjacent parcel containing a lumberyard associated with the primary business.

4. **Waivers Not Granted:** Waivers shall not be granted for the following:

- a. **Multiple Parcels:** Waivers shall not be granted for any of multiple parcels owned by the same owner within an area where the parcels were created either through a parcel map or subdivision map, if the parcels are not under one common business or residential use.
- b. **Vacant Parcels:** Waivers shall not be granted for vacant or undeveloped properties. For purposes of this section, parcels having only a perimeter fence or other minor improvements, with no buildings constructed thereon, shall be considered a vacant parcel.
- c. **No Extenuating Circumstances:** Waivers shall not be granted when there are no extenuating circumstances.

(Ord. 428, 2012: Ord. 426, 2012)

8.24.250: WAIVER OF USE FEES:

Except as provided in section 8.24.220 of this chapter, any person may dispose of solid waste at any sanitary landfill or transfer station operated by the County, or its authorized contractor, subject to the rules, rates and fees established for such sanitary landfill or transfer station, provided however, that:

- A. Any resident, lessee or tenant of Nye County may dispose of the solid waste generated at his or her own residence at any such sanitary landfill or transfer station operated by the County or its authorized contractor without charge, in accordance with such other rules and regulations as the Board of County Commissioners may from time to time adopt.
- B. Any business owner located within Nye County may dispose at any such sanitary landfill or transfer station of commercial solid waste generated at his or her own place of business without charge, upon presentation of a current, paid landfill maintenance fee bill from Nye County, and valid identification.
- C. Except as hereafter provided, the use fees prescribed by subsection 8.24.240C of this chapter shall be waived for any franchised solid waste hauler holding a license issued pursuant to this article.

1. Except as otherwise provided by a specially negotiated fee agreement, pursuant to subsection 8.24.220D2 of this chapter, solid waste haulers licensed pursuant to this article shall pay the use fees prescribed by subsection 8.24.240C of this chapter for all out of county wastes (i.e., wastes generated or collected outside of Nye County) and wastes generated by federal facilities (except parks, national forests and other public federal facilities) deposited at any such sanitary landfill or transfer station owned or operated by Nye County or its authorized contractor.
2. Each solid waste hauler licensed pursuant to this article, on a monthly basis shall report to the Nye County department of public works the total yards of out of county wastes and wastes generated by federal facilities deposited by the solid waste hauler at any such sanitary landfills and transfer stations owned or managed by Nye County or its authorized contractor.
3. Concurrent with the filing of its monthly report, as required by subsection C2 of this Section, each solid waste hauler shall remit to the Nye County Treasurer the total amount of fees due, based on the reported volumes. (Ord. 164, 1994)

8.24.260: RULES AND REGULATIONS FOR DISPOSAL OF SOLID WASTE:

From time to time, the Board of County Commissioners, by resolution, may establish rules and regulations for any sanitary landfill or transfer station operated by the County or its authorized contractor. (Ord. 164, 1994)

8.24.270: INFECTIOUS WASTE DISPOSAL:

- A. All requirements of this Chapter, without regard to the quantity of infectious waste produced, shall apply to any health care facility which is a primary care clinic, surgical clinic or chronic dialysis clinic, acute psychiatric hospital, skilled nursing facility, intermediate care facility or intermediate care facility for the developmentally disabled, outpatient clinic or other similar facility, hospital, doctor's office, dental office, veterinarian office, home health care facility, prison facility, or related business.
- B. Infectious waste, except for sharps capable of puncturing or cutting shall be contained in one of the two (2) following ways:
 1. Contained in double disposable, red, plastic bags, which are impervious to moisture and have a strength sufficient to preclude ripping, tearing or bursting under normal conditions of usage, and of handling the waste-filled bags. Each bag shall be constructed of material of sufficient single strength to pass the 165-gram dropped dart impact resistant test, as prescribed by standard B 1709-75 of the American Society for Testing and Materials, and certified by the bag manufacturer. The bags shall be securely tied so as to prevent leakage or expulsion of solid or liquid wastes during storage, handling or transport.

