

ORDINANCE NUMBER O- 21454 (NEW SERIES)DATE OF FINAL PASSAGE MAY 09 2022

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 6, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 66.0102, 66.0108, 66.0109, 66.0110, 66.0112, 66.0114, 66.0117, 66.0119, AND 66.0124, AND RETITLING AND AMENDING SECTION 66.0126; AND AMENDING CHAPTER 6, ARTICLE 6, DIVISION 7 BY AMENDING SECTIONS 66.0701, 66.0702, 66.0703, 66.0706, 66.0707, 66.0709, 66.0710, 66.0711, 66.0712, 66.0713, 66.0714, AND 66.0715, AND BY ADDING NEW SECTIONS 66.0719 AND 66.0720, REGARDING CITY SOLID WASTE AND RECYCLING REQUIREMENTS.

WHEREAS, State Senate Bill No. 1383, known as California's Short-Lived Climate Pollutant Reduction Strategy (SB 1383), and its implementing regulations mandate the diversion of organic waste from landfill disposal; and

WHEREAS, the City wishes to comply with SB 1383 by expanding the City's recycling requirements, primarily of organic waste, and aligning the City's solid waste collection franchise provisions with SB 1383 requirements; and

WHEREAS, the City also wishes to clarify and increase consistency between various solid waste collection franchise provisions and to clarify the City Manager's authority to establish recycling-related rules and regulations; 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, 66.0108, 66.0109, 66.0110, 66.0112, 66.0114, 66.0117, 66.0119, and 66.0124, and retitling and amending section 66.0126, 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 341 means California Assembly Bill 341 approved by the Governor and filed with the Secretary of State on October 6, 2011, which amended and/or added Public Resources Code sections 40004, 41730, 41731, 41734, 41734.5, 41735, 41736, 41780.01, 41780.02, 41800, 42926, 44004, and 50001 and Chapter 12.8 (commencing with section 42649) to Part 3 of Division 30, as they may be amended.

AB 939 [No change in text.]

AB 1826 means California Assembly Bill 1826 approved by the Governor and filed with the Secretary of State on September 28, 2014, which added Chapter 12.9 (commencing with section 42649.8) to Part 3 of Division 30 of the Public Resources Code, as it may be amended.

Affiliate [No change in text.]

Agreement means a non-exclusive *franchise agreement* between the *City* and a *franchisee* for the *collection* and subsequent transfer, transportation, and *recycling* or *disposal* of *commercial* and certain residential *solid waste*.

Central Traffic District has the same meaning as in San Diego Municipal Code section 81.0102.

Certified recyclable materials collector has the same meaning as in San Diego Municipal Code section 66.0703.

City [No change in text.]

Class I Franchise means a non-exclusive *franchise* granted to a *franchisee* to *collect* a maximum of 75,000 tons of *solid waste* per year within the *City*. For the purpose of determining the eligibility of a *solid waste collection* enterprise to be granted a *Class I Franchise*, the annual tonnage of *solid waste collected* in the *City* by that enterprise, its parent company, and all affiliates shall be combined.

Class II Franchise means a non-exclusive *franchise* granted to a *franchisee* to *collect* more than 75,000 tons of *solid waste* per year within the *City*.

Collect or *Collection* [No change in text.]

Commercial means nonresidential and includes, but is not limited to, mercantile, institutional, governmental, and industrial.

Construction and demolition waste means waste generated from construction, remodeling, repair, alteration, and/or demolition activities, and which may include a mixture of concrete, asphalt, wood, metals, bricks, dirt, rocks, and other inert *solid waste*.

Council [No change in text.]

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

Director [No change in text.]

Disposal means the final disposition of any *solid waste* at a permitted landfill or other permitted facility.

Disposal site means a permitted *solid waste facility* for the ultimate *disposal* of *solid waste*.

Diversion [No change in text.]

Edible food has the same meaning as in title 14, section 18982(a)(18) of the California Code of Regulations, as it may be amended.

Environmental Laws through *Food Material* [No change in text.]

Food recovery has the same meaning as in title 14, section 18982(a)(24) of the California Code of Regulations, as it may be amended.

Food recovery organization has the same meaning as in title 14, section 18982(a)(25) of the California Code of Regulations, as it may be amended.

Food recovery service has the same meaning as in title 14, section 18982(a)(26) of the California Code of Regulations, as it may be amended.

Franchise means the special right granted by the *City*, as authorized in the San Diego Charter and this Division, to operate on public property in the *City* as a non-exclusive enterprise for the *collection* and subsequent transfer, transportation, and *disposal* or *recycling* of *solid waste*. *Franchise* includes *Class I Franchises* and *Class II Franchises* as defined in San Diego Municipal Code section 66.0102.

Franchisee means any *person* who holds a valid, unrevoked, and unexpired non-exclusive *franchise*.

Green Material through *Manager* [No change in text.]

Medical waste means any waste which is generated or has been used in the diagnosis, treatment or immunization of human beings or animals, or research pertaining thereto, and shall include, but not be limited to, biohazardous and medical waste, or other waste as defined by federal, state or local law.

Organic waste has the same meaning as in title 14, section 18982(a)(46) of the California Code of Regulations, as it may be amended.

Person [No change in text.]

Recyclable means a material which can be processed into a form suitable for reuse through reprocessing or remanufactured consistent with the requirements of *AB 341, AB 939, AB 1826, and SB 1383.*

Recyclable material means residential or *commercial* source-separated by-products of some potential economic value, set aside, handled, packaged, or offered for *collection* in any manner different from *refuse*, and includes *organic waste*.

Recyclable materials collector means an enterprise that *collects recyclable material* within the *City*. A *recyclable materials collector* shall not be authorized to *collect* any material that contains greater than ten (10) percent by volume of *solid waste*.

Recycling or *Recycle* means the process of separating for *collection, collecting, treating, and/or reconstituting recyclable material* that would otherwise be discarded without receiving compensation, and returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The *collection, transportation, or disposal of solid waste* not intended for, or capable of reuse, is not *recycling*. For the purpose of this Division, *recycling* does not include use of *solid waste* for conversion to energy.

Recycling fee means that fee authorized by California Public Resources Code section 41901 and San Diego Municipal Code section 66.0134.

Refuse means *solid waste* destined for *disposal sites*. The definition of *refuse* herein does not alter in any manner the definition of "Refuse" for purposes of the People's Ordinance codified at San Diego Municipal Code section 66.0127.

Responsible person has the same meaning as in San Diego Municipal Code section 66.0703.

SB 1383 means California Senate Bill 1383 approved by the Governor and filed with the Secretary of State on September 19, 2016, which added sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code and Chapter 13.1 (commencing with section 42652) to Part 3 of Division 30 of the Public Resources Code, as they may be amended.

Self-haul has the same meaning as in San Diego Municipal Code section 66.0703.

Solid waste means all putrescible and nonputrescible solid and semi-solid wastes, including garbage, trash, *refuse*, "Refuse" as defined in San Diego Municipal Code section 66.0127, rubbish, *construction and demolition waste*, metallic discards, *organic waste*, animal solid or semi-solid wastes, and other solid or semi-solid wastes. *Solid waste* does not include *hazardous waste*, *hazardous substances*, *medical waste*, or the *recyclable materials* specified in San Diego Municipal Code section 66.0109(c)(1).

Solid waste facility means a public or private facility that transfers, *recycles*, mulches, composts, transforms, or *disposes* of *solid waste*.

Waste Generator [No change in text.]

§66.0108 Franchise Requirement

- (a) Except as provided below and in San Diego Municipal Code section 66.0109, no *person* shall *collect* and subsequently transfer, transport, and/or *recycle* or *dispose* of residential or *commercial solid waste* in the *City* without first obtaining from the *City* a current *agreement* to perform such services. The *agreement* shall include all the terms and

conditions for the *collection* and subsequent transfer, transportation, and *recycling* or *disposal* of *solid waste* in the *City*. The *franchisee* is obligated to comply with the provisions of the *agreement* on its effective date.

- (b) No vehicle shall be used in the *collection* and subsequent transfer, transportation, and/or *recycling* or *disposal* of *solid waste* in the *City* unless it carries a current, unrevoked tag or decal issued by the *City* authorizing such activity.

§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 San Diego Municipal Code section 66.0104:

- (a) All "Residential Refuse," as defined in San Diego Municipal Code section 66.0127, *collected* on public streets in the *City*, which the *City* is obligated to *collect* under San Diego Municipal Code section 66.0127.
- (b) All "Residential Refuse," as defined in San Diego Municipal Code section 66.0127, which the *City collects* on private streets for which there is a valid hold harmless agreement to provide such service, as described in San Diego Municipal Code section 66.0127.
- (c) *Recyclable materials* as follows:
 - (1) *Recyclable material* that is sold or donated by a *person*. *Recyclable material* shall be subject to the *franchise* requirement if the seller or donor pays the buyer or donee any consideration for the

collection, recycling, transportation or disposal of the recyclable material, and the consideration collectively exceeds the fair market value of the recyclable material.

- (2) *Recyclable material* that consists of inert material, such as concrete, asphalt, dirt, and rock.
- (3) *Recyclable material* that consists of shredded document material that is removed from residential or *commercial* property by a *person* engaged in the business of providing secure document shredding services, and where its removal is an incidental part of the total shredding services offered by that *person*.
- (4) *Recyclable material* that is *collected* by a *certified recyclable materials collector*, as limited by the following:
 - (A) 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 March 11, 2018, and is continuously maintained thereafter; or the valid certification is granted after March 11, 2018, so long as a complete application for such certification was submitted to the *Director* prior to March 11, 2018. The *franchise* exclusion shall not begin to apply until a valid certification is granted;

- (B) The amount of *recyclable material collected* within the *City* under this exclusion may not exceed 1,000 tons per year.
The annual tonnage of *recyclable materials collected* in the *City* by the *certified recyclable materials collector*, its parent company, and all *affiliates* shall be combined;
 - (C) 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
 - (D) The *certified recyclable materials collector* achieves an annual 90% *diversion* rate. The *certified recyclable materials collector* shall certify their *diversion* rate in their annual reporting under San Diego Municipal Code section 66.0711.
- (d) Beverage containers as defined in and delivered for *recycling* under the California Beverage Container Recycling and Litter Reduction Act, California Public Resources Code section 14500, et seq.
 - (e) *Green material* removed from a premises by a gardening, landscaping, or tree trimming contractor as an incidental part of a total service offered by that contractor rather than as a hauling service.

- (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 the owner's or occupant's full-time employees to a licensed *solid waste facility*, transfer station, or *disposal site* in a manner consistent with the San Diego Municipal Code and other applicable laws.
- (g) *Construction and demolition waste* or construction and demolition debris, as defined in San Diego Municipal Code section 66.0603, removed from a premises by a licensed demolition or construction contractor using its own employees and its own or rented equipment as an incidental part of a total service offered by that contractor rather than only a hauling service.
- (h) *Hazardous waste* or *medical waste* regardless of its source.
- (i) [No change in text.]
- (j) Residue or non-processible waste from a *solid waste facility* including, but not limited to, material recovery, composting, and transformation facilities.
- (k) [No change in text.]
- (l) Municipal corporations and other governmental agencies using their own vehicles engaged in the *collection*, transportation, *disposal*, or *recycling* of *solid waste* within the *City*.
- (m) *Solid waste* or debris removed from residential or *commercial* property by a *person* engaged in the business of cleaning such property, when the *solid waste* and debris removed consists of by-products of the cleaning services provided and the removal is an incidental part of the total cleaning services offered by that *person* rather than only a hauling service.

- (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, by the owner's or occupant's 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 slurried *food material*.
- (p) *Edible food collected* for the purpose of distribution for human consumption or *self-hauled* to a *food recovery organization* or *food recovery service* for the purpose of *food recovery* pursuant to San Diego Municipal Code section 66.0719.

§66.0110 Franchise Authority to Grant

- (a) The *Council* may grant to qualified applicants a *franchise* for use of the *City's* streets and right-of-ways for the *collection* and subsequent transfer, transportation, and *recycling* or *disposal* of *commercial* and certain residential *solid waste* kept, accumulated, or generated in the *City*.
- (b) The *Council* may grant a *franchise* to an applicant based on compliance with this Division. Any grant of a *franchise* by the *Council* may be subject to such terms, conditions, rules, regulations, restrictions, and limitations as the *Council* deems necessary to protect the public health, safety, or welfare.

