

1 **BILL NO. 2019-**

2 **ORDINANCE NO. _____**

3 AN ORDINANCE PERTAINING TO COMMERCIAL SOURCE SEPARATED RECYCLABLES AND
4 CONSTRUCTION OR DEMOLITION WASTE; ADOPTING A NEW CHAPTER ESTABLISHING
5 REGULATIONS PERTAINING TO THE COLLECTION OF SUCH ITEMS, INCLUDING A
6 REQUIREMENT FOR PERSONS OR FIRMS PROVIDING FOR SUCH COLLECTION TO ENTER
7 INTO A FRANCHISE AGREEMENT WITH THE CITY; AND PROVIDING FOR OTHER RELATED
8 MATTERS.

9 Proposed/Sponsored by:

Summary: Adopts a new Code chapter
10 establishing regulations pertaining to the
11 collection of commercial source separated
12 recyclables and construction or demolition waste,
13 including a requirement for persons or firms
14 providing for such collection to enter into a
15 franchise agreement with the City.

16 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS
17 FOLLOWS:

18 SECTION 1: Title 9 of the Las Vegas Municipal Code, 1983 Edition, is hereby amended
19 by adding thereto a new chapter, designated as Chapter 10, consisting of the provisions set forth below as
20 Sections 10 to 120, inclusive, reading as follows:

21 **9.10.010:** The intent of this Chapter is to provide for the collection, transportation, diversion,
22 processing and disposal of commercial source separated recyclables and construction or demolition waste.

23 **9.10.020:** Whenever used in this Chapter, the following definitions have the meanings ascribed in
24 this Section, unless the context clearly indicates a different meaning:

25 "City's Administrative Code" means the Code adopted pursuant to LVMC Chapter 16.02.

26 "Cash receipts," with respect to a Chapter 9.10 franchisee, means all receipts derived from the
collection, transportation, diversion, processing or disposal of commercial source separated recyclables or
construction or demolition waste services, and includes, by way of illustration and not limitation, all cash,
credits, property or other consideration derived directly or indirectly by the franchisee for the collection,
transportation, diversion, processing and disposal of commercial source separated recyclables or
construction or demolition waste that the franchisee has rights to collect, transport, divert, process or

1 dispose under the applicable franchise agreement, but excluding revenues from any taxes on services
2 furnished by the franchisee that are imposed by other governmental entities, that are passed through to and
3 collected from the franchisee's customers, and that are separately itemized on the customers' bills.

4 "Chapter 9.08 franchisee" means the holder of a franchise granted under Chapter 9.08, and
5 "Chapter 9.08 franchise agreement" means the agreement by which such franchise is granted.

6 "Chapter 9.10 franchisee" means the holder of a franchise granted under this Chapter, and "Chapter
7 9.10 franchise agreement" means the agreement by which such franchise is granted.

8 "Commercial source-separated recyclables" means recyclables generated by a commercial business
9 that have been separated from the solid waste stream at the source for recycling purposes and that are not
10 mixed with solid waste other than residual solid waste. In order to qualify under this definition, such
11 recyclables may not contain more than ten percent residual solid waste.

12 "Construction or demolition waste" means non-hazardous solid waste, resulting from the
13 construction, remodeling, repair, and demolition of utilities and structures, as well as uncontaminated solid
14 waste resulting from land clearing. Such waste includes, but is not limited to, wood (including painted,
15 treated, and coated wood and wood products), land clearing debris, wall coverings, plaster, drywall,
16 plumbing fixtures, non-asbestos insulation, roofing shingles and other roofing coverings, glass, plastics that
17 are not sealed in a manner that conceals other wastes, empty buckets ten gallons or less in size and having
18 no more than one inch of residue remaining on the bottom, electrical wiring and components containing no
19 hazardous liquids, pipe and metals, corrugated container board, carpeting, furniture, and tires that are
20 incidental to any of the above. Solid waste that is not construction and demolition debris (even if resulting
21 from the construction, remodeling, repair and demolition of utilities, structures and roads and land clearing)
22 includes, but is not limited to, asbestos waste, garbage, electrical fixtures containing hazardous liquids such
23 as fluorescent light ballasts or transformers, fluorescent light bulbs or tubes, appliances, drums, containers
24 greater than ten gallons in size, any containers having more than one inch of residue remaining on the
25 bottom, or fuel tanks.

26 "Disposal," for purposes of the definition of "cash receipts" or for determining the amount of

1 revenues derived from the disposal of materials under this Chapter, includes the sale of recyclables or other
2 materials.

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

5 “Franchise fee” means the fee required by and detailed in a Chapter 9.10 franchise agreement based
6 upon a percentage of a franchisee’s cash receipts generated in the City.

7 “Franchisee” means either a Chapter 9.08 franchisee or a Chapter 9.10 franchisee, as the context
8 and language of this Chapter require.

9 “Garbage” means putrescible animal and vegetable wastes resulting from the handling, storage,
10 sale, preparation, cooking and serving of food.

11 “Hazardous waste” means any waste or combination of wastes, including solids, semisolids, liquids
12 or contained gases, except household hazardous waste, which:

13 (A) Because of its quantity or concentration or its physical, chemical or infectious
14 characteristics, may:

15 (1) Cause or significantly contribute to an increase in mortality or serious
16 irreversible or incapacitating illness; or

17 (2) Pose a substantial hazard or potential hazard to human health, public safety
18 or the environment when it is given improper treatment, storage, transportation, disposal or other
19 management;

20 (B) Is identified as hazardous waste by the Nevada Department of Conservation and
21 Natural Resources as a result of studies undertaken for the purpose of identifying hazardous wastes; and

22 (C) Includes, among other wastes, toxins, corrosives, flammable materials, irritants,
23 strong sensitizers and materials which generate pressure by decomposition, heat or otherwise.

24 “Materials recovery facility” means a solid waste management facility that provides for the
25 extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment,
26 or any combination of those materials. The term does not include:

1 (A) A facility that receives only recyclable materials that have been separated at the
2 source of waste generation;

3 (B) A salvage yard for the recovery of used motor vehicle parts;

4 (C) A facility that receives, processes or stores only concrete, masonry waste, asphalt
5 pavement, brick, uncontaminated soil or stone for the recovery of recyclable materials; or

6 (D) A facility that receives, processes or stores hazardous waste unless it may be
7 classified as household hazardous waste.

8 “Multifamily dwelling” or “multiple dwelling” means any premises on which there are two or more
9 separate residential dwelling units which are grouped together under the management of one person and
10 which do not require separate individual curbside collection of solid waste.

11 “Recyclable materials” or “recyclables” means solid waste that can be processed and returned to
12 the economic mainstream in the form of raw materials or products, including, but not limited to:

13 (A) Newspaper;

14 (B) Corrugated cardboard;

15 (C) Aluminum;

16 (D) Yard debris (material generated from plants, including trees, bushes, sod, and grass
17 clippings on residential or business property);

18 (E) Office paper;

19 (F) Glass;

20 (G) Tin and steel cans;

21 (H) Metal;

22 (I) Motor oil;

23 (J) Plastic;

24 (K) Antifreeze;

25 (L) Wood; and

26 (M) Food waste, including non-hazardous organic liquid waste from agricultural or

1 commercial restaurant operations, such as cooking oil.

2 “Recycling center” has the same meaning as “recycling center” as that term is defined in the
3 Southern Nevada Health District’s Regulations Governing Recycling Centers, as amended.

4 “Residual solid waste” means an amount of material that:

5 (A) Has been collected at the site of generation (not including permitted recyclable
6 material);

7 (B) Remains or is left after the separation and removal of permitted, source-separated
8 recyclable materials;

9 (C) Does not exceed ten percent by weight, if scales are available at the facility, or by
10 volume, if scales are not installed at the facility, of the total amount of materials prior to separation;

11 (D) Cannot be recycled and returned to the economic mainstream; and

12 (E) Must be disposed of as solid waste pursuant to this Chapter and the applicable
13 regulations of the solid waste management authority.

14 “Rubbish” means old tin and iron cans and containers, old wood, cardboard and paper boxes, old
15 metals, wire, rope, cordage, bottles, bags and bagging, rubber and rubber tires, paper, wood shavings, and
16 all used or cast-off articles or material, including old plaster, brick, cement, glass, old building material,
17 leaves, yard trimmings, weeds, dead weeds, dead trees, dead bushes or dead grasses whether or not still in
18 ground at any height and similar materials.

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

24 (A) Hazardous waste managed pursuant to NRS 459.400 through 459.600, inclusive.

25 (B) Commercial source-separated recyclables.

26 **9.10.030:** Any person collecting, transporting, diverting, processing or disposing of, construction or

1 demolition waste or commercial source separated recyclables shall do so subject to the ordinances, rules
2 and regulations of the City, the Southern Nevada Health District, the State of Nevada and the Federal
3 Government.

4 **9.10.040:** (A) Except as otherwise authorized by this Title, no person or business entity may
5 engage in the business, or provide the service of, collecting, transporting, diverting, processing or disposing
6 of commercial source separated recyclables or construction or demolition waste generated in the City
7 without:

- 8 (1) Being properly licensed to do so; and
- 9 (2) Having entered into a Chapter 9.10 franchise agreement with the City

10 pursuant to this Chapter.

11 (B) Each Chapter 9.10 franchisee shall pay a quarterly franchise fee of five percent, or
12 as otherwise specified in or determined by the applicable franchise agreement, based on the franchisee's
13 cash receipts generated in the City for the preceding calendar quarter. All franchise fees shall be due no
14 later than thirty days after the end of each calendar quarter. If a franchise fee is received by the City after
15 the due date, a late fee of two percent per month (or fraction thereof) of the delinquent amount will be
16 assessed to the franchisee.

17 (C) Each Chapter 9.10 franchisee shall establish and maintain an accounting system
18 and keep complete and accurate business records concerning the franchise fees due. Each such franchisee
19 shall also keep and retain records detailing:

20 (1) The amount of commercial source separated recyclables diverted by type
21 of material and weight and destination of each material and the total amount of residual solid waste by
22 weight and disposal location. Residual solid waste cannot exceed ten percent by weight at the source of the
23 generation of the commercial source separated recyclables in each month of the reporting quarter.

24 (2) The amount of construction or demolition waste, in tons or cubic yards, as
25 applicable, that is collected from each construction or demolition site.

26 (D) Each Chapter 9.10 franchisee shall make its records available to the City for

1 inspection and audit, and shall submit such reports or other documentation as may be requested by the City
2 in order to document compliance with this Section. The details regarding compliance with this Subsection,
3 including audit requirements and provisions regarding the cost of audits, shall be as set forth in the
4 applicable franchise agreement.

5 (E) Each Chapter 9.10 franchisee shall have the right to determine how much the
6 franchisee will charge for services provided, subject to the terms of its Chapter 9.10 franchise agreement.
7 Franchise fees may be passed through to customers and listed as a separate line item on the billing invoice.

8 **9.10.050:** (A) No construction or demolition waste collected from premises within the City shall
9 be deposited any place other than a duly licensed transfer station, disposal site, or materials recovery
10 facility operated in accordance with all applicable laws, rules and regulations. Any failure to comply with
11 this Section is subject to the penalties set forth in Section 9.10.120 and, if committed by a Chapter 9.10
12 franchisee, shall be a violation of that franchisee's Chapter 9.10 franchise agreement.

13 (B) No commercial source separated recyclables waste collected from premises within
14 the City shall be deposited any place other than a duly licensed materials recovery facility or recycling
15 center operated in accordance with all applicable laws, rules and regulations. Any failure to comply with
16 this Section is subject to the penalties set forth in Section 9.10.120 and, if committed by a Chapter 9.10
17 franchisee, shall be a violation of that franchisee's Chapter 9.10 franchise agreement.