2. Contained in plastic-lined boxes specifically designed to store infectious waste, conspicuously labeled with the words "INFECTIOUS WASTE" or with the international biohazard symbol and the word "BIOHAZARD".
- C. Contaminated sharps shall be contained for disposal in leak proof, rigid, puncture-resistant containers such as cartons or metal cans which are taped closed or tightly lidded to preclude loss of the contents. These containers shall be labeled in the same way as other infectious wastes.
- D. All infectious waste shall be segregated from other solid waste during storage and transportation to a disposal site, as required by Nevada Administrative Code 444.662. (Ord. 164, 1994)

ARTICLE I: FRANCHISES

8.24.280: AUTHORIZATION:

The Board of County Commissioners is authorized to grant written franchises for the collection and disposal of solid waste and recyclables, in accordance with the authority granted by Nevada Revised Statutes 244.187. (Ord. 164, 1994)

8.24.290: FRANCHISE AGREEMENT:

The written franchise, authorized to be granted under the provisions of this Chapter, shall include, but not be limited to, the following:

- A. The term for which the franchise shall be granted, which shall be for a definite number of years and, at the discretion of the Board of County Commissioners, may be renewable;
- B. That the franchisee shall be required to comply with all State, Federal and County laws, rules and regulations regarding the collection and disposal of solid waste and recyclables;
- C. The amount of performance bond to be required of the franchisee, to assure the performance of the contract;
- D. A legal description of the franchise area; and
- E. A schedule of fees and charges for the services to be rendered by the franchisee. (Ord. 205 § 1, 1997: Ord. 164, 1994)

8.24.300: NOTICE OF INTENT TO GRANT FRANCHISE:

No franchise shall be granted without first publishing notice of the intention of the Board of County Commissioners to grant such franchise, at least once in a newspaper of general circulation in the County, not less than thirty (30) calendar days prior to the granting of the franchise. (Ord. 164, 1994)

8.24.310: RIGHTS OF FRANCHISEE:

The franchisee, its duly authorized agents, servants and employees, shall have the exclusive right to gather and collect and haul solid waste and recyclables within the franchise area and it shall be unlawful for any person, to collect, dispose of, transport, carry or convey through any road, street, alley or thoroughfare of the franchise area any solid waste or recyclables, or to collect or dispose of the same, provided, however:

- A. Construction or demolition debris may be removed by any duly licensed construction or demolition contractor and transported, as an incidental part of its construction and/or demolition services and using such contractor's own employees, vehicles and containers, to a sanitary landfill or transfer station operated by the County, its authorized contractor or by a private entity that is properly licensed hereunder;
- B. Any person may transport his or her own solid waste to any such sanitary landfill or transfer station;
- C. Any person may transport his or her own recyclable materials using his or her own vehicles and containers to recycling centers, drop-off centers, or buy-back centers;
- D. A commercial recycler may transport recyclables in the legitimate course of its business collecting such recyclables pursuant to F. below;
- E. Any duly licensed and permitted septic tank or grease trap pumper, licensed lawn maintenance service and licensed tree trimmer may transport those materials accumulated in or generated by the performance of licensed services to any such sanitary landfill or transfer station;
- F. Any person may sell to a commercial recycler or give away free of charge to a charitable organization qualified under the Internal Revenue Code recyclable materials generated at such person's property, provided that, in either instance:
 - a. The recyclable materials must be source-separated by the generating person and not co-mingled with other solid waste; and
 - b. The generating person must receive a net payment from the commercial recycler, and may not pay the charitable organization 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;
- G. Any person, firm or corporation accumulating garbage separate from all other solid waste, may contract with a solid waste hauler for the hauling of only such garbage as may be suitable for feeding to animals; and

- H. Infectious waste may be transported, after proper packaging, by a franchisee, an employee of the medical or health facility which generated the waste, or a licensed waste hauler, as long as the waste is segregated for processing at the Nye County waste facility or at the approved infectious waste disposal site. (Ord. 164, 1994)

8.24.320: DUTIES OF FRANCHISEE:

It shall be the duty of the franchisee to provide for the collection of all solid waste from all single-family residences in the franchise area not less than once a week, and from all multiple dwellings, places of business, and public buildings once each day, excepting Sundays, and at such other times as the necessities of the particular case may require. (Ord. 164, 1994)

8.24.330: PERFORMANCE BOND:

The Board of County Commissioners shall require a performance bond of the franchisee, in an amount the Board of County Commissioners reasonably determines is necessary to guarantee the complete performance of the provisions of any franchise granted under this Chapter. (Ord. 164, 1994)

8.24.340: ASSIGNMENT OF FRANCHISE:

Any assignment of a franchise granted under the provisions of this Chapter without first obtaining the written consent and approval of the Board of County Commissioners shall be void. (Ord. 164, 1994)

8.24.350: PRIVATE COLLECTION; PURPOSE:

In the event of an interruption in the collection, hauling, conveyance or transportation of solid waste by the 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. The purpose of Sections 8.24.350 through 8.24.370 of this Article is to provide for the emergency transportation of solid waste by private citizens in order to minimize the adverse impact on the public health, safety and general welfare arising from an interruption in solid waste collection and disposal. (Ord. 164, 1994)

8.24.360: PRIVATE COLLECTION; EMERGENCY DECLARATION:

In the event of an interruption in the collection, hauling, conveying or transporting of solid waste by the franchisee, the Board of County Commissioners may declare an emergency by resolution passed at any regular or special meeting. (Ord. 164, 1994)

8.24.370: PRIVATE COLLECTION; REGULATIONS:

If the Board of County Commissioners declares an emergency under Section 8.24.360 of this Article, the provisions of Section 8.24.310 of this Article which relate to hauling solid waste shall be suspended and the following provisions shall apply until the date specified in the resolution declaring an emergency or in a subsequent resolution:

- A. Any person may haul the solid waste generated or found on real property in his, her or its possession to a sanitary landfill or transfer station operated by the County, or its authorized contractor;
- B. Any person, partnership, corporation or unincorporated association, at the express request of any person residing within the County, may haul the solid waste generated or found on the real property possessed by the requesting person to any such sanitary landfill or transfer station operated by the County or its authorized contractor;
- C. Until hauled to a sanitary landfill or transfer station, all putrescible solid waste shall be stored indoors in plastic bags or outdoors in containers or receptacles which will not permit access by flies or animals to the solid waste and in an area where the storage of putrescible solid waste will not constitute a fire hazard;
- D. All putrescible solid waste hauled to a sanitary landfill or transfer station must be securely contained in plastic bags or covered containers or carried in enclosed or covered waste transport vehicles. (Ord. 164, 1994)

ARTICLE III: HAZARDOUS WASTE FACILITIES

8.24.380: DECLARATION OF POLICY:

- A. It is hereby declared to be the policy of the County that no solid or liquid hazardous waste may be received by and/or disposed of in the County by any person including any political subdivision of the State unless the benefits accruing to the County from such receipt and/or disposal shall exceed any adverse effects resulting therefrom.
- B. All private waste disposal or storage facilities for the disposal of solid or liquid hazardous waste, whether the wastes originate within Nye County or are imported from outside Nye County, are subject to the provisions of this Section. (Ord. 164, 1994)

8.24.390: STATEMENT OF PURPOSE:

- A. The purpose of this Article is to provide protection to the environment of the County and to provide for the health, safety and general welfare of the residents of the County by providing a procedure for evaluation of proposals for receipt and disposal of hazardous waste in the County; approval by the County of those proposals which after such evaluation appear to be acceptable; and rejection of those proposals which appear to be unacceptable.
- B. To the extent applicable, the Ordinance codified in this Chapter is amendatory to and made a part of the Nye County Comprehensive Plan existing at the enactment hereof, and any subsequently adopted comprehensive plan unless expressly rejected by the plan. (Ord. 164, 1994)

8.24.400: HAZARDOUS WASTE PERMIT REQUIRED:

Before any private facility for the disposal or storage of solid or liquid hazardous waste shall receive and/or dispose of hazardous waste in the County, the facility shall obtain authorization from the Board of County Commissioners by way of a permit for hazardous waste importation/receiving and disposal (hereafter "hazardous waste permit"). (Ord. 164, 1994)

8.24.410: EVALUATION OF IMPACT OF RECEIPT AND DISPOSAL REQUIRED:

- A. Before any hazardous waste permit application shall be considered, the proposal shall be subjected to an evaluation of its prospective impact on the health, safety and the general welfare of the County.
- B. The evaluation shall include, without limitation, a study of the potential impact of the proposal on air quality, surface and ground water quality, scenic values, agricultural values, recreational values, historic values, economic values, County and community services, and health, safety, and other values as may be considered by the Board of County Commissioners to be in the best interests of the citizens of Nye County. (Ord. 164, 1994)

8.24.420: APPLICATION PROCEDURE:

- A. An applicant for a hazardous waste permit shall submit an application to the Nye County Planning Department, on a form prescribed by the director, together with all applicable fees, as provided in Section 8.24.440 of this Article.
- B. The Planning Department shall review the application and prepare the evaluation required by Section 8.24.410 of this Article.
 - 1. The Planning Department shall require the applicant hereunder to pay all costs of retaining a consultant, expert or experts to conduct engineering, field and laboratory tests and experiments, including, but not limited to, an environmental assessment, as may be required to assist in the evaluation of the proposal.
 - 2. No application for a hazardous waste permit shall be considered for approval by the Board of County Commissioners until the applicant has paid all of the above-mentioned costs and has presented to the Planning Department all the requested research summaries and reports.
 - 3. In lieu of making its own evaluation, the Planning Department may review and adopt an evaluation made by the Nevada State Division of Environmental Protection; provided, however, that such evaluation must address all of the issues and concerns delineated in Section 8.24.410 of this Article.
- C. Upon completion of the required evaluation, the Planning Department shall present the application for a hazardous waste permit to the Board of County Commissioners, together with the evaluation and the Planning Department's recommendation to approve or deny said application.

