

City of Houston, Texas, Ordinance No. 2020-425

AN ORDINANCE AMENDING SECTIONS 39-1, 39-49, 39-62, AND 39-63 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, ESTABLISHING A FEE FOR THE LEASE AND MANAGEMENT OF CONTAINERS FOR GARBAGE AND RECYCLABLES FOR RESIDENTIAL UNITS; ESTABLISHING AN EFFECTIVE DATE; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; MAKING OTHER CONFORMING AMENDMENTS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, Chapter 39, Article I, Section 39-1 of the City of Houston Code of Ordinances contains definitions related to solid waste and litter control; and

WHEREAS, Chapter 39, Article IV, Section 39-49 of the City of Houston Code of Ordinances contains a citation to a Section of Chapter 39 that was renumbered and needs to be updated; and

WHEREAS, Chapter 39, Article IV, Section 39-62 of the City of Houston Code of Ordinances contains specifications and provisions regarding automated service containers for residential units serviced by city collectors; and

WHEREAS, Chapter 39, Article IV, Section 39-63 of the City of Houston Code of Ordinances describes eligibility requirements for basic garbage collection service and contains discrepancies that need to be corrected; and

WHEREAS, the City incurs costs associated with the maintenance and purchase of container equipment; and

WHEREAS, the City incurs costs associated with the employment of container management personnel; and

WHEREAS, the City Council finds it is appropriate to institute a procedure to recoup a portion of the costs incurred by the City; **NOW, THEREFORE;**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

Section 2. That the definition of the term “basic garbage collection service” in Section 39-1 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“*Basic garbage collection service* means automated collection service, recyclable material collection service, and other basic collection services.”

Section 3. Section 39-1 of the Code of Ordinances, Houston, Texas, is hereby further amended by adding, in the appropriate alphabetical order, a new definition that reads as follows:

“*Residential unit customer* means a resident of a residential unit that is eligible for basic garbage collection service.”

Section 4. That Section 39-49(f) of the Code of Ordinances, Houston, Texas, is hereby amended by replacing the term “39-68” with the term “39-66.”

Section 5. That Section 39-62(a) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“(a) The following specifications and service conditions shall apply to residential unit customers who receive basic garbage collection service and extra capacity service:

- (1) **Containers.** The department shall provide one automated service container and one automated recycling container to each residential unit customer. The monthly fee for the provision, management and use of the containers for basic garbage collection service is stated in the city fee schedule. The fee shall be paid annually in advance by the residential unit customer in accordance with billing procedures established by the director; provided that upon presentation of a city water account number, the city may bill the basic garbage collection service fee to the residential unit customer’s city water account on a monthly basis.

Sunset provision. The fee established in this item (1) of this subsection for the lease and management of garbage and recycling containers for residential units will expire on July 1,

2024, unless otherwise amended or extended by city council.

- (1a) **Extra capacity.** Upon request, and subject to the requirements of 39-63(2)(b), a residential unit customer shall be provided up to two additional automated service containers upon advance payment by money order or cashier's check of the monthly extra capacity service fee per automated service container stated for this provision in the city fee schedule. A city water customer who desires to contract for billing of the extra capacity service fee through the customer's city water account may provide the director the customer's city water account number and advance payment of the first monthly extra capacity service fee for each additional automated service container requested. Thereafter, a monthly charge for each additional container will be billed through the customer's water account. Each additional automated service container shall bear an extra capacity sticker containing serial or other identification numbers and shall be issued by the department for a minimum service period of 12 months.
- (2) **Replacement for damage or loss of container.** The department will replace a container at no charge to a residential unit customer, if:
 - a. It is damaged beyond use by city collectors; or
 - b. It is lost as a result of a disaster for which the mayor has declared a local state of emergency or local state of disaster; or
 - c. It is lost as a result of a severe weather event that results in localized flooding for which the mayor has determined that fees for container replacement will not be charged.
- (3) **Replacement due to routine wear.** The department will replace a container due to routine wear when necessary at no charge to a residential unit customer, but not more frequently than once every ten years, and will provide a second replacement within the same time period at a reduced cost only if:
 - a. The residential unit customer requesting a second container is a senior citizen over the age of 65; or

- b. The residential unit customer is enrolled in the department's pickup for persons with disabilities program as identified in Section 39-80.

For these categories of residential unit customers, the replacement fee shall be waived for a second replacement and only the delivery fee shall be charged.

- (4) **Replacement for other reason.** For a container that requires replacement for reasons other than those stated in items (2) and (3) of this subsection, the department shall replace a residential unit customer's container upon payment therefor by the residential unit customer using any payment method described in item (1a) of this subsection. The cost for container replacement includes the container delivery fee in addition to the city's actual cost to purchase the replacement container, each as set forth in the city fee schedule.
- (5) **City container not in compliance.** Only a city container that is directly provided by the department to the residential unit customer under the department's residential service program, extra capacity service program, or non-residential service program will be serviced by the city. Any other city container presented by a residential unit customer for service will be retrieved by the city at the residential unit customer's expense. The retrieval charges include the costs of retrieval and cleaning the improperly acquired container. The residential unit customer will be assessed a container cleaning fee, which includes the cost of disposal of contents, and a container retrieval fee, each of which is set forth in the city fee schedule. The department shall invoice the residential unit customer for the fees assessed by this subsection, which must be paid using any payment method described in item (1a) of this subsection."

Section 6. That Section 39-62(d) of the Code of Ordinances, Houston, Texas is hereby amended by replacing the words "left hand" with the hyphenated word "left-hand."

Section 7. That Section 39-62(e) of the Code of Ordinances, Houston, Texas is hereby amended by replacing the word "residents" with the phrase "residential unit

customers” and by inserting the word “automated” immediately preceding the phrase “recycling containers.”

Section 8. That Section 39-62(f) of the Code of Ordinances, Houston, Texas is hereby amended by replacing the word “person” with the phrase “residential unit customers.”

Section 9. That Section 39-63 of the Code of Ordinances, Houston, Texas is hereby amended by replacing the phrase “automated garbage collection service” with the phrase “basic garbage collection service” and by inserting the word “automated” immediately preceding the phrase “recycling containers.”

Section 10. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the “Code”) to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 11. That the City Council hereby approves the new solid waste container lease and management fee established in Section 39-62(a) of the Code of Ordinances, Houston, Texas, in the amounts shown below:

Name	Description	Statutory Authority	Amount
Container Lease and Management	Provision, management and use of one automated service container and one automated recycling container for residential collection service – Monthly (Before sales tax)	39-62(a)(1)	\$1.14

The Director of Solid Waste Management shall ensure that a copy of this Ordinance is provided to the Director of Finance, who shall incorporate the new fees in the City Fee Schedule as soon as possible.

Section 12. That if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 13. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect at 12:01 a.m. on July 1, 2020.

PASSED AND APPROVED this 13th day of May, 2020.

Sylvester Turner
Mayor of the City of Houston

Prepared by Legal Dept. _____
EAG/tm: 04/22/20 Assistant City Attorney
Requested by Harry Hayes, Director, Solid Waste Management Department
L.D. File No. 742000038001