CH
12/09/2010
Item No. 22

AN ORDINANCE 2010-12-09-1026

**AMENDING CHAPTER 14 OF THE CITY CODE OF SAN ANTONIO, TEXAS, TO ADD A NEW SECTION REQUIRING RESIDENTIAL MULTI-FAMILY PROPERTIES TO PROVIDE OR CONTRACT FOR ON-SITE RECYCLING COLLECTION SERVICES FOR RESIDENTS WITHIN MULTI-FAMILY PROPERTIES.**

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**WHEREAS**, on June 24, 2010, the San Antonio City Council approved a 10 Year Recycling and Resource Recover Plan which creates a "Pathway to Zero Waste", and ensuring that all residents in San Antonio have convenient access to recycling programs is a component of the Plan; and

**WHEREAS,** recycling conserves natural resources such as timber, water and minerals; recycling reduces greenhouse gas emissions and helps prevent global climate change; recycling increases waste diversion from landfills; and manufacturing goods from recycled materials requires 65 to 95 percent less energy; and

**WHEREAS**, there are approximately 150,000 multi-family housing units in San Antonio and the City obtained significant community input in developing this ordinance and worked extensively with the San Antonio Apartment Association, the San Antonio Housing Authority, the Downtown Resident Association, area recycling collectors, waste haulers and area material recovery processors, holding eight community wide town hall meetings for property owners and managers with over 250 owners, managers, haulers and tenants in attendance; and

**WHEREAS**, the goal is to provide recycling services that are as convenient, accessible and equivalent to the tenant and resident as garbage collection service while emphasizing tenant education and outreach, collection flexibility for spatial constraints, and effective program delivery through performance measurement; and

**WHEREAS**, this Ordinance would require all multi-family complexes within the City to provide adequate and convenient recycling service to all residents, with a phased-in service delivery approach over a twelve month period; **NOW THEREFORE,**

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

**SECTION 1.** Chapter 14 of the City Code of San Antonio, Texas is hereby amended by adding the following text to Article IV as a new Section 14-43 entitled Multi-Family Recycling:

**Section 14-43. Multi-Family Recycling**

**(a) DEFINITIONS.** For the purposes of this section, the following terms shall have the meaning shown:

1) "Manager" means a person, corporation, partnership or entity, who acts as an agent for

the Owner in managing a multi-family property.

2) "Multi-family Property" means a property with three or more residential dwelling units including but not limited to, apartments, townhomes, condominiums, high rise condominiums and San Antonio Housing Authority properties.

3) "Owner" means any persons, corporation, partnership or entity, or their agent (such as a condominium or homeowners association), jointly or severally, having an ownership interest in a multi-family property responsible for solid waste collection.

4) "Recycling Collection Service" means a property that is serviced by a recycling collector for recyclable materials.

5) "Recycling Collector" means a person, firm, corporation, partnership or entity that collects recyclable material from multi-family properties within the City.

6) "Recycling Container" means a container marked with signage clearly indicating that it is only to be used only for the collection of recyclable materials and with signage clearly indicating the types of recyclable materials accepted.

7) "Recyclable Materials" mean those materials that are separated from garbage and trash for the purpose of recycling, such as, but not limited to, newspaper, mixed office paper, corrugated cardboard, kraft paper, aluminum and tin cans, magazines, steel aerosol cans, glass bottles, glass containers, plastic bottles and plastic containers with resin code mobius numbers 1-7.

8) "Recycling Facility" means a recycling materials recovery or reuse facility.

9) "Refuse" means any mixture of putrescible and non-putrescible solid and semi-solid wastes including garbage and trash.

10) "Self-Haul" when used in reference to recyclable materials generated by a multi-family property means the collection and transportation of such materials where an owner or employee or agent of the entity hauls the material to a recycling facility rather than hiring a recycling collector to perform this function.

11) "Source Separation" means to divide solid waste at the place of generation, prior to collection, into separate containers that are designated for recyclable materials and refuse.

12) "Tenant" means a person or group that rents and occupies a residential space within a multi-family property from a multi-family owner for a period of time.

**(b) REQUIREMENTS FOR OWNERS OR MANAGERS OF MULTI-FAMILY PROPERTIES**

1) Owners or managers of multi-family properties shall provide a recycling plan in accordance with Section 14-43(b)(5) below and shall provide recycling collection service in accordance with Section 14-43(b)(6) below. Owners or managers of multi-family properties with eight (8) or less units may apply to receive and pay for the City's curbside recycling and garbage service as provided by the Department in Section 14-30.

2) Recycling collection service shall be provided in accordance with Chapter 14 of the City Code. Recycling collection service shall be required on a frequency sufficient to avoid containers which are overflowing.

3) Owners or managers of multi-family properties must supply recycling containers through private contracts with their recycling collector or other appropriate means, placed in an appropriate location, to make the disposal of recycling material as convenient as garbage material and which offers equal access opportunity to a recycling container as a garbage container for tenants of the properties.

   a) Recycling containers shall be of appropriate size and number for anticipated recyclables generated at the property.

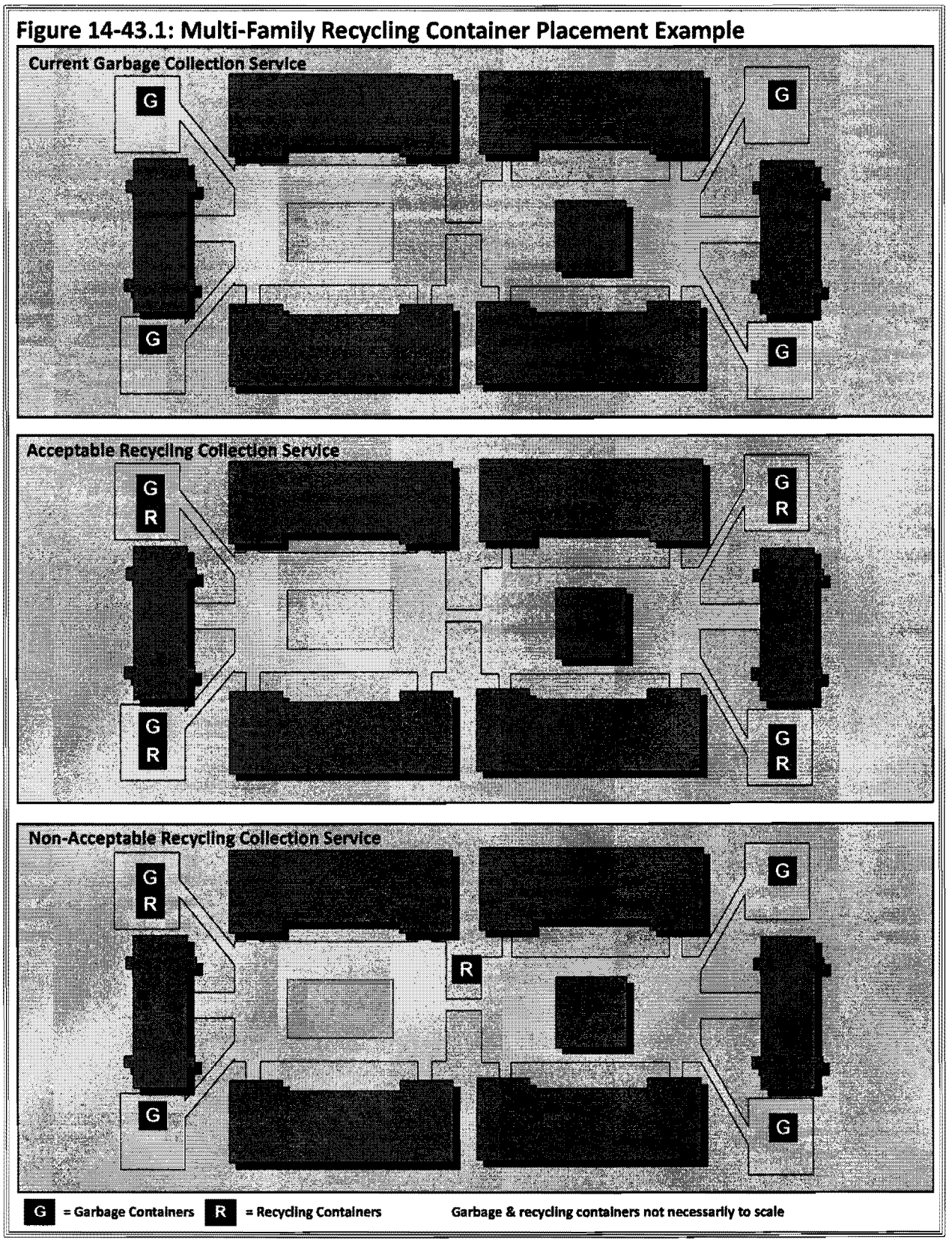
   b) Recycling collection service shall be as convenient to the tenant as garbage collection service. Owner is required to have or to secure recycling collection service that allows for the placement of recycling containers as close as possible to garbage containers.

      i) Should a complex offer door to door valet garbage collection service, then the recycling service should be of a similar nature.

      ii) Should a high rise complex have a designated chute for garbage collection service, then the recycling service should be of a similar nature or should be as convenient for the tenant.

   c) Figure 14-43.1, Multifamily Recycling Container Placement Example, demonstrates in a graphical manner what is meant by the "appropriate number" number of containers and the "convenient" placement of containers that will allow for equal access opportunities by tenants.

## Figure 14-43.1, Multifamily Recycling Container Placement Example



d) At a minimum, owners or managers of multi-family properties must provide clear and visible signage on the containers indicating:

i) The container is only for recyclable materials, and

ii) The types of accepted recyclable materials.

e) This requirement does not prohibit owners or managers of multi-family properties from negotiating with a recycling collector to provide recycling containers as a provision of a service agreement or contract.

4) Owners or managers of multi-family properties must ensure that tenants are educated about recycling services as follows:

a) Information, including the types of recyclable materials accepted and the location of recycling containers must be distributed to all tenants upon the commencement of providing recycling services and upon move-in of a new tenant.

b) All occupants must be given information and instructions upon any change in recycling services to the property.

5) Prior to the multi-family property owner or manager initiating the start of recycling collection service in accordance with this ordinance, a "recycling plan" must be developed and submitted to and approved by the Department. The Department will make forms for this plan available in both a printed form and in an electronic format.

a) All recycling plans will be due to the Department no later than three months prior to the indentified start time of the recycling services as follows:

i) For multi-family properties with 300 units or more, recycling plans must be submitted by April 1, 2011.

ii) For multi-family properties with at least 200 units but not more than 299 units, recycling plans must be submitted by July 1, 2011.

iii) For multi-family properties with at least 100 units but not more than 199 units, recycling plans must be submitted by October 1, 2011.

iv) For multi-family properties with 3 to 99 units, recycling plans must be submitted by January 1, 2012.

v) Owners or managers of new multi-family properties established or receiving a certificate of occupancy after the plan submission dates above shall submit a recycling plan to the Department within 30 days of receiving a certificate of occupancy.

vi) If the recycling plan is rejected by the Department, the owner or manager of the multi-family property has thirty (30) days from notification of the rejection to submit a

revised plan for approval. A rejected plan will not constitute an acceptable excuse to not start the service by the date prescribed below.

b) Owners or managers of multi-family properties shall submit an update to their recycling plan to the Department whenever one of the following occurs:

i) A change in the ownership or a change of management of the property.

ii) A change in recycling collector services.

iii) A change in the method of collection, such as a change in the types of containers.

6) Recycling service and program implementation consistent with the approved recycling plan will be required to begin at all multi-family complexes by the following dates:

a) For multi-family properties with 300 units or more, recycling service must start on or before July 1, 2011.

b) For multi-family properties with at least 200 units but not more than 299 units, recycling service must start on or before October 1, 2011.

c) For multi-family properties with at least 100 units but not more than 199 units, recycling service must start on or before January 1, 2012.

d) For multi-family properties with 3 to 99 units, recycling service must start on or before April 1, 2012.

e) Owners or managers of multi-family properties established or receiving a certificate of occupancy after the recycling service start dates above shall start recycling service on or before 30 days of receiving approval for their recycling plan.

7) The minimum parking required for the multi-family property may be reduced in order to provide adequate space for recycling container storage areas as required by this section. In such cases the recycling container storage area shall be screened in accordance with §35-511 (c) of the City's Municipal Code.

**(c) REQUIREMENTS FOR RECYCLING COLLECTORS**

1) All recycling collectors shall register with the Department prior to providing collection of recyclable materials. The Department will make the registration form available in both a printed form and in an electronic format.

2) Recycling collectors who collect recyclable materials generated from multi-family properties within the City shall deliver those recyclable materials to a recycling facility for processing.

3) Recycling collectors who collect recyclable materials from multi-family properties within the City shall submit an annual report by March 1st of each year, beginning March 1, 2012, to the Department in a format prescribed by the Director or his designee. Annual reports shall include the following information for the period January 1 through December 31 of the

immediately preceding twelve month period:

a) Total number of living units served for such multi-family properties;

b) Total number of tons of recyclable material collected for such collection services;

c) The names and addresses of the recycling facilities to which the recyclable materials collected within the City were delivered for recycling;

d) Additional information as required by the Director or his designee.

4) An owner or manager of a multi-family property that elects to self-haul recyclable materials generated at such multi-family property shall be required to submit an annual report. Self haulers may opt to submit their annual reports through their material recovery facility.

**(d) REQUIREMENTS FOR CITY OF SAN ANTONIO**

1) Upon request, the Department shall provide, in a printed form and an electronic format, educational and promotional material such as posters, introductory letters and signage to all owners or managers of multi-family properties upon submittal of an approved recycling plan.

2) The Department shall manage the components of the program by providing:

a) The property owner or manager with technical assistance in the development of the Recycling Plan.

b) Approval of the Recycling Implementation Plan submitted by the property owner or manager.

c) Periodic site inspection to ensure compliance and to follow up on any complaints.