- D. The evaluation and recommendation by the Planning Department shall be submitted to the Board of County Commissioners no later than forty-five (45) calendar days after the application is filed with the Planning Department; provided, however, that the Planning Department may seek leave from the Board of County Commissioners for an extension of the evaluation period, and the Board of County Commissioners may grant an extension upon a showing of good cause for the delay.
- E. The Board of County Commissioners, at its next regularly scheduled meeting after receipt of the application, evaluation and recommendation from the Planning Department, shall consider all of the material presented and shall make such decision thereon as it deems warranted, or if deemed necessary, the Board of County Commissioners may hold a public hearing before any such decision is made.
 - 1. The Board of County Commissioners, in granting a hazardous waste permit, shall impose such terms and conditions as may appear reasonably necessary for the protection of the health, safety and general welfare of the residents of the County.
 - 2. When deemed necessary, the Board of County Commissioners may require guarantees in such form as it may deem proper under the circumstances, to ensure that the terms or conditions designated in connection with the approval of the hazardous waste permit are being or will be complied with by the applicant.
 - 3. If it deems it advisable, before approving or denying an application, the Board of County Commissioners may refer the application and evaluation back to the Planning Department for further review, study and/or evaluation. (Ord. 164, 1994)

8.24.430: REAPPLICATION:

No person, including the original applicant, shall reapply for a hazardous waste permit for the same site within a period of six (6) months from the date of the denial by the Board of County Commissioners of such previous application. If the second application is denied by the Board of County Commissioners, no person, including the original applicant, shall reapply again for a hazardous waste permit for the same site within a period of twelve (12) months from the date of the denial by the board of county commissioners of the second application. (Ord. 164, 1994)

8.24.450: BONDING:

- A. Each applicant for a hazardous waste permit shall be required to post a bond or other form of security acceptable to the Board of County Commissioners, in an amount equal to the sum of one and one-half (1 1/2) times the estimated cost of terminating the operation.
- B. The amount of bond or security shall be reasonably proportionate to the risk incurred by the county in granting the permit.

- C. The Board of County Commissioners shall review the adequacy of such bonds or security at intervals not greater than three (3) years.
- D. A bond or fund established by the State of Nevada, for the purpose of terminating the operation and reclaiming the land, may be accepted by the Board of County Commissioners in lieu of this requirement. (Ord. 164, 1994)

8.24.460: ANNUAL REVIEW AND RENEWAL OF PERMIT:

- A. Each hazardous waste permit annually shall be reviewed by the planning department.
- B. The review shall include at least the following:
 - 1. Identification and specification of any changes in circumstance or other information upon which the initial evaluation of the permittee's application was made.
 - 2. The compliance or noncompliance of the permittee with the terms and conditions required by the Board of County Commissioners.
 - 3. An itemization of any newly developed areas of concern regarding the permittee's site.
- C. Upon receipt of the annual review, the Board of County Commissioners shall make such decision thereon as it deems warranted, regarding the renewal of the permit.
 - 1. The Board of County Commissioners, in renewing a hazardous waste permit, may impose additional terms and conditions as may appear reasonably necessary for the protection of the health, safety and general welfare of the residents of the county, and may require guarantees in such form as it may deem proper under the circumstances, to ensure that those terms or conditions will be complied with by the permittee.
 - 2. If it deems it advisable, before renewing a hazardous waste permit, the Board of County Commissioners may refer the renewal back to the planning department for further review, study and/or evaluation. (Ord. 164, 1994)

8.24.470: REVIEW OF RECORDS AND OPERATIONS:

- A. Every holder of a hazardous waste permit shall allow the Nye County department of public works to review and inspect its records and operations, for purposes of auditing the quantity and point of origination/generation of the hazardous waste disposed of within Nye County, and the permittee's compliance with the requirements of this chapter.
- B. The Nye County department of public works shall request access to the records and/or operations of a holder of a hazardous waste permit no later than two (2) business days prior to the planned inspection; and all such inspections shall be completed during the normal working hours of the business.

