

ORDINANCE NUMBER O- 19678 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 20 2007

AN ORDINANCE OF THE CITY OF SAN DIEGO AMENDING CHAPTER 6, ARTICLE 6 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 7, SECTIONS 66.0701, 66.0702, 66.0703, 66.0704, 66.0705, 66.0706, 66.0707, 66.0708, 66.0709, 66.0710, 66.0711, 66.0712, 66.0713, 66.0714, 66.0715, 66.0716, 66.0717, AND 66.0718 ALL RELATING TO RECYCLING FOR RESIDENTIAL FACILITIES, COMMERCIAL FACILITIES, MIXED USE FACILITIES, AND SPECIAL EVENTS.

WHEREAS, the City operates the Miramar Landfill [Landfill], which currently is the only municipal landfill in the City; and

WHEREAS, the Landfill is expected to close between 2011 and 2013; so preserving Landfill capacity in order to extend the useful life of the Landfill for the benefit of the citizens of the City is of paramount concern; and

WHEREAS, the California Integrated Waste Management Act of 1989, Assembly Bill 939 [AB 939], requires that each local jurisdiction in the State divert 50% of waste from landfill disposal; and

WHEREAS, the City could face fines up to \$10,000 per day for not maintaining at least a 50% diversion rate mandated by State law and showing good faith efforts to comply with the City's Integrated Waste Management Plan; and

WHEREAS, increasing recycling is necessary both to preserve and extend the useful life of the Landfill and to further efforts to reduce waste and comply with State mandates; and

WHEREAS, diverting waste generated from residential and commercial facilities and special events will assist the City in its efforts to maintain and exceed the State-mandated waste diversion rate; and

WHEREAS, voluntary residential and commercial recycling programs have not produced the waste diversion necessary to ensure continued compliance with state mandates; and

WHEREAS, except in unusual circumstances, it is feasible for residential and commercial facilities to accommodate recycling containers and signage and to implement recycling programs; and

WHEREAS, large volumes of recyclable materials also are generated at special events;

NOW THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 6, Article 6 of the San Diego Municipal Code is hereby amended by adding Division 7, sections 66.0701, 66.0702, 66.0703, 66.0704, 66.0705, 66.0706, 66.0707, 66.0708, 66.0709, 66.0710, 66.0711, 66.0712, 66.0713, 66.0714, 66.0715, 66.0716, 66.0717, and 66.0718 to read as follows:

### **Division 7: Recycling Ordinance**

#### **§ 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.

**§ 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.

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

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

*Recyclable Materials* has the same meaning as set forth in Section 66.0102 of this Article.

*Recyclable Materials Collector* has the same meaning as set forth in Section 66.0102 of this Article.

*Recycling* or *Recycle* has the same meaning as set forth in Section 66.0102 of this Article.

*Recycling facility* means a *recycling*, composting, or materials recovery or reuse facility.

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

*Residential facility* has the same meaning as set forth in Section 66.0127(a)(4) of this Article.

*Responsible person* has the same meaning as set forth in Section 11.0210 of the San Diego Municipal Code including, but not limited to, the individual or entity responsible for the management of *solid waste* at the *residential, commercial* or *mixed use facility* or special event for *disposal* or *recycling*.

*Self-haul* means the process of personally, or through one's own full-time employees, *collecting*, transporting, and delivering one's own *solid waste* or *recyclable materials*.

*Solid waste* has the same meaning as set forth in Section 66.0102 of this Article.

**§ 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.

**§ 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.

**§ 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 181<sup>st</sup> 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*.

**§ 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.

**§ 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*.

**§ 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.

**§ 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*.

**§ 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 90<sup>th</sup> 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*.

**§ 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.

**§ 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*.

**§ 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).

**§ 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*.

**§ 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*.

**§ 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.

Section 2. That the adoption of this ordinance is not a project and, therefore, is not subject to the California Environmental Quality Act [CEQA] pursuant to CEQA Guidelines section 15060(c)(3).

Section 3. That a full reading of this ordinance is dispensed with prior to passage, since a written copy was made available to the City Council and the public prior to the day of its passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Grace C. Lowenberg  
Grace C. Lowenberg  
Deputy City Attorney

GCL:mb  
09/17/07  
Or.Dept:Atty  
O-2008-30

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego,  
at its meeting of NOV 13 2007.

ELIZABETH S. MALAND, City Clerk

By [Signature]  
Deputy City Clerk

Approved: 11-20-07  
(date)

[Signature]  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor