

ORDINANCE NUMBER O- 20900 (NEW SERIES)

DATE OF FINAL PASSAGE FEB 09 2018

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 6, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 66.0102 AND 66.0109; AMENDING CHAPTER 6, ARTICLE 6, DIVISION 7 BY AMENDING SECTIONS 66.0703 AND 66.0709, AND BY RETITLING AND AMENDING SECTION 66.0711, ALL RELATING TO THE RECYCLABLE MATERIAL FRANCHISE EXCLUSION FOR SOLID WASTE COLLECTION FRANCHISES.

WHEREAS, the City of San Diego (City) operates the Miramar Landfill (Landfill), which is currently the only active municipal landfill in the City; and

WHEREAS, the Landfill is currently expected to close by 2030 and it is of paramount concern to preserve Landfill capacity in order to extend the useful life of the Landfill for the benefit of the City's citizens; and

WHEREAS, the Integrated Waste Management Act of 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the State divert at least 50% of solid waste from landfill disposal, beginning in the year 2000 and each year thereafter, or be subject to fines of up to \$10,000 per day; and

WHEREAS, Assembly Bill 341 (AB 341), adopted in 2011, declares that it is the policy goal of the State that not less than 75% of solid waste generated be source reduced, recycled, or composted by the year 2020; and

WHEREAS, on July 28, 2015, the Council of the City of San Diego (City Council) adopted a Zero Waste Plan that targets 75% waste diversion by the year 2020, 90% waste diversion by the year 2035, and Zero Waste by the year 2040; and

WHEREAS, San Diego Municipal Code (SDMC) section 66.0109 establishes exclusions from the City's non-exclusive solid waste collection franchise requirement; and

WHEREAS, Report to the City Council No. 15-063, dated June 17, 2015, which accompanied the City's Zero Waste Plan, identified removal of the recyclable material franchise exemption under SDMC section 66.0109(c) as a potential financing mechanism to achieve 75% diversion in the City by the year 2020; and

WHEREAS, on February 2, 2016, the City Council approved amendments to the City's non-exclusive solid waste collection franchise agreements that, subject to amendment of SDMC section 66.0109(c), permit the City to subject recyclable materials, or a portion thereof, to the franchise requirement; and

WHEREAS, on November 1, 2016, the City Council approved amendments to SDMC section 66.0109(c), and related sections, in order to subject certain recyclable materials to the franchise requirement, and thus provide a financing mechanism for implementation of the City's Zero Waste Plan, in support of the State's and City's waste diversion efforts; and

WHEREAS, as amended, SDMC section 66.0109(c) includes a recyclable materials franchise exclusion for certified recyclable materials collectors meeting certain conditions, including that they cannot collect recyclable food materials under the exclusion; and

WHEREAS, staff has learned that certain recyclable materials collectors collect recyclable food materials within the City for delivery to sites such as farms and community gardens, and that these activities may assist the City in achieving its diversion targets while new private sector organics recycling infrastructure is being developed; and

WHEREAS, staff desires to amend SDMC section 66.0109(c) and related sections, in order to allow certified recyclable materials collectors to collect recyclable food materials under a franchise exclusion, subject to certain conditions that are protective of public health and safety; NOW, THEREFORE,

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

Section 1. That Chapter 6, Article 6, Division 1 of the San Diego Municipal Code is amended by amending sections 66.0102 and 66.0109, to read as follows:

**§66.0102 Definitions**

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

*AB 939 through Franchisee* [No change in text.]

*Green Material* means any plant material that is either separated at the point of generation, or separated at a centralized facility that employs methods to minimize contamination. *Green material* includes, but is not limited to, yard trimmings, manure, untreated wood wastes, paper products, and natural fiber products. *Green material* does not include *food material*, treated wood waste, mixed demolition or mixed construction debris.

*Hazardous Substance through Waste Generator* [No change in text.]

**§66.0109 Franchise Exclusions**

The following types of solid waste collection are excluded from the franchise requirement, except that their transport shall be subject to section 66.0104:

(a) through (b) [No change in text.]

(c) *Recyclable materials* as follows:

(1) [No change in text.]

(2) Beginning July 1, 2017, the following *recyclable materials*:

(A) through (C) [No change in text.]

(D) *Recyclable material* that is collected by a *certified recyclable materials collector*, as limited by the following:

(i) The *certified recyclable materials collector* holds a valid certification granted by the *Director* in accordance with San Diego Municipal Code section 66.0714, and the valid certification is granted prior to MAR 11 2018, and is continuously maintained thereafter; or the valid certification is granted after MAR 11 2018, so long as a complete application for such certification was submitted to the *Director* prior to MAR 11 2018. The franchise exclusion shall not begin to apply until a valid certification is granted;

(ii) [No change in text.]