- C. The failure or refusal of a holder of a hazardous waste permit to allow the Nye County department of public works to inspect its records or operations shall be grounds for immediate revocation of the hazardous waste permit held by that entity. (Ord. 164, 1994)
- D. This Section is intended to provide the Nye County Department of Public Works with a limited right of access to, and inspection and review of, certain records of the licensed solid waste hauler, which is to be exercised and undertaken at the licensee's premises. This Section does not confer upon the County a right to remove, or retain, any of the licensee's records without the prior express, written permission of the licensee, which may be granted or withheld, at any time, in the licensee's sole and absolute discretion. Despite an agreement by a licensee to authorize the County to remove or retain any such records, the records may be considered public records pursuant to NRS 23.010, and open to public inspection and copying. Nye County will have a duty to disclose unless a particular record is confidential by law or a common law balancing of interests.

8.24.480: REVOCATION OF PERMIT:

- A. A representative of the State or of the County may request that a hazardous waste permit or a waste hauling permit be subjected to review by the Board of County Commissioners, for purposes of revocation.
- B. Before taking any action to revoke a permit, the Board of County Commissioners shall provide the permittee against whom the proceedings are brought, written specifications charging the permittee with the acts or failures upon which the revocation proceedings are brought, and setting a date and time for a hearing in the matter. The charging instrument shall be verified and shall be served upon the permittee in the same manner as a summons.
- C. The permittee shall answer within ten (10) business days after service of the charging document. The permittee's answer shall:
 - 1. State in short and plain terms the defenses to each claim asserted.
 - 2. Admit or deny the facts or the act(s) or failure(s) to act alleged in the charging instrument.
 - 3. State which allegations he/she is without knowledge or information to for a belief as to their truth. Such allegations shall be deemed denied.
 - 4. Affirmatively set forth any matter which constitutes affirmative defense.
- D. Failure of the permittee to answer or to appear at the hearing constitutes an admission by the permittee of all facts, act(s) or failure(s) to act alleged in the charging instrument.
- E. The Board of County Commissioners may revoke a permit upon such an admission and on other evidence without further notice to the permittee.

F. At any hearing to revoke a permit, the following procedure shall apply:

1. Oral testimony may be taken only upon oath administered by the clerk of the Board of County Commissioners.
2. The permittee and the Board have the right to call and examine witnesses; introduce exhibits relevant to the issues of the case; cross-examine witnesses on any matters relevant to the issues of the case; impeach any witness; and offer rebuttal evidence.
3. If the permittee does not testify in his or her own behalf, he or she may be called by the Board and examined as if under cross-examination.
4. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted and is sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action.
5. The permittee and the Board or their counsel may by written stipulation agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection.
6. The Board of County Commissioners may take official notice of any generally accepted information and of any other fact which may be judicially noticed by the courts of this State. The parties must be informed of any information, matters or facts so noticed, and must be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities.

G. The Board of County Commissioners shall consider all evidence and testimony in support of and in opposition to the alleged violations.

H. All findings, conclusions, decisions and action taken by the Board of County Commissioners shall be entered into the minutes of the Board of County Commissioners.

I. Notice of the Board of County Commissioners' findings, decision and order shall be served upon the permittee in the same manner as the charging document.

I. Any revocation of a permit shall be effective upon service of the notice of revocation. (Ord. 164, 1994)

8.24.490: APPEALS:

A. Any decision hereunder of the Board of County Commissioners may be appealed to the Fifth Judicial District Court, in and for the County.

- B. Written notice of such appeal shall be given to the County Clerk within thirty (30) calendar days of the decision by the Board of County Commissioners. (Ord. 164, 1994)

8.24.500: CIVIL PENALTIES:

In addition to those criminal penalties outlined in Section 8.24.660 of this Chapter, a holder of a hazardous waste permit who violates any of the terms of the permit is subject to civil penalties. The permit may be revoked following the hearing set forth in Section 8.24.480 of this Article, or if revocation is not desirable or reasonable, the permittee may be required to pay a civil fine of not more than twenty-five thousand dollars (\$25,000.00), plus attorney fees and court costs. Each day of a continuing violation shall constitute a separate violation. (Ord. 164, 1994)

8.24.510: PERMITTEE NOT EXEMPT FROM OTHER ORDINANCES, LAWS OR REGULATIONS:

Possession of a hazardous waste permit does not exempt the permittee from compliance with all Nye County ordinances, including any other applicable permit and/or license requirements, and State and/or Federal laws and rules and regulations. (Ord. 164, 1994)

ARTICLE IV: PRIVATE LANDFILLS, RECYCLING FACILITIES, AND DISPOSAL SITES

8.24.520: DECLARATION OF POLICY:

- A. It is hereby declared to be the policy of the County that no solid waste may be received and/or disposed of in the County by any person, corporation, or other public or private entity including any political subdivision of the State unless the benefits accruing to the County from such receipt and disposal shall exceed any adverse effects resulting therefrom.
- B. All private landfills, recycling facilities, or other private disposal or storage facilities for solid or hazardous waste, whether the wastes originate within Nye County or are imported from outside Nye County, are subject to the provisions of this Article; provided, however, that Class 3 landfills at mines which are permitted by the Nevada Division of Environmental Protection shall be exempt from the provisions of this Article, except as expressly provided in subsection C of this Section and subsection 8.24.580A of this Article.
- C. Class 3 landfill facilities at mines will provide to the Nye County Planning Department, on an annual basis, documents substantiating the holding of valid permits issued by the Nevada Division of Environmental Protection. (Ord. 164, 1994)

8.24.530: STATEMENT OF PURPOSE:

- A. The purpose of this Article is to provide protection to the environment of the County and to provide for the health, safety and general welfare of the residents of the County by providing a procedure for evaluation of proposals for receipt and/or disposal of solid waste in the County; approval by the County of those proposals which after such evaluation appear to be acceptable; and rejection of those proposals which appear to be unacceptable.

- B. To the extent applicable, the Ordinance codified in this Chapter is amendatory to and made a part of the Nye County Comprehensive Plan existing at the enactment hereof, and any subsequently adopted comprehensive plan unless expressly rejected by the plan. (Ord. 164, 1994)

8.24.540: SOLID WASTE PERMIT REQUIRED:

Before any private landfill, recycling facility, or other private disposal or storage facility for solid waste located within Nye County, except a Class 3 mining landfill permitted by the Nevada Division of Environmental Protection, shall receive and/or dispose of solid waste, the private landfill, recycling facility or other private disposal or storage facility shall obtain authorization from the Board of County Commissioners by way of a permit for solid waste importation and disposal (hereafter "solid waste permit"). (Ord. 164, 1994)

8.24.550: EVALUATION OF IMPACT OF RECEIPT AND DISPOSAL REQUIRED:

- A. Before any solid waste permit application shall be considered, the proposal shall be subjected to an evaluation of its prospective impact on the health, safety and the general welfare of the County.
- B. The evaluation shall include, without limitation, a study of the potential impact of the proposal on air quality, surface and ground water quality, scenic values, agricultural values, recreational values, historic values, economic values, County and community services, and health, safety, and other values as may be considered by the Board of County Commissioners to be in the best interests of the citizens of Nye County. (Ord. 164, 1994)

8.24.560: APPLICATION PROCEDURE:

- A. An applicant for a solid waste permit shall submit an application to the Nye County Planning Department, on a form prescribed by the director, together with all applicable fees, as provided in Section 8.24.580 of this Article.
- B. The Planning Department shall review the application and prepare the evaluation required by Section 8.24.550 of this Article.
1. The Planning Department shall require the applicant hereunder to pay all costs of retaining a consultant, expert or experts to conduct engineering, field and laboratory tests and experiments, including, but not limited to, an environmental assessment, as may be required to assist in the evaluation of the proposal.
 2. No application for a solid waste permit shall be considered for approval by the Board of County Commissioners until the applicant has paid all of the above-mentioned costs and has presented to the Planning Department all the requested research summaries and reports.

3. In lieu of making its own evaluation, the Planning Department may review and adopt an evaluation made by the Nevada State Division of Environmental Protection; provided, however, that such evaluation must address all of the issues and concerns delineated in Section 8.24.550 of this Article.
- C. Upon completion of the required evaluation, the Planning Department shall present the application for a solid waste permit to the Board of County Commissioners, together with the evaluation and the Planning Department's recommendation to approve or deny said application.
 - D. The evaluation and recommendation by the Planning Department shall be submitted to the Board of County Commissioners no later than forty-five (45) calendar days after the application is filed with the Planning Department; provided, however, that the Planning Department may seek leave from the Board of County Commissioners for an extension of the evaluation period, and the Board of County Commissioners may grant an extension upon a showing of good cause for the delay.
 - E. The Board of County Commissioners, at its next regularly scheduled meeting after receipt of the application, evaluation and recommendation from the Planning Department, shall consider all of the material presented and shall make such decision thereon as it deems warranted, or if deemed necessary, the Board of County Commissioners may hold a public hearing before any such decision is made.
 1. The Board of County Commissioners, in granting a solid waste permit, shall impose such terms and conditions as may appear reasonably necessary for the protection of the health, safety and general welfare of the residents of the County.
 2. When deemed necessary, the Board of County Commissioners may require guarantees in such form as it may deem proper under the circumstances, to ensure that the terms or conditions designated in connection with the approval of the solid waste permit are being or will be complied with by the applicant.
 3. If it deems it advisable, before approving or denying an application, the Board of County Commissioners may refer the application and evaluation back to the Planning Department for further review, study and/or evaluation. (Ord. 164, 1994)

