

Sections of the Sparks Municipal Code as referenced in this agenda item:

Section 5.08.020 - Business license required.

- A. It is unlawful for any person to transact or conduct any business in the city without first having obtained a license from the city to do so and without complying with all applicable provisions of this title and paying the fee therefore.
- B. The sale of First Amendment "expressive merchandise" by its proponent in public areas pursuant to [Chapter 12.26](#) of the SMC is hereby deemed non-commercial in nature and does not constitute transacting or conducting business in the city.
- C. This section shall not be construed to require any person to obtain a license prior to doing business within the city if such requirement conflicts with the United States Constitution, applicable statutes of the United States, Nevada Constitution or statutes of the state; provided, however, that **it shall be a burden upon the person claiming exemption from this title to prove, in writing, that they are so exempt.** [Emphasis Added]

(Ord. 710 § 4, 1968: 1962 Code § 105.006.) (Ord. 2415, Amended, 10/27/2008; Ord. 2340, Amended, 09/25/2006)

Section 5.08.030 - Exempt licenses.

Unless otherwise required by law, no license is required and no fee shall be imposed or payable by any institution, corporation, organization or association organized for **charitable**, eleemosynary or civic **purposes**, or any persons independently engaged as personal care assistants as defined by Medicaid, and no part of any receipts received by any such institution, corporation, organization or association may be used for the private gain of any person. [Emphasis Added]

(Ord. 710 § 5, 1968: 1962 Code § 105.009.) (Ord. 2251, Amended, 11/22/2004)

Section 5.20.050 - Solid waste container rental and associated hauling of solid waste(s) or recyclable materials.

- A. The City of Sparks maintains a contractual relationship in the form of an exclusive Franchise Agreement for the "collecting, removing, transporting and disposing or otherwise handling" of all garbage and residential curbside recyclable material within the City of Sparks.
- B. Other business entities may provide similar services to clients generating other types of materials that fall outside of the scope of the franchise agreement.
- C. Every Business entity providing container rental and associated hauling services for the purposes of collecting, processing, recycling or disposing of Solid Waste or Recyclable Materials within the City, as the primary purpose of their business, must obtain and pay for an annual business license at the rate specified within this section.
- D. "Primary Purpose of their business" shall mean that 75% or more of company gross revenues are derived from the rental of containers and/or the associated hauling of containers designed for the processing and/or disposal of solid waste or recyclable materials.
- E. The fee for such a license is payable not later than thirty (30) calendar days after the end of each calendar quarter and shall be: Five percent (5%) of the total gross receipts for those specific services.
- F. Exclusions.**
 - 1. The current franchisee shall be exempted from the requirements of this section for that segment of business defined in the scope of the current franchise agreement. However, the franchisee will be subject to the requirements of this section for the portions of their business not covered by the scope of the franchise agreement, but fit the description of services defined within this section. In the case of the franchisee, only the services falling outside of the current franchise agreement will be subject to the requirements of this section.
 - 2. Companies or organizations that provide containers at no charge to the generator(s) of recyclable materials and share the proceeds of the re-sold recyclable materials with the generator, shall be exempt from this section for that portion of their business.** [Emphasis Added]
- G. Each company that is subject to this section shall, not later than thirty (30) calendar days after the end of each calendar quarter, provide to the city a statement of the amount of revenue the company derived during that calendar quarter from the services provided to each of its customers located within the city.
- H.

A license fee not received or postmarked within thirty (30) calendar days after the end of each calendar quarter shall be delinquent, and the licensee shall pay, in addition to the license fee, a penalty of two percent (2%) per month of the delinquent amount.

I.

For the purposes of this section, Solid Waste includes all putrescible and non-putrescible refuse in solid or semisolid form, including, but not limited to, garbage, rubbish, ashes or incinerator residue, street refuse, demolition waste, construction waste, solid or semisolid commercial and industrial waste.

J.

For the purpose of this section, Solid Waste does not include "hazardous" waste as that term is defined by NRS 459.400 to 459.600, inclusive, junk vehicles, dead animals, or waste material typically collected and processed by licensed rendering companies.

K.

Recyclable Material has the meaning ascribed to it in NRS 444A.013 and means solid waste that can be processed and returned to the economic mainstream in the form of raw materials or products, as determined by regulations adopted by the State Environmental Commission and by the Washoe County Health District.

L.

The term "gross receipts" as used in this Section includes all money, cash, receipts, property, or other thing of value collected by licensee from customers who use the "Primary Service" of the licensee.

M.

A licensee shall maintain a current and valid "Health Permit to Operate," as issued by the Washoe County Health District, permitting the hauling of specified materials.

N.

A licensee shall maintain in full force and effect commercial general liability insurance with an insurance company licensed to do business in the State of Nevada. Limits of liability shall be at least \$1,000,000.00 combined single limit per occurrence. Any deductibles or self-insured retentions must be approved by the city.

(Ord. 2425, Add, 05/11/2009)

Section 7.12.010 - Exclusive franchise-grant.

A.

An exclusive franchise for the collection, hauling and disposal of all, or any part of, Solid Waste (as defined at Code 7.08.010(E)) and Recyclable Material (as defined at Code 7.08.010(G)), may be granted to any person or entity whom the city council may designate. Such an exclusive franchise shall be made upon such terms and conditions as the city council shall prescribe. An "exclusive" franchise means that the City has exercised its authority under NRS 268.081 and NRS 268.083 to displace and limit all competition so that the franchise holder shall be the sole provider of collection, transport and disposal services for Solid Waste and Recyclable Materials, or any part or portion thereof, in the City. [Emphasis Added]

B.

Upon granting an exclusive franchise by the City, all third party providers which are in violation of the exclusive franchise who have existing agreements with customers shall be required to cease operations no later than sixty (60) days from the effective date of the franchise agreement.

C.

If the city grants an exclusive franchise for all Solid Waste, then the following categories of materials are not to be included under the exclusive franchise:

1.

Collection, transport and disposal of C&D Waste as defined in [Chapter 7.08](#)

2.

Waste materials generated from yard clean up services, tree trimming, gardening, landscaping, and the like, where the collection and hauling of refuse is incidental to the labor necessary to provide the service.

3.

Refuse (but not Garbage) generated by a resident or business and transported by such resident or business to an approved landfill or transfer station, provided the refuse being transported is contained or covered to prevent spillage onto streets or highways. Refuse is not exempt from the exclusive Franchise if the refuse is transported by persons or businesses, or by their employees or agents, who own, lease, control, operate, or manage vehicles or containers used for the purpose of transporting refuse for collection or disposal, or both, for compensation.

D.

All residential premises, commercial, industrial and community activities of every kind and description that generates any part of the Solid Waste stream covered by an exclusive franchise shall be required by the city to utilize the collection and container services of the Franchisee. To the extent permitted by law, the City and/or Franchisee shall prohibit any person from providing the same or similar service for the collection, hauling and disposing of all or any part of the Solid Waste stream that would be in violation of the terms of the exclusive franchise approved by the city.

(Ord. 1126 § 2 (part), 1977: Ord. 810 § 11, 1970: 1962 Code § 20.130.) (Ord. 2406, Amended, 07/28/2008)

Section 7.12.070 - Recycling program.

A.

Definitions. The following additional definitions apply to the recycling program to be offered as a part of the collection service provided by franchisee holder under Chapter [7.12.010](#)

1. "Curbside Recycling" means a program whereby recyclable material is separated at the source of the solid waste stream, or commingled at the source into a single recycling receptacle, and collected by the franchise holder.
2. "Source-separated" means that recyclable materials have been removed from the solid waste stream by the generator, or by its employees, at the generator's residence or place of business.
3. "Single Stream" means that recyclable materials have been commingled at the generators residence or business into a single container for recyclables only.

B.