(iii) The *certified recyclable materials collector* complies with the quarterly reporting requirements of San Diego Municipal Code section 66.0711(c) for all *recyclable food material* collected; and

(iv) [No change in text.]

(d) through (e) [No change in text.]

(f) Solid waste that is generated at any premises and which is removed and transported personally by the owner or occupant of the premises or by his or her full-time employees to a licensed solid waste management facility, transfer station or disposal site in a manner consistent with the San Diego Municipal Code and other applicable laws.

(g) through (m) [No change in text.]

(n) Solid or semi-solid by-products of food or beverage processing that are collected for use as livestock feed including, but not limited to, spent brewery grains and fruit pulp, which are removed from a premises by the owner or occupant of the premises, or by his or her full-time employees, or by a *person* collecting the by-products for their direct use.

(o) Liquid by-products of food or beverage processing including, but not limited to, used cooking oil and pumpings from grease traps, which are source separated from *food material* and *solid waste* for the purpose of disposal or *recycling*. This exclusion does not include liquefied or slurred *food material*.

Section 2. That Chapter 6, Article 6, Division 7 of the San Diego Municipal Code is amended by amending sections 66.0703 and 66.0709, to read as follows:

**§66.0703 Definitions**

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

*AB 939* through *Diversion* or *Divert* [No change in text.]

*Food material* has the same meaning as in San Diego Municipal Code section 66.0102.

*Franchisee* through *Solid waste* [No change in text.]

*Vegetative food material* means *food material* that is also plant material, and that may be processed or cooked but must otherwise retain its natural character without any added salts, preservatives, fats or oils, or adulterants. *Vegetative food material* may include fruits and vegetables, edible flowers and plants, outdated and spoiled produce, and coffee grounds.

**§66.0709 Delivery of Recyclable Materials to Recycling Facility**

Except for the collection of *recyclable vegetative food materials* by a *Certified Recyclable Materials Collector* in accordance with San Diego Municipal Code section 66.0109(c)(2)(D), *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*. *Recyclable vegetative food materials* generated within the City shall not be delivered to a landfill or other site for *disposal*.

Section 3. That Chapter 6, Article 6, Division 7 of the San Diego Municipal Code is amended by retitling and amending section 66.0711, to read as follows:

**§66.0711 Reports from Franchisees and Certified Recyclable Materials Collectors**

- (a) [No change in text.]
- (b) *Franchisees and Certified 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 Certified Recyclable Materials Collector* within the City; and
  - (2) [No change in text.]
- (c) Beginning July 1, 2018, *Certified Recyclable Materials Collectors* that collect *recyclable food materials* in accordance with San Diego Municipal Code section 66.0109(c)(2)(D) shall submit a quarterly report, by the twentieth of each month following the end of a calendar year quarter, to the *Department*, on a form or using a format prescribed by the *Director*. Calendar year quarters end on March 31, June 30, September 30, and December 31 of each year. Quarterly reports shall include the following information:
  - (1) The name of the *person(s)* responsible for *recyclable materials* management at the facility whose *recyclable food materials* were serviced;
  - (2) The name and address of the facility serviced;
  - (3) The volume in cubic yards or gallons of *recyclable food materials*, measured by the size of the applicable containers in use at the facility, *collected per week* from the facility;

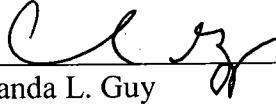
- (4) The names and addresses of the sites to which the *recyclable food materials collected* within the City were delivered for composting or final processing;
- (5) For *recyclable vegetative food materials collected* within the City and delivered for composting or final processing to a site other than a *recycling facility*, a letter of acknowledgement from the site property owner providing their acceptance of the *recyclable vegetative food materials* for composting or final processing; and
- (6) The volume in cubic yards or gallons of *recyclable food materials* delivered to each site per week for that calendar year quarter.

Section 4. The San Diego City Clerk is instructed to insert the effective date of this ordinance, once known, in the blank spaces provided in San Diego Municipal Code section 66.0109(c)(2)(D)(i).

Section 5. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

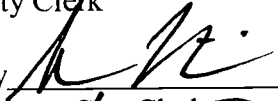
By  \_\_\_\_\_  
Amanda L. Guy  
Deputy City Attorney

ALG:js  
10/16/17  
Or.Dept:ESD  
Doc No.: 1604197\_3

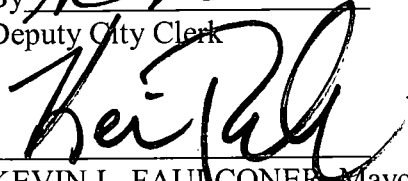


I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of ~~FEB 06 2018~~

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 2/9/18  
(date)

  
KEVIN L. FAULCONER, Mayor

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

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: Struck Out**

**NEW LANGUAGE: Double Underline**

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

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**§66.0102 Definitions**

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

*AB 939 through Franchisee* [No change in text.]