8.24.570: REAPPLICATION:

No person, including the original applicant, shall reapply for a solid waste permit for the same site within a period of six (6) months from the date of the denial by the Board of County Commissioners of such previous application. If the second application is denied by the Board of County Commissioners, no person, including the original applicant, shall reapply again for a solid waste permit for the same site within a period of twelve (12) months from the date of the denial by the Board of County Commissioners of the second application. (Ord. 164, 1994)

8.24.580: APPLICATION, MONITORING AND LOAD FEES:

- A. Three (3) types of fees hereby are imposed upon private landfills, recycling facilities and other private disposal or storage facilities which import, receive and/or dispose of solid waste within Nye County.
- B. Waiver: The Board of County Commissioners may waive all or a portion of the fees and/or application procedures provided for in this Section for facilities in existence at the time this Chapter is enacted. (Ord. 164, 1994)

8.24.590: BONDING:

- A. Each applicant for a solid waste permit shall be required to post a bond or other form of security acceptable to the Board of County Commissioners, in an amount equal to the sum of one and one-half (1 1/2) times the estimated cost of terminating the operation.
- B. The amount of bond or security shall be reasonably proportionate to the risk incurred by the County in granting the permit.
- C. The Board of County Commissioners shall review the adequacy of such bonds or security at intervals not greater than three (3) years.
- D. A bond or fund established by the State, for the purpose of terminating the operation and reclaiming the land, may be accepted by the Board of County Commissioners in lieu of this requirement. (Ord. 164, 1994)

8.24.600: ANNUAL REVIEW AND RENEWAL OF PERMIT:

- A. Each solid waste permit annually shall be reviewed by the Planning Department.
- B. The review shall include at least the following:
 - 1. Identification and specification of any changes in circumstance or other information upon which the initial evaluation of the permittee's application was made.
 - 2. The compliance or noncompliance of the permittee with the terms and conditions required by the Board of County Commissioners.
 - 3. An itemization of any newly developed areas of concern regarding the permittee's site.
- C. Upon receipt of the annual review, the Board of County Commissioners shall make such decision thereon as it deems warranted, regarding the renewal of the permit.
 - 1. The Board of County Commissioners, in renewing a solid waste permit, may impose additional terms and conditions as may appear reasonably necessary for the protection of the health, safety and general welfare of the residents of the County, and may require

guarantees in such form as it may deem proper under the circumstances, to ensure that those terms or conditions will be complied with by the permittee.

2. If it deems it advisable, before renewing a solid waste permit, the Board of County Commissioners may refer the renewal back to the Planning Department for further review, study and/or evaluation. (Ord. 164, 1994)

8.24.610: REVIEW OF RECORDS AND OPERATIONS:

- A. Every holder of a solid waste permit shall allow the Nye County Department of Public Works to review and inspect its records and operations, for purposes of auditing the quantity and point of origination/generation of the solid waste disposed of or held within Nye County, and the permittee's compliance with the requirements of this Chapter.
- B. The Nye County Department of Public Works shall request access to the records and/or operations of a holder of a solid waste permit no later than two (2) business days prior to the planned inspection; and all such inspections shall be completed during the normal working hours of the business.
- C. The failure or refusal of a holder of a solid waste permit to allow the Nye County Department of Public Works to inspect its records or operations shall be grounds for immediate revocation of the solid waste permit held by that entity. (Ord. 164, 1994)

8.24.620: REVOCATION OF PERMIT:

- A. A representative of the State or of the County may request that a solid waste permit be subjected to review by the Board of County Commissioners, for purposes of revocation.
- B. Before taking any action to revoke a permit, the Board of County Commissioners shall provide the permittee against whom the proceedings are brought, written specifications charging the permittee with the acts or failures upon which the revocation proceedings are brought, and setting a date and time for a hearing in the matter. The charging instrument shall be verified and shall be served upon the permittee in the same manner as a summons.
- C. The permittee shall answer within ten (10) business days after service of the charging document. The permittee's answer shall:
 1. State in short and plain terms the defenses to each claim asserted.
 2. Admit or deny the facts or the act(s) or failure(s) to act alleged in the charging instrument.
 3. State which allegations he/she is without knowledge or information to for a belief as to their truth. Such allegations shall be deemed denied.
 4. Affirmatively set forth any matter which constitutes affirmative defense.