- (c) The *Council* hereby empowers and grants to the *Manager* the authority to administer and negotiate nonsubstantive changes to the *franchise agreements*.

§66.0112 Franchise Application Process

- (a) Applications for *agreements* to provide for the *collection* and subsequent transfer, transportation, and *recycling* or *disposal* of *commercial* and certain residential *solid waste* kept, accumulated, or generated in the *City* shall be on a *City*-approved form and shall be filed with the *Director*. Applications for such *franchises* shall include, but not be limited to, the following information:

(1) Identification

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

(C) Address where all vehicles and operating equipment used within the *City* will be kept.

(D) If the applicant is a partnership, the name and address of each partner and their percentage of ownership. If the applicant is a corporation, the names and addresses of the corporation's directors, date and place of incorporation, main offices, major stockholders and associates, and the names and addresses of the parent and subsidiary companies. If the applicant is an *affiliate* or a franchised operation of another corporation (not to be confused in this instance with a *franchisee* of the *City*), list the names and addresses of the parent or subsidiary companies, together

with a description of their business interests and/or ownership. If the applicant is a joint venture or other combination of *persons*, identify separately the names and addresses of each member of the joint venture or combined effort, together with their percentage interest.

(2) Business Operations

- (A) [No change in text.]
- (B) Obtain insurance prior to commencing business subject to the *agreement*.
- (C) Maintain and report on a timely basis all information needed by the *City* to comply with its reporting requirements including, but not limited to, those required by *AB 939* and *SB 1383*, and as defined in the *agreement*.
- (D) [No change in text.]

(3) Facilities and Equipment

- (A) A description of all vehicles and equipment that the applicant owns, has control of, or intends to acquire for the *collection*, transfer, transportation, and *recycling* or *disposal* of *solid waste* in the *City* and which are subject to the provisions of the *agreement*. A statement as to whether said vehicles and equipment are self-unloading and equipped with audible automatic back-up warning devices.

The minimum vehicle description for existing vehicles shall include the Vehicle Identification Numbers (VIN) and license plate numbers.

- (B) [No change in text.]
- (C) Evidence demonstrating that the applicant owns or will have the legally enforceable right to use at least two *collection* vehicles, the bodies of which are closed, leak resistant, and constructed for the purpose of *solid waste collection*, transfer, transportation, and *recycling* or *disposal*. In the alternative, for the purposes of this provision, an applicant may demonstrate by the evidence that they service and transport open-top roll-off boxes for the *collection*, transfer, transportation, and *recycling* or *disposal* of nonputrescible waste and/or roll-off compaction boxes which are closed, leak resistance, and are constructed for the purpose of *solid waste collection*, transfer, transportation, and *recycling* or *disposal*.

(4) Services Provision

- (A) A general description of the geographic area to be served, if less than the entire *City*.
- (B) A report of *collection* activity (number of accounts and tons *collected*) within the *City* for the prior calendar year, if any, or a description of plans showing proof of ability to provide such services.

(5) Other

- (A) Any additional evidence which demonstrates that the applicant is able to render *collection* and subsequent transfer, transportation, *recycling*, and *disposal* services in accordance with applicable federal, state and local statutes.

§66.0114 Franchise Application Review Process

- (a) The *Council* may award *franchises* for the *collection* and subsequent transfer, transportation, and *recycling* or *disposal* of *commercial* and certain residential *solid waste* kept, accumulated, or generated in the *City*.
- (b) Applicants may submit their completed application for a *franchise*, as provided in San Diego Municipal Code section 66.0112, to the *Director* for review and consideration at any time during a designated application period.
- (c) The *Director* shall take into consideration all components of the completed application including, but not limited to, the following:
- (1) The ability of the applicant to meet all terms of the *agreement*;
 - (2) Any history of civil or criminal convictions that may compromise the public's interests; and
 - (3) The completeness, accuracy, and validity of the application.

The *Director* shall also have the authority to verify independently any and all statements made and implied in the application. The *Director* may also request clarification from the applicant of any or all elements of the submitted application.

- (d) Within 60 days from the receipt of the application, the *