Recycling Service. The franchise holder shall provide a program approved by the City of curbside recycling for all residential customers where recycling materials are source separated by the customer. The franchise holder shall be required to make the curbside recycling program available to every residential customer within City regardless of whether the service is used or not. The franchise holder and City may agree to change the method of recycling to a Single Stream procedure so that the most efficient, cost effective method of gathering the most recyclables is utilized. The franchise holder shall also provide commercial recycling for those customers wishing to participate at their place of business.

C.

Exclusions to Exclusivity. The right to collect, transport and manage Recyclable Materials is an exclusive right granted to the franchise holder under Chapter [7.12.010](#) subject to the following exceptions.

1. Source separated Recyclable Materials that are donated by the generator to youth, civic, charitable, or other nonprofit organizations;
2. A property owner may personally self-haul and deposit Recyclable Materials at any licensed/permitted recycling facility, or one of the recycling centers maintained by the franchise holder;
3. Source separated Recyclable Materials generated by commercial customers that are placed in containers, collected through a private arrangement with the generator and the generator is compensated at market rates for the recyclables collected. [Emphasis Added]

D.

Rate for Recycling. The rate for recycling shall be in addition to the rate for residential and commercial service. Although the rate for recycling is separately determined, this amount shall be included with the normal rates charged for collection of solid waste as set forth in this Chapter. The franchise holder shall charge a rate for recycling to each individual customer of residential service regardless of whether that customer participates in the program. Rates charged to commercial customers shall be established as described in Chapter [7.12.050](#). Both residential and commercial recycling rates shall be adjusted annually in accordance with the exclusive franchise described in Chapter [7.12.010](#)

E.

Title to Recyclable Material. From the time recyclable materials are placed in a container provided by the franchise holder as a part of the recycling program, the recyclable materials are the property of the franchise holder. Any person engaged in the unauthorized collection of recyclable materials shall be guilty of a misdemeanor as established by Chapter [7.12.130](#). The franchise holder shall have the right to enforce its property rights to recyclable materials under this Chapter in a civil action commenced for that purpose, and shall be entitled to recover three times the damages caused by the unauthorized collection.

(Ord. 1126 § 2 (part), 1977: Ord. 983 § 3, 1974: Ord. 810 § 16, 1970: Ord. 585 § 4, 1964: 1962 Code § 20.200.) (Ord. 2406, Amended, 07/28/2008)

Section 5.40.010 - Definitions

As used in this chapter, unless the context requires otherwise:

A.

"Charitable purpose" means philanthropic, religious or other nonprofit objectives, including the benefit of impoverished, refugee or disabled persons; the benefit of any church or religious society, sect, group or order; the benefit of a patriotic, veterans' or other organization purporting to aid the general welfare of the United States or a state or nation or local governmental unit; the benefit of any fraternal, social or civic organization or cause, or the benefit of any educational institution. The term "charitable purpose" shall not be construed to include the direct benefit of the individual making the solicitation. [Emphasis Added]

B.

"Chief" means the chief of the police department of Sparks or any individual employed by such department that the chief shall designate to perform any of the functions specified in this chapter.

C.

"Individual" means only a natural person.

D.

"Person" means and includes any natural person, firm, partnership, corporation or association.

E.

"Solicit funds" or "solicitation of funds" mean any request for the donation of money, property or anything of value, or the pledge of a future donation of money, property, or anything of value; or the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions to publications, or brochures, upon the representation, express or implied, that the proceeds of such sale will be used for a charitable purpose as such term is defined herein. Expressly excluded from the meaning of "solicit funds" or "solicitation of funds" are:

1.

Any offer of membership in any organization;

2.

Any solicitation of funds for any purpose by a unit of the United States Government or any state or local subdivision thereof;

3.

Any solicitation of funds for charitable purposes by any organization or association from its members;

4.

Any solicitation of funds for charitable purposes by a person when such solicitation occurs on premises owned or controlled by the person soliciting funds or with the permission of the person who owns or controls the premises; and

5.

The issuance of any announcement or advertisement which states that a solicitation as described in subsections (3) and (4) above will occur or which announces or advertises an event at which unannounced solicitation as described in subsections (3) and (4) above occurs.

(1976, Added, 02/23/1998)