- D. Failure of the permittee to answer or to appear at the hearing constitutes an admission by the permittee of all facts, act(s) or failure(s) to act alleged in the charging instrument.
- E. The Board of County Commissioners may revoke a permit upon such admissions and on other evidence without further notice to the permittee.
- F. At any hearing to revoke a permit, the following procedure shall apply:
 - 1. Oral testimony may be taken only upon oath administered by the clerk of the Board of County Commissioners.
 - 2. The permittee and the Board have the right to call and examine witnesses; introduce exhibits relevant to the issues of the case; cross-examine witnesses on any matters relevant to the issues of the case; impeach any witness; and offer rebuttal evidence.
 - 3. If the permittee does not testify in his or her own behalf, he or she may be called by the Board and examined as if under cross-examination.
 - 4. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted and is sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action.
 - 5. The permittee and the Board or their counsel may by written stipulation agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection.
 - 6. The Board of County Commissioners may take official notice of any generally accepted information and of any other fact which may be judicially noticed by the courts of this State. The parties must be informed of any information, matters or facts so noticed, and must be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities.
- G. The Board of County Commissioners shall consider all evidence and testimony in support of and in opposition to the alleged violations.
- H. All findings, conclusions, decisions and action taken by the Board of County Commissioners shall be entered into the minutes of the Board of County Commissioners.
- I. Notice of the Board of County Commissioners' findings, decision and order shall be served upon the permittee in the same manner as the charging document.
- J. Any revocation of a permit shall be effective upon service of the notice of revocation.
(Ord. 164, 1994)

8.24.630: APPEALS:

- A. Any decision hereunder of the Board of County Commissioners may be appealed to the Fifth Judicial District Court, in and for the County.
- B. Written notice of such appeal shall be given to the County Clerk within thirty (30) calendar days of the decision by the Board of County Commissioners. (Ord. 164, 1994)

8.24.640: CIVIL PENALTIES:

In addition to those criminal penalties outlined in Section 8.24.660 of this Chapter, a holder of a solid waste permit who violates any of the terms of the permit is subject to civil penalties. The permit may be revoked following the hearing set forth in Section 8.24.620 of this Article, or if revocation is not desirable or reasonable, the permittee may be required to pay a civil fine of not more than twenty-five thousand dollars (\$25,000.00), plus attorney fees and court costs. Each day of a continuing violation shall constitute a separate violation. (Ord. 164, 1994)

8.24.650: PERMITTEE MUST COMPLY WITH OTHER ORDINANCES:

Possession of a solid waste permit does not exempt the permittee from compliance with all Nye County ordinances, including any other applicable permit and/or license requirements. (Ord. 164, 1994)

ARTICLE V: MISCELLANEOUS REGULATIONS

8.24.660: PENALTY FOR VIOLATION:

- A. Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor.
- B. Every day that the violation occurs, exists, or is allowed to exist or continue, shall constitute a separate offense.
- C.. If the violator be a corporation or other entity other than a natural person, the chief executive officer of the corporation or other entity shall be liable under this Section. (Ord. 164, 1994)

8.24.680: RECYCLABLE MATERIALS; RIGHTS OF OWNERS:

Nothing in this Chapter shall limit the right of any person to donate or sell his recyclable materials in accordance with Chapter 8.24.310F above. (Ord. 164, 1994)

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.

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 August, 2017.

Proposed on the 2nd day of August, 2017

Proposed by: Commissioner Wichman.

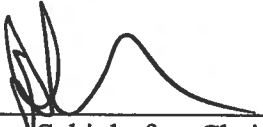
Adopted on the 18th day of July, 2017.

Vote: Ayes: Commissioners: Schinhofen, Koenig, Wichman, Borasky, Cox


Nays: Commissioners: Ø

Absent: Commissioners: Ø

BY: _____


Dan Schinhofen, Chairman
Nye County Board of
County Commissioners

ATTEST: _____


Sandra L. Merlino
Clerk and Ex-Officio
Clerk of the Board