CH
03/05/2015
Item No. 11

AN ORDINANCE 2015-03-05-0158

AMENDING CHAPTER 14, SOLID WASTE, OF THE CITY CODE OF SAN ANTONIO TO ADDRESS NOISE ISSUES WITH THE COLLECTION OF COMMERCIAL REFUSE IN THE NON-CENTRAL BUSINESS DISTRICT AREAS OF THE CITY, UPDATING THE MEMBERSHIP OF THE SOLID WASTE DETERMINATION BOARD, ESTABLISHING ADMINISTRATIVE PENALTIES FOR VIOLATIONS AND DIRECTING THE CITY CLERK TO PUBLISH NOTICE

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WHEREAS, Chapter 14 of the City Code outlines times of day during which commercial waste may be collected by private waste haulers, but collection of commercial waste involves the use of heavy equipment, trucks and large metallic containers such as dumpsters which may create excessive noise and at times, this noise may create issues for residents living near a commercial property during early morning hours; and

WHEREAS, in non-central business district (CBD) areas of the city, collections from a commercial property are prohibited between the hours of 12:00 am and 5:00 am, but an automatic variance is granted which effectively permits collection 24 hours a day, residential solid waste collection for single or multi-family homes is prohibited between the hours of 10:00 pm and 7:00 am; and

WHEREAS, under the current version of the code, if a resident within 200 feet of the commercial property collection location files a noise complaint with the City, the automatic variance is revoked and the commercial waste hauler must observe the restricted collection hours between 12:00 am and 5:00 am, but this does not prohibit collection before 7:00 am, therefore the proposed amendment to the City Code will change the commercial collection times to match the residential collection times; and

WHEREAS, noise complaints from citizens under this chapter are referred to the Solid Waste Determination Board, the proposed amendment to the City Code will revise the membership of the board to align core programs and will authorize and establish an administrative penalty for commercial waste haulers found to be in violation; and

WHEREAS, this Ordinance approves the proposed amendments to Chapter 14 of the City Code to revise the commercial waste hauler collection times in the non-central business district, to update the membership of the Solid Waste Determination Board and to authorize and establish an administrative penalty for violations of this section of Chapter 14; **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 entitled "Solid Waste," is hereby amended by adding language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance as follows:

* * *

Sec. 14-41. - Commercial refuse and recycling collection.

* * *

(f) *Time of collection.* It shall be the duty of the person hauling solid waste, recycling, or grease and grit trap wastes, to comply with the time set for collection in this section. Time of collection is dependent on the location of the containers being serviced:

* * *

(5) In other (non-CBD) areas of the city there will be no collection of waste, recycling, or grease and grit trap wastes, from commercial properties between the hours of 10:00 p.m. and 7:00 a.m. ~~12:00 a.m. and 5:00 a.m.~~ and there will be no collection of waste or recycling from residential or multi-family properties between the hours of 10:00 p.m. and 7:00 a.m. ~~(except residential collection which shall be between the hours of 7:00 a.m. and 10:00 p.m.)~~. In the absence of complaints from affected citizens within two hundred (200) feet, an automatic variance ~~(i.e.,~~ for collection ~~of waste~~ from commercial properties between 10:00 p.m. and 7:00 a.m. ~~12:00 a.m. and 5:00 a.m.)~~ is granted.

* * *

Sec. 14-44. - Solid waste determination board established; composition; actions.

(a) The solid waste determination board is hereby established and shall consist of the ~~city attorney, the~~ solid waste management director, the planning and community development director, and the development services and code enforcement ~~services~~ director or their designated representatives. The board shall convene upon request of an individual filing a written complaint pursuant to subsection 14-41(h)(3). The board shall have the power to revoke the automatic variance granted in subsection 14-41(f)(5). In determining whether the collection of commercial refuse created excessive noise, the board shall cause a copy of the board's order and written complaint to be served upon the accused by certified mail, return receipt requested at least twenty (20) days before the date appointed in the order for the hearing. Where the accused is a corporation, notice shall be hand delivered to the president, any vice-president, or registered agent of the corporation at its registered office. In the event that the president, any vice-president, or registered agent cannot with reasonable diligence be found at the registered office, duplicate copies of the notice shall be sent to the secretary of state by certified mail, return receipt requested. The accused may appear in person or by counsel, or both, at the time and place named in the order,

and make his defense to the same. If the complainant fails to appear, the complaint shall be dismissed. If the accused fails or refuses to appear, the board may proceed to hear and determine the charge in his absence. If the accused pleads guilty, or if upon a hearing of the charges, the board, by a vote, finds the complaint to be true, it may enter an order revoking the automatic variance granted in subsection 14-41(f)(5) at the location in question and assess an administrative penalty. The action of the solid waste determination board in revoking (or not revoking) the automatic variance and the assessment of a penalty shall be appealable by the commercial hauler (or the complainant) filing a written notice of appeal with the city clerk appealing such determination to the city council. The notice of appeal shall be filed within ten (10) days after the date of hearing.

(b) It shall be unlawful for any person, or his agent or employee, whose automatic variance at a specified location in non-CBD areas has been revoked, to collect commercial refuse at the specified location in non-CBD areas between the hours of 10:00 p.m. and 7:00 a.m. ~~12:00 a.m. and 5:00 a.m.~~ and continued violations shall result in an administrative penalty of up to $500.00 per violation.

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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. 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 penalty related to collection violations in the non-CBD areas of the city is hereby authorized and established as incorporated herein to effectuate the purpose of this Ordinance. The Director, Solid Waste Management Department, shall develop applicable procedures for the Solid Waste Determination Board to administer and enforce the penalty. The $500.00 administrative penalty, if assessed and collected, would be deposited into the City's Solid Waste Enterprise Fund.

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. This Ordinance shall become effective immediately upon passage by eight (8) or more affirmative votes or, if passed by fewer than eight (8) affirmative votes, shall be effective ten (10) days after passage.

PASSED AND APPROVED this 5th day of March, 2015.

Ivy R. Taylor

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Chris J. Helmer

for Martha G. Sepeda, Acting City Attorney

Agenda Item:	**11 (in consent vote: 6, 7, 8, 9, 10, 11, 12, 13, 14, 15)**
Date:	03/05/2015
Time:	03:01:31 PM
Vote Type:	Motion to Approve
Description:	An Ordinance amending Chapter 14 of the City Code, Solid Waste Operations, to address noise issues with the collection of commercial refuse in non-central business district areas of the city; changing the composition of the Solid Waste Determination Board; and, adding administrative penalties for violation of the Code. [Peter Zanoni, Deputy City Manager; David W. McCary, Director, Solid Waste Management]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Trevino	District 1		x				
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x				x
Rey Saldaña	District 4	x					
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x			x	
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				