18 (C) It is unlawful for any person to:

19 (1) Throw or deposit, or cause to be thrown or deposited, in any street, alley,
20 gutter or highway within the City, any construction or demolition waste or commercial source separated
21 recyclables.

22 (2) Throw or deposit, or cause to be thrown or deposited, any construction or
23 demolition waste or commercial source separated recyclables upon the private or public property or
24 premises or into the container of another person within the City, except as may be provided for in this
25 Chapter.

26 (3) Place, deposit or accumulate, or cause to be placed, deposited or

1 accumulated, any construction or demolition waste or commercial source separated recyclables in such a
2 manner, or permit the same to remain on his or her premises in such condition so that the same may be
3 blown or carried over to public or other private property by any means whatsoever.

4 (4) Allow construction or demolition waste or commercial source separated
5 recyclables to accumulate upon the premises under his or her control in an amount which is detrimental to
6 the public health or safety, or which results in unsightly or unsanitary conditions.

7 (5) Throw or deposit or cause to be thrown or deposited construction or
8 demolition waste or commercial source separated recyclables in any areas of the City not designated,
9 authorized or licensed by the City for deposit of these materials.

10 (D) There is hereby created a presumption that the disposal of construction or
11 demolition waste or commercial source separated recyclables in violation of this Section was done by the
12 owner of such items.

13 **9.10.060:** (A) A duly licensed Chapter 9.10 franchisee is authorized to remove construction or
14 demolition waste generated from a particular site. Such a franchisee shall comply with all applicable laws,
15 rules and regulations, including obtaining all required permits. Construction or demolition waste shall be
16 transported to a transfer station, disposal site, or a duly licensed materials recovery facility operated in
17 accordance with all applicable laws, rules and regulations. The provisions of this Subsection (A) shall not
18 apply to the removal of construction or demolition waste by or on behalf of the City.

19 (B) A duly licensed Chapter 9.10 franchisee is authorized to collect, transport, divert,
20 process and dispose of commercial source separated recyclables which have been separated from solid
21 waste (other than residual solid waste). All such recyclables shall be transported to a materials recovery
22 facility or recycling center licensed and permitted by the applicable authority and operated in accordance
23 with all applicable laws, rules and regulations. If the City notifies a franchisee that on a site it is serving the
24 franchisee has a container for commercial source separated recycling which has more than ten percent solid
25 waste, the franchisee shall remove the container from the site as soon as possible, but in no case later than
26 forty-eight hours after notification. Failure to remove such container shall subject the franchisee to the

1 penalties set forth in Section 9.10.120.

2 (C) Except as otherwise provided in Subsection (D) of this Section, the removal of
3 commercial source separated recyclables or construction or demolition waste within the City must be done
4 pursuant to a Chapter 9.10 franchise agreement.

5 (D) A Chapter 9.10 franchise agreement is not required for the following activities:

6 (1) Any person may transport his or her own recyclables to recycling centers
7 or drop-off centers.

8 (2) A charitable organization qualified as such under the Federal Internal
9 Revenue Code may collect commercial source-separated recyclables from any premises at the express
10 request of the owner, tenant or occupant and may transport those recyclables to drop-off centers or
11 recycling centers.

12 (3) Any person for whom the transport of commercial source separated
13 recyclables or construction or demolition waste is ancillary to the person's primary business may transport
14 those recyclables or construction or demolition waste to a duly licensed transfer station, disposal site,
15 recycling center, or materials recovery facility operated in accordance with all applicable laws, rules and
16 regulations. For purposes of this Section, the term "ancillary to the person's primary business" means that
17 the person may not derive more than twenty-five percent of gross revenue from collection, transportation,
18 diversion, processing or disposal of commercial source separated recyclables or construction or demolition
19 waste services. Notwithstanding the preceding provisions of this Paragraph (3), the exemption provided for
20 under this Paragraph (3) does not apply to a person whose primary business is the collection, and
21 transportation and disposal of solid waste, whether or not such waste includes recyclables or construction
22 or demolition waste.

