Article 6: Collection, Transportation and Disposal of Refuse and Solid Waste

Division 7: Recycling Ordinance

("Recycling Ordinance"

Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)

§66.0701 Findings

The Council of the City of San Diego finds and declares that:

(a) The City operates the Miramar Landfill, which is currently the only municipal landfill in the City. The Miramar Landfill currently is expected to close between 2011 and 2013. Preserving landfill capacity at the Miramar Landfill in order to extend the useful life of the Miramar Landfill for the citizens of the City is a paramount concern.

(b) The City has met (for 2004 and 2005) and continues to make progress in maintaining the waste diversion requirements imposed by AB 939, but additional efforts, particularly in the recycling of paper, cardboard, and other recyclable materials, will assist the City in maintaining and exceeding the goal of diverting 50% of its waste from landfill disposal.

(c) Studies show that approximately 21% of the waste generated in the City of San Diego and delivered for landfill disposal is paper and 16% is compostable organics, all of which could be diverted from landfill disposal.

(d) Efforts by the City and the private sector to encourage voluntary diversion of residential, commercial, and special event waste have not been as successful as the City had hoped and additional efforts are necessary to ensure continued compliance with AB 939 requirements.

(e) Recycling programs in other jurisdictions in the State, similar to the one implemented by this Division, have proven successful in increasing diversion of recyclable materials and have been favorably received by the California Integrated Waste Management Board.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)
§66.0702  Purpose

The purpose of this Division is to establish requirements for recycling of recyclable materials generated from residential facilities (both single family and multi-family), commercial facilities (including City buildings), and special events. These requirements are intended to increase the diversion of recyclable materials from landfill disposal, conserve the capacity and extend the useful life of the Miramar Landfill, reduce greenhouse gas emissions, and avoid the potential financial and other consequences to the City of failing to meet AB 939 requirements.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)

§66.0703  Definitions

All defined terms in this Division appear in italics. For purposes of this Division, the following definitions apply:

AB 939 has the same meaning as set forth in Section 66.0102 of this Article.

Certified Recyclable Materials Collector means a Recyclable Materials Collector which has been issued a certificate by the City pursuant to this Division.

Collect or Collection shall mean to take physical possession of and remove solid waste or recyclable materials at the place of generation.

Commercial facilities means any facilities that are not residential facilities or mixed use facilities. Commercial facilities includes City buildings for which the responsible person is a City of San Diego employee.

Department means the City of San Diego Environmental Services Department or its successor.

Director has the same meaning as set forth in Section 66.0102 of this Article.

Disposal means the final deposition of waste at a permitted landfill or other permitted waste facility.

Diversion or Divert means the reduction or elimination of solid waste from landfill disposal.

Franchisee has the same meaning as set forth in Section 66.0102 of this Article.

Mixed use facilities means facilities which include both residential and commercial uses.
Person

Recyclable

Recyclable Materials

Recyclable Materials Collector

Recycling or Recycle

Recycling facility

Refuse

Residential facility

Responsible person

Self-haul

Solid waste

§66.0704 Unlawful Acts

It is unlawful for any person to fail to comply with any provision or requirement set forth in this Division which is applicable to such person.

§66.0705 Recycling Requirement for Persons Serviced by City of San Diego

Effective January 1, 2008, persons who are provided with curbside recycling collection services by the City of San Diego shall participate in the City curbside recycling program by separating recyclable materials from other solid waste and depositing the recyclable materials in the approved recycling container.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)
§66.0706  Recycling Requirement for Residential Facilities Serviced by Franchisee

(a) Occupants of Single Family Residential Facilities. Effective on the 90th day after the date of final passage of the ordinance adopting this Division, occupants of single-family residential facilities which receive solid waste collection service from a Franchisee shall participate in a curbside recycling program, offered by the Franchisee or a Recyclable Materials Collector, by separating recyclable materials from other solid waste and depositing the recyclable materials in the recycling container provided by the Franchisee or Recyclable Materials Collector.

(b) Single Family Residential Facilities Managed by Association. For single family residential facilities, whose solid waste collection services are managed by an association or other organization responsible for providing for solid waste collection services to multiple single family residential facilities within a housing development, the responsible person for the association or other organization shall provide curbside recycling services to each single family residential facility in compliance with the requirements in sections 66.0706(e) and 66.0706(f), beginning on the 90th day after the date of final passage of the ordinance adopting this Division.