3) The Department will be responsible for collecting, tabulating and reporting on recycling data. Reports will be produced on an annual basis to report on the tons of materials recycled by the multi-family properties.

**(e) ENFORCEMENT**

1) The Director or his designee shall have authority to designate personnel to enforce and to administer the provisions of this Article. Those designated by the Director or his designee may exercise any enforcement powers as set forth in Sections 1-5 and 14-60 of this Code.

2) Such enforcement shall not hold owners or managers of multi-family properties responsible for tenants' participation or non-participation in the recycling program or for contamination of recyclable materials.

3) In accordance with Sections 250.003 and 250.004 of the Texas Local Government Code, an individual who is an employee of the owner of a multi-family property cannot be cited for non-compliance with this ordinance as long as he or she provides the owner's name, current street address and telephone number to the enforcement official.

4) It is an offense for a person to do or perform any act prohibited in this section and it is an offense for a person to fail to do or perform any act required hereby. Each day's violation hereof shall constitute a separate offense for which the conviction shall be punished by a fine not to exceed two thousand dollars ($2,000.00). Violators of this section, pertaining to waste hauling, shall be subject to the penalties recited above. Should the court impose a fine in excess of five hundred dollars ($500.00), the finder of fact must find that the offense was committed knowingly, intentionally, or recklessly.

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**SECTION 2.** All other provisions of Chapter 14 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this Ordinance.

**SECTION 3.** 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 4.** The City Clerk is directed to publish notice of this Ordinance in accordance with Section 17 of the Charter of the City of San Antonio. The penalty, fine or forfeiture provisions in this ordinance shall apply five days after publication.

**SECTION 5.** 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 format and number paragraphs to conform to the existing code.

**SECTION 6.** This ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

**PASSED and APPROVED** this 9th day of December, 2010.

**M A Y O R**
Julián Castro

**ATTEST:**

Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

for Michael D. Bernard, City Attorney

Request for COUNCIL ACTION

City of San Antonio

# Agenda Voting Results - 22

| | |
|---|---|
| **Name:** | 22 |
| **Date:** | 12/09/2010 |
| **Time:** | 10:45:39 AM |
| **Vote Type:** | Other: To Approve Staff Rec |
| **Description:** | An Ordinance amending Chapter 14 of the City Code of San Antonio, Texas, to add a new section requiring residential multi-family properties to provide or contract for on-site recycling collection services for residents within multi-family properties. [Peter Zanoni, Assistant City Manager; David W. McCary, Director, Solid Waste Management] |
| **Result:** | Passed |

| Voter | Group | Not Present | Yea | Nay | Abstain | Motion | Second |
|---|---|---|---|---|---|---|---|
| Julián Castro | Mayor | | x | | | | |
| Mary Alice P. Cisneros | District 1 | | x | | | | |
| Ivy R. Taylor | District 2 | | x | | | x | |
| Jennifer V. Ramos | District 3 | | x | | | | x |
| Philip A. Cortez | District 4 | | x | | | | |
| David Medina Jr. | District 5 | | x | | | | |
| Ray Lopez | District 6 | x | | | | | |
| Justin Rodriguez | District 7 | | x | | | | |
| W. Reed Williams | District 8 | | x | | | | |
| Elisa Chan | District 9 | | x | | | | |
| John G. Clamp | District 10 | | x | | | | |

| | |
|---|---|
| **Name:** | 22 |
| **Date:** | 12/09/2010 |
| **Time:** | 10:45:19 AM |
| **Vote Type:** | Other: Enforcemt Timeline Of January 2012 |
| **Description:** | An Ordinance amending Chapter 14 of the City Code of San Antonio, Texas, to add a new section requiring residential multi-family properties to provide or contract for on-site recycling collection services for residents within multi-family properties. [Peter Zanoni, Assistant City Manager; David W. McCary, Director, Solid Waste Management] |
| | |

**Result:** Failed

| Voter | Group | Not Present | Yea | Nay | Abstain | Motion | Second |
|---|---|---|---|---|---|---|---|
| Julián Castro | Mayor | | | x | | | |
| Mary Alice P. Cisneros | District 1 | | | x | | | |
| Ivy R. Taylor | District 2 | | | x | | | |
| Jennifer V. Ramos | District 3 | | | x | | | |
| Philip A. Cortez | District 4 | | x | | | | x |
| David Medina Jr. | District 5 | | | x | | | |
| Ray Lopez | District 6 | x | | | | | |
| Justin Rodriguez | District 7 | | x | | | | |
| W. Reed Williams | District 8 | | | x | | | |
| Elisa Chan | District 9 | | x | | | | |
| John G. Clamp | District 10 | | x | | | x | |