23 **9.10.070:** It is unlawful for any person to throw or cause to be thrown or deposited commercial
24 source-separated recyclables or construction or demolition waste upon the premises or in the solid waste
25 receptacle of another.

26 **9.10.080:** (A) It is unlawful to use any vehicle for the transportation or removal of construction

1 or demolition waste or commercial source separated recyclables unless such vehicle is appropriately
2 constructed and covered, within industry standards and in accordance with NRS Chapter 484D to prevent
3 or minimize odors from or leakage, sifting, spilling, drifting or blowing of such construction or demolition
4 waste or commercial source separated recyclables in or upon the streets through which such vehicle may be
5 driven.

6 (B) All vehicles used in the transportation or removal of construction or demolition
7 waste or commercial source separated recyclables shall be equipped with a broom and shovel to clean up
8 spillage resulting from the collection of construction or demolition waste or commercial source separated
9 recyclables. The vehicle operator shall be responsible for clean-up of spillage resulting from the collection
10 process.

11 **9.10.090:** The owner of any container for non-residential recyclables or for construction or
12 demolition waste, whether canister type or dumpster, must ensure that the container displays the owner's
13 name and telephone number in legible numbers and letters.

14 **9.10.100:** (A) Except as otherwise provided in Subsection (B), no person may interfere with or
15 remove any recyclables from the recyclables containers that are intended for collection by a Chapter 9.10
16 franchisee pursuant to its franchise agreement, or tamper with, interfere with, or remove recyclables that
17 have been tied, boxed, or otherwise collected and placed for collection by such a franchisee.

18 (B) The prohibitions contained in Subsection (A) do not apply to actions by:

19 (1) The City, or its employees or agents acting on the City's behalf;
20 (2) A Chapter 9.10 franchisee, or its employees or agents acting on the
21 franchisee's behalf;

22 (3) A Chapter 9.08 franchisee, or its employees or agents acting on the
23 franchisee's behalf, if those actions are authorized by Chapter 9.08 and the franchisee's franchise
24 agreement; or

25 (4) The owner of the property on which the recyclables have been placed for
26 collection, or the owner's employees or agents acting on the owner's behalf.

1 (C) No person other than an owner or operator of a drop-off center, or their authorized
2 agents, may remove recyclables from the drop-off center or recyclables that have been bundled, boxed, tied
3 or otherwise collected and placed adjacent to the drop-off center.

4 **9.10.110:** Nothing in this Chapter shall limit the right of any person to donate or sell his or her
5 commercial source-separated recyclables.

6 **9.10.120:** (A) Whenever in this Chapter any act is required, prohibited or is made or is declared
7 to be unlawful or an offense, the doing of such prohibited act or the failure to do any such required act shall
8 constitute a misdemeanor.

9 (B) The provisions of this Chapter may be enforced by the Las Vegas Metropolitan
10 Police Department, the City’s code enforcement function, or any other personnel assigned to such
11 enforcement by the City Manager.

12 (C) In addition to any other remedy or penalty described in this Chapter, the City may
13 seek appropriate civil remedies, including, but not limited to, injunctive relief and monetary damages for
14 acts by any person or entity for any violations of this Chapter or a franchise agreement. Injunctive relief
15 may be sought with or without prior notice to prevent or correct any such violation.

16 SECTION 2: If any section, subsection, subdivision, paragraph, sentence, clause or
17 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
18 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
19 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City
20 of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph,
21 sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections,
22 subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

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SECTION 3: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2019.

APPROVED:

By _____
CAROLYN G. GOODMAN, Mayor

ATTEST:

LUANN D. HOLMES, MMC
City Clerk

APPROVED AS TO FORM:

Val Steed, Date
Deputy City Attorney

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the _____
2 day of _____, 2019, and referred to a committee for recommendation, the committee
3 being composed of the following members _____;
4 thereafter the said committee reported favorably on said ordinance on the _____ day of
5 _____, 2019, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council as first
7 introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11 APPROVED:

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13 By _____
CAROLYN G. GOODMAN, Mayor

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