(c) Multi-Family Residential Facilities. For multi-family residential facilities which receive solid waste collection service from a Franchisee, the responsible person shall provide on-site recycling services to occupants as required by this Division, by the following dates:

(1) The 90th day after the date of final passage of the ordinance adopting this Division, for multi-family residential facilities with 100 residential units or more;

(2) January 1, 2009, for multi-family residential facilities with at least 50 but not more than 99 residential units; and

(3) January 1, 2010, for multi-family residential facilities with up to 49 residential units.

(d) Occupants of Multi-Family Residential Facilities. Occupants of multi-family residential facilities which receive solid waste collection service from a Franchisee shall participate in a recycling program by separating recyclable materials from other solid waste and depositing the recyclable materials in the recycling container provided by the Franchisee or Recyclable Materials Collector, beginning on the applicable dates specified in Section 66.0706(c).
(e) **Recycling Services.** The *recycling* services required by this Section 66.0706 shall include, at a minimum, all of the following:

1. *collection* of *recyclable materials* at least two times per month;
2. *collection* of plastic bottles and jars, paper, newspaper, metal containers, cardboard, and glass containers;
3. utilization of *recycling* receptacles which comply with the standards in the Container and Signage Guidelines established by the Department;
4. designated *recycling collection* and storage areas; and
5. signage on all *recycling* receptacles, containers, chutes, and/or enclosures which complies with the standards described in the Container and Signage Guidelines established by the Department.

(f) **Occupant Education.** For multi-family *residential facilities*, the *responsible person* shall ensure that occupants are educated about the *recycling* services as follows:

1. Information, including the types of *recyclable materials* accepted, the location of *recycling* containers, and the occupants responsibility to *recycle* pursuant to this Division, shall be distributed to all occupants annually;
2. All new occupants shall be given information and instructions upon occupancy; and
3. All occupants shall be given information and instructions upon any change in *recycling* service to the facility.

*(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)*

§66.0707 **Recycling Requirements for Commercial Facilities Serviced by Franchisee**

(a) **Commercial facilities.** For *commercial facilities* which receive *solid waste collection* services from a *Franchisee*, the *responsible person* shall provide on-site *recycling* services to occupants as required by this Division, by the following dates:

1. The 90th day after the date of final passage of the ordinance adopting this Division, for *commercial facilities* of 20,000 square feet or more;
(2) January 1, 2009, for *commercial facilities* of 10,000 square feet or more, but less than 20,000 square feet; and

(3) January 1, 2010, for *commercial facilities* under 10,000 square feet.

(b) Occupants of *Commercial Facilities*. Occupants of *commercial facilities* which receive *solid waste collection* service from a *Franchisee*, shall participate in a *recycling* program by separating *recyclable materials* from other *solid waste* and depositing the *recyclable materials* in the *recycling* container provided by the *Franchisee* or *Recyclable Materials Collector*, beginning on the applicable dates specified in Section 66.0707(a).

(c) *Recycling Services*. The *recycling* services required by this Section 66.0707 shall include, at a minimum, all of the following:

(1) *collection* of *recyclable materials* as frequently as necessary to meet demand;

(2) *collection* of plastic bottles and jars, paper, newspaper, metal containers, cardboard, and glass containers;

(3) *collection* of other *recyclable materials* for which markets exist, such as scrap metal, wood pallets, and food waste, as determined by the *Director*, with *collection* of such *recyclable materials* required beginning on the 181st day after the City gives public notice thereof by placing a display advertisement of at least one-eighth page in a newspaper of general daily circulation within the City and posting a notice including such *recyclable materials* on a list maintained on the *Department’s* website;

(4) utilization of *recycling* receptacles or containers which comply with the standards in the Container and Signage Guidelines established by the *Department*;

(5) designated *recycling collection* and storage areas; and

(6) signage on all *recycling* receptacles, containers, chutes, and/or enclosures which complies with the standards described in the Container and Signage Guidelines established by the *Department*
(d) Occupant Education. For commercial facilities, the responsible person shall ensure that occupants are educated about the recycling services as follows:

(1) Information, including the types of recyclable materials accepted, the location of recycling containers, and the occupants responsibility to recycle pursuant to this Division, shall be distributed to all occupants annually;

(2) All new occupants shall be given information and instructions upon occupancy; and

(3) All occupants shall be given information and instructions upon any change in recycling service to the commercial facility.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)

§66.0708 Recycling Requirements for Mixed Use Facilities

(a) Majority Residential. For a mixed use facility which has the majority of its square footage devoted to residential uses, the responsible person shall comply with the recycling requirements set forth in Section 66.0706 of this Division.

