

**THIS IS A PROPOSED DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED ORDINANCE OR RESOLUTION ADOPTED BY THE CITY COUNCIL.**

**ORDINANCE**

**AMENDING CHAPTER 14 OF THE CITY CODE, SOLID WASTE, TO ESTABLISH A FEE FOR DIAPER CONTAMINATION IN THE CITY RECYCLING AND ORGANICS CONTAINERS TO BE IMPLEMENTED CITYWIDE**

\* \* \* \* \*

**WHEREAS**, in 2010 the City Council adopted the Recycling and Resource Recovery Plan, as amended in 2013, which established a 60% residential recycling goal by 2025; and

**WHEREAS**, the recycling market standard today is demanding high quality commodities and contaminated recycling is being rejected and sent to landfills; San Antonio's overall contamination rate has fluctuated, last year the rate was as high as 28%, currently the rate is approximately 18%, which is approaching out target goal of 15% contamination or less; and

**WHEREAS**, in response to the contamination concern, in 2015 the City Council approved a \$25 contamination fee to residents, however diaper contamination has not seen an improvement and in fact, diaper processing has increased from 53 lbs. per hour in August 2016 to 103 lbs. per hour in November 2017; and

**WHEREAS**, San Antonio has a particular problem with dirty diapers contaminating the recycling carts; diapers are not recyclable, they belong in the brown cart; although diapers are a small part of the contamination stream in recycling, they are significant as a health hazard to the workers that have to remove them by hand and a direct cost to the City of approximately \$1.2 million annually to process and sell the recyclable materials; and

**WHEREAS**, this Ordinance authorizes amendments to Chapter 14, entitled "Solid Waste", of the San Antonio City Code, to establish a contamination fee specifically for diapers placed in the blue recycling containers, or the green organics containers, in order to offset the additional costs caused by diaper contamination and to educate the residents on the proper disposal of diapers;  
**NOW THEREFORE,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO,**

**SECTION 1.** The City Code of San Antonio, Texas, Chapter 14, entitled "Solid Waste", is hereby amended by adding language that is underlined and ~~striking~~ deleted language to the existing text as set forth in this Ordinance. All other text remains unchanged.

Chapter 14, is hereby amended as follows:

\* \* \* \*

## ARTICLE II. - RESIDENTIAL SERVICES PROVIDED FOR BY THE CITY

\* \* \* \*

### Sec. 14-12. - Residential recycling collection.

#### (a) *Acceptable materials.*

(1) Residents are provided a blue recycling container in which to place specified items defined as recyclable materials. Residents participating in the recycling program receive once-per-week collection of recyclable materials. Specific collection days are designated by the director each week.

\* \* \* \*

(6) If a recycling container is not serviced due to the conditions detailed in subsection (b) the department shall notify the resident to which the recycling container is assigned in writing when and for what reason the recycling container was not serviced. Customers receiving notification of no service shall have the option of removing the contaminated material from the cart and placing the cart out for collection on the next recycling collection day. Repeated violations may result in a non-compliance contamination service fee to process the empty a contaminated cart and be subject to the measures outlined at paragraph (b) below.

(b) *Non-participation in city recycling program/compliance attainment.* Residents not participating in the city recycling program will receive once-per-week collection of refuse. Non-participants include the following:

\* \* \* \*

### Sec. 14-17. - Residential organics material collection.

\* \* \* \*

#### (b) *Not accepted green container items.*

(1) At the discretion of the director or his designee, department staff may inspect organics recycling containers. An organics material container shall not be collected if one or more of the following conditions occur:

a. Contamination of the organics recycling container by depositing non-recyclable solid waste, including but not limited to:

1. Plastic bags or plastic containers of any kind including those labeled "compostable" or "biodegradable";
2. Diapers;
3. Dead animals;
4. Pet waste;
5. Cigarette butts or ashes;
6. Non-compostable materials;
7. Household hazardous waste.

b. Reserved.

(2) If an organics container is not serviced due to the conditions detailed in subsection (b) the department shall notify the resident to which the container is assigned in writing when and for what reason the organics container was not serviced. Residents receiving notification of no service shall have the option of removing the contaminating material from the container and placing the container out for collection on the next organics collection day. Repeated violations may result in a non-compliance contamination service fee to process the empty contaminated cart.

(c) *Removal from organics collection.* A resident that repeatedly places unacceptable items in the organics cart may be removed from the program by the city.

\* \* \* \*

### **ARTICLE III. - FEES**

#### **Sec. 14-30. - Fees.**

(a) *Residences.* Use of city garbage, brush, and refuse collection and removal and disposal services and payment of fees set out below for such services shall be mandatory except as exempted in subsection (d) below. The monthly fees for household garbage that includes recycling, brush, leaves, and organics collection shall be as follows:

Residential and Other Sites

\* \* \* \*

Description of Service	Fee

* * * *	* * * *
Extra garbage service (brown cart)	Ten dollars (\$10.00) per collection; limited to three (3) times per year
Non-compliance <u>contamination</u> fee	Twenty-five dollars (\$25.00) per occurrence
<u>Non-compliance Diaper contamination fee</u>	<u>Fifty dollars (\$50.00) per occurrence</u>
Automatic charge for container(s) at residence	Residents who possess and use containers that are not assigned to their address will be charged the monthly fee corresponding to that size container.

\* \* \* \*

**ARTICLE V. - PROHIBITIONS**

**Sec. 14-45. - General prohibitions.**

\* \* \* \*

(h) Non-compliant loads. The city shall not provide solid waste collection services if one (1) or more of these conditions occur:

\* \* \* \*

(7) It shall be unlawful for any person to place in a recycling or organics container for collection by the city any item other than those items listed as acceptable materials for the respective program.

(8) After having provided notice to offending resident, enforcement options available for chronic violators of recycling and organics collection program requirements include, but are not limited to:

- a. Non-collection with no reduction in fees.

b. Removal of recycling or organics collection container, with no reduction in fees.

c. Provision of additional refuse container(s) and assessment of additional monthly fee(s).

d. Assessment of a fee in the form of a recycling or organics non-compliance contamination fee, or a non-compliance diaper contamination fee, depending on the type of contamination in the recycling or organics container, in the amount as provided in section 14-30, of twenty five dollars (\$25.00) per occurrence.

(9) It shall be unlawful for any person living outside the city limits to bring garbage in to the city for collection by city crews.

\* \* \* \*

**SECTION 2.** All other provisions of the City Code of San Antonio, Texas shall remain in full force and effect, unless expressly amended by other provisions of this ordinance.

**SECTION 3.** Violations occurring after the effective date of this Ordinance shall be punished as provided in the amended Chapter 14, City Code. Violations occurring prior to the effective date of this Ordinance shall be punished under the formerly-applicable Chapter and Sections of the City Code, which shall remain in effect for that purpose.

**SECTION 4.** The administrative fee related to diaper contamination in the recycling or organics containers is hereby authorized and established as incorporated herein to effectuate the purpose of this Ordinance.

**SECTION 5.** Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this Ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

**SECTION 6.** The City Clerk is directed to promptly publish public notice of this Ordinance in accordance with Section 17 of the City Charter of San Antonio, Texas. Penalties provided for shall be effective five days after publication by the City Clerk.

**SECTION 7.** The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing Code.

**SECTION 8.** Funds generated by this ordinance will be deposited into Fund 55001000, Internal Order 225000000028 and General Ledger 4410986.

**SECTION 9.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

**SECTION 10.** This ordinance shall be effective immediately upon passage by eight affirmative votes; otherwise it shall be effective on the tenth day after passage hereof.

**PASSED and APPROVED** this \_\_\_th day of \_\_\_\_\_, 2018.

**M A Y O R**  
Ron Nirenberg

**ATTEST:**

**APPROVED AS TO FORM:**

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Leticia M. Vacek, City Clerk

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Andrew Segovia, City Attorney