*Green Material* ~~shall~~ means any plant material that is either separated at the point of generation, or separated at a centralized facility that employs methods to minimize contamination. *Green material* *Green material* includes, but is not limited to, yard trimmings, ~~plant wastes from the food processing industry,~~ manure, untreated wood wastes, paper products, and natural fiber products. ~~Green material~~ *Green material* does not include *food material*, treated wood waste, mixed demolition or mixed construction debris.

*Hazardous Substance through Waste Generator* [No change in text.]

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(a) through (b) [No change in text.]

(c) *Recyclable materials* as follows:

(1) [No change in text.]

(2) Beginning July 1, 2017, the following *recyclable materials*:

(A) through (C) [No change in text.]

(D) *Recyclable material* that is collected by a *certified recyclable materials collector*, as limited by the following:

(i) The *certified recyclable materials collector* holds a valid certification granted by the *Director* in accordance with San Diego Municipal Code section 66.0714, and the valid certification is granted prior to ~~December 1, 2016~~ \_\_\_\_\_, and is continuously maintained thereafter; or the valid certification is granted after ~~December 1, 2016~~ \_\_\_\_\_, so long as a complete application for such certification was submitted to the *Director* prior to ~~December 1, 2016~~ \_\_\_\_\_. The franchise exclusion shall not begin to apply until a valid certification is granted;

(ii) [No change in text.]

(iii) ~~The *recyclable materials* do not include *food material*; and~~

The *certified recyclable materials collector* complies with the quarterly reporting requirements of San Diego Municipal Code section 66.0711(c) for all *recyclable food material* collected; and

(iv) [No change in text.]

(d) through (e) [No change in text.]

(f) Solid waste that is generated at any premises and which is removed and transported personally by the owner or occupant of ~~such~~ the premises (or by his / or her ~~other~~ full-time employees) to a licensed solid waste management facility, transfer station or disposal site in a manner consistent with the San Diego Municipal Code and other applicable laws.

(g) through (m) [No change in text.]

(n) Solid or semi-solid by-products of food or beverage processing that are collected for use as livestock feed including, but not limited to, spent brewery grains and fruit pulp, which are removed from a premises by the owner or occupant of the premises, or by his or her full-time employees, or by a *person* collecting the by-products for their direct use.

(o) Liquid by-products of food or beverage processing including, but not limited to, used cooking oil and pumpings from grease traps, which are source separated from *food material* and *solid waste* for the purpose of

disposal or recycling. This exclusion does not include liquefied or slurred food material.

**§66.0703 Definitions**

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*AB 939 through Diversion or Divert* [No change in text.]

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*Franchisee through Solid waste* [No change in text.]

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Recyclable vegetative food materials generated within the City shall not be delivered to a landfill or other site for disposal.

**§66.0711 Annual Reports from Franchisees and Certified Recyclable Materials Collectors**

(a) [No change in text.]

(b) *Franchisees* and *Certified 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 *Certified Recyclable Materials Collector* within the City; and

(2) [No change in text.]

(c) Beginning July 1, 2018, *Certified Recyclable Materials Collectors* that collect recyclable food materials in accordance with San Diego Municipal Code section 66.0109(c)(2)(D) shall submit a quarterly report, by the twentieth of each month following the end of a calendar year quarter, to the Department, on a form or using a format prescribed by the Director. Calendar year quarters end on March 31, June 30, September 30, and December 31 of each year. Quarterly reports shall include the following information:

(1) The name of the person(s) responsible for recyclable materials management at the facility whose recyclable food materials were serviced;

- (2) The name and address of the facility serviced;
- (3) The volume in cubic yards or gallons of *recyclable food materials*, measured by the size of the applicable containers in use at the facility, collected per week from the facility;
- (4) The names and addresses of the sites to which the *recyclable food materials collected* within the City were delivered for composting or final processing;
- (5) For *recyclable vegetative food materials collected* within the City and delivered for composting or final processing to a site other than a *recycling facility*, a letter of acknowledgement from the site property owner providing their acceptance of the *recyclable vegetative food materials* for composting or final processing; and
- (6) The volume in cubic yards or gallons of *recyclable food materials* delivered to each site per week for that calendar year quarter.

ALG:cm  
10/06/2017  
Or.Dept: ESD  
Doc No.: 1604193\_3

Passed by the Council of The City of San Diego on FEB 06 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 09 2018

AUTHENTICATED BY:

(Seal)

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *[Signature]*, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JAN 23 2018

FEB 09 2018

, and on \_\_\_\_\_.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *[Signature]*, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20900