(b) Majority Commercial. For a mixed use facility which has the majority of its square footage devoted to commercial uses, the responsible person shall comply with the recycling requirements set forth in Section 66.0707 of this Division.

(c) Occupants of Majority Residential Mixed Use Facility. Occupants of a mixed use facility which has the majority of its square footage devoted to residential uses, shall comply with the recycling requirements applicable to occupants set forth in Section 66.0706 of this Division.

(d) Occupants of Majority Commercial Mixed Use Facility. Occupants of a mixed use facility which has the majority of its square footage devoted to commercial uses, shall comply with the recycling requirements applicable to occupants set forth in Section 66.0707 of this Division.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)
§66.0709  Delivery of Recyclable Materials to Recycling Facility

Franchisees and Recyclable Materials Collectors who collect recyclable materials generated within the City shall deliver those recyclable materials to a recycling facility. Persons who self-haul recyclable materials must deliver those recyclable materials to a recycling facility. The recycling facility may be located at a landfill, but recyclable materials generated within the City shall not be delivered to a landfill or other site for disposal.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)

§66.0710 Recycling Containers

(a) Container Signage. Automatic lift containers, bins, roll-offs, and other containers provided by Franchisees and Recyclable Materials Collectors to collect and store recyclable materials pending collection shall be clearly identified as a recyclable materials container, shall display the name and phone number of the Franchisee or Recyclable Materials Collector to whom the container belongs, and shall display a list of the recyclable materials which may be deposited into the container.

(b) Container Features. Automatic lift containers, bins, roll-offs, and other containers used to collect and store recyclable materials pending collection shall be equipped with close-fitting lids and be leak-proof and rodent-proof.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)

§66.0711 Annual Reports from Franchisees and Recyclable Materials Collectors

(a) Franchisees and Certified Recyclable Materials Collectors shall submit an annual report by August 15 of each year, beginning August 15, 2008, to the Department, on a form or using a format prescribed by the Director. Annual reports shall include the following information for each facility serviced within the City for the period June 30 through July 1 of the immediately preceding twelve month period:

(1) The name of the person(s) responsible for solid waste and/or recyclable materials management at the facility serviced;

(2) The name and address of the facility serviced;

(3) The volume in cubic yards or gallons, measured by the size of the applicable containers in use at the facility, of solid waste and recyclable materials collected per week from the facility;
(4) The frequency of solid waste and recyclable materials collection service provided to the facility; and

(5) Additional information as required by the Director.

(b) Franchisees and Recyclable Materials Collectors also shall include in the annual reports for the time period specified in section 66.0711(a) the following information:

(1) The total amount of recyclable materials, measured in tons, collected by the Franchisee or Recyclable Materials Collector within the City; and

(2) The names and addresses of the recycling facilities to which the recyclable materials collected within the City were delivered for recycling.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)

§66.0712 Special Events Recycling

(a) For a community special event requiring an event permit from the City of San Diego, the responsible person shall provide recycling receptacles throughout the event venue, effective beginning on the 90th day after the date of final passage of the ordinance adopting this Division.

(b) The number of recycling receptacles shall equal the number of solid waste receptacles.

(c) The solid waste and recycling receptacles shall be placed next to one another throughout the event venue.

(d) The types of recyclable materials suitable for deposit into each recycling receptacle shall include, at a minimum, aluminum and metal cans, and glass and plastic bottles and jars.

(e) Each recycling receptacle shall be clearly identified as a recycling receptacle and shall display a list of the types of recyclable materials which may be deposited into the recycling receptacle.

(f) The responsible person shall ensure that the recyclable materials deposited into the recycling receptacles are delivered to a recycling facility. The recycling facility may be located at a landfill, but recyclable materials shall not be delivered to a landfill for disposal.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)
§66.0713 Exemptions

(a) Six cubic yard exemption. Multi-family residential facilities, commercial facilities, and mixed use facilities which generate 6 cubic yards or less per week of solid waste, including recyclable materials mixed with solid waste, are exempt from the requirements of this Division. The 6 cubic yard threshold may be decreased at the discretion of the City Manager effective 90 days after the City has notified the public thereof by placing a display advertisement of at least one-eighth page in a newspaper of general daily circulation within the City and posting a notice on the Department’s website.

(b) Other Exemptions. Other exemptions to some or all of the requirements of this Division may be granted at the discretion of the Director’s designee. Applications for exemptions may be granted upon consideration of the following factors: available markets for recyclable materials, available space for recycling containers, alternative recycling efforts, and the amount and type of solid waste or recyclable materials generated. To be effective, an exemption must be in writing and signed by the Director’s designee. An exemption may be revoked at any time at the discretion of the Director’s designee if one or more of the factors justifying the exemption no longer exist, or other change in circumstances warrant revocation. Unless earlier revoked, an exemption shall be effective for a period of one year from the date it was granted. Subsequent applications for exemptions may be granted at the discretion of the Director’s designee upon consideration of the factors listed in this section 66.0713(b).

(c) Application for Exemption. Applications for an exemption shall be submitted to the Department in writing, on a form approved by the Director, together with a cost-recovery processing fee. The processing fee shall be reviewed annually by the City Manager and adjusted accordingly to ensure full cost-recovery for processing the application for exemption.

(d) If the Director’s designee denies an application for an exemption, the Director’s designee shall notify the applicant in writing of the reasons for the denial. The denial of an application for an exemption or the revocation of an exemption may be appealed to the Director, whose decision shall be final.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)
§66.0714 Certified Recyclable Materials Collector

(a) Certified Recyclables Materials Collector. A Recyclable Materials Collector may apply to the Director to become a Certified Recyclable Materials Collector. The certification will be valid for no more than two years after the date it is issued by the Director. The Director shall maintain a current list of Certified Recyclable Materials Collectors on the Department’s website and in other educational materials published by the Department.

(b) Application Form and Fee. Applicants for a recyclable materials collector certificate shall complete and submit to the Director a written application, on a form approved by the Director, together with a cost-recovery processing fee. The processing fee shall be reviewed annually by the City Manager and adjusted accordingly to ensure full cost-recovery for processing the application for certification. The application shall include, at a minimum, all of the following:

1. name, address, and telephone number of the applicant;

2. name, address, and telephone number of an individual contact for the applicant;

3. description of each vehicle the applicant will use to provide recyclable materials collection services within the City including, but not limited to make, model, serial or vehicle identification number, and license number;

4. address where all vehicles and operating equipment used to provide recyclable materials collection services within the City will be stored and maintained;

5. the applicant’s agreement to defend, with counsel to be agreed upon by both parties, indemnify, and hold harmless, City and its agents, officers, servants, and employees from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to City’s employees, agents, or officers which arise from, or are connected with, or are caused or claimed to be caused by acts or omissions of the applicant, or its agents, officers or employees, in the performance of the recyclable materials collection services, and all costs and expenses of investigating and defending against same; provided, however, that the applicant’s duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the City, its agents, officers, or employees;
(6) without limiting the indemnification obligation above, the applicant’s agreement to obtain and maintain in full force and effect throughout the term of the recyclable materials collector certificate, and any extensions or modifications thereof, insurance coverage which meets or exceeds the requirements established by the Director; and

(7) A written statement certifying that the applicant has reviewed and will comply with the requirements of this Division and in the certificate.

(c) Insurance. The Director, in consultation with the City’s Risk Management Department, shall establish minimum reasonable insurance requirements for Certified Recyclable Materials Collectors. Simultaneously with the submittal of its application, the applicant shall furnish proof satisfactory to the Director that the applicant has obtained the required insurance coverage. Annually on each anniversary of the issuance of the certificate, the applicant shall furnish proof satisfactory to the Director that the applicant maintains at least the minimum required insurance coverage.

(d) Vehicles and Equipment. All vehicles, containers, and other equipment used to provide the recyclable materials collection services shall be kept in a clean and well-maintained condition.

(e) Container Signage. Automatic lift containers, bins, roll-offs, and other containers used to collect and store recyclable materials pending collection shall be clearly identified as a recyclable materials container, shall display the name and phone number of the Certified Recyclable Materials Collector to whom the container belongs, and shall display a list of the recyclable materials which may be deposited into the container.

(f) Container Features. Automatic lift containers, bins, roll-offs, and other containers used to collect and store recyclable materials pending collection shall be equipped with close-fitting lids and be leak-proof and rodent-proof.

(g) Compliance with Law. Certified Recyclable Materials Collectors shall conduct all of their activities in compliance with all applicable federal, state, and local laws, regulations, ordinances, and requirements and shall be responsible for obtaining all applicable permits, licenses, certifications, and registrations.

(h) Application Verification. The Director may independently verify any and all statements made or implied in the application or any accompanying documents. The Director may also request clarification from the applicant of any such statements or information.
(i) Application Review. In reviewing each application, the Director shall take into consideration all components of the application including, but not limited to:

(1) the ability of the applicant to meet the requirements of this Division and the certificate;

(2) any history of criminal or civil violations that may compromise the public’s interest; and

(3) the completeness, accuracy, and validity of the application.

(j) Application Determination. After a reasonable review period, the Director shall grant or deny the application. If the Director fails to grant an application after thirty days from the receipt of a complete application, including accompanying documentation, the applicant may at the applicant’s option deem the application denied. If the Director denies an application, the Director shall notify the applicant in writing of the reasons for the denial.

(k) Certificate Revocation. The Director may revoke a certificate if the Director determines, after providing notice and an opportunity for a hearing, that a Certified Recyclable Materials Collector has violated the provisions in the certificate or any applicable law. If the Director revokes a certificate, the Director shall notify the applicant in writing of the reasons for the revocation.

(l) Appeal Upon Denial of Application or Revocation of Certificate. Within thirty days after the issuance of a written notice of the denial of an application or the revocation of a certificate, the applicant or Certified Recyclable Materials Collector may request in writing to the Director that the City Manager review the Director’s decision. Within thirty days of the Department’s receipt of such a request, a meeting with the City Manager or designee shall be scheduled to review the items cited in the written notice. At that meeting, the applicant or Certified Recyclable Materials Collector may provide any additional information in support of their position. Within thirty days of such a meeting, the City Manager will issue a written decision on the application or revocation, which shall include the reasons for the decision. The City Manager’s decision shall be final. A copy of the City Manager’s written decision shall be provided to the applicant or Certified Recyclable Materials Collector and the Director.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)
§66.0715  Self-Haul and Use of Non-Certified Recyclable Materials Collector

(a) Nothing in this Division shall preclude any person from self-hauling recyclable materials generated by that person to a recycling facility.

(b) The responsible person for a multi-family residential facility, commercial facility, mixed use facility, or association or organization described in section 66.0706(b), which self-hauls solid waste to a disposal facility shall comply with the recycling requirements in this Division applicable to that multi-family residential facility, commercial facility, mixed use facility, or association or organization described in section 66.0706(b).

(c) Except for occupants of single family residential facilities, a person who self-hauls solid waste to a disposal facility and/or self-hauls recyclable materials to a recycling facility shall comply with the reporting requirements set forth in section 66.0711(a).

(d) Except for occupants of single family residential facilities, a person who uses the services of a recyclable materials collector, which is neither a Franchisee nor a Certified Recyclable Materials Collector, to collect, transport, and deliver recyclable materials generated by that person to a recycling facility, shall comply with the reporting requirements set forth in section 66.0711(a).

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)

§66.0716  Selling or Donating Recyclable Materials

Nothing in this Division shall preclude any person from selling or exchanging at fair market value, for reuse or recycling, source-separated recyclable materials generated by that person or from donating to another entity, for reuse or recycling, source-separated recyclable materials generated by that person.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)

§66.0717  Scavenging of Recyclable Materials Prohibited

(a) No person other than the person under contract with the generator of the recyclable materials to collect the recyclable materials, shall remove or otherwise interfere with recyclable materials which have been placed at a designated recycling or recyclable materials collection location.
(b) No person shall be guilty of a violation of this section 66.0717 unless the person knew or reasonably should have known that the recyclable materials were set out for purposes of collection by another person authorized to collect the recyclable materials.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)

§66.0718 Enforcement

(a) Authority. The Director is authorized to administer and enforce the provisions of Chapter 6, Article 6, Division 7 of this Code. The Director or anyone designated by the Director to be an enforcement official may exercise any enforcement powers as provided in Chapter 1 of this Code.

(b) Remedies. It is unlawful to violate any provision or requirement of Division 7. The failure to comply with any requirement of Division 7 constitutes a violation of Division 7. Each instance of a violation of Division 7 is a separate offense. Violations of the provisions or requirements of Division 7 may be prosecuted as misdemeanors subject to the penalties provided in section 12.0201 of this Code. The Director or designee may seek injunctive relief or civil penalties in the Superior Court pursuant to section 12.0202 of this Code or may pursue any administrative remedy provided in Chapter 1, Article 2, Divisions 3 through 10 inclusive, of this Code.

(c) Remedies Cumulative. Remedies under section 66.0718 are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(d) Strict liability. Except as otherwise set forth in section 66.0717, violations of Division 7 shall be treated as strict liability offenses regardless of intent.

(Added 11-20-2007 by O–19678 N.S.; effective 12-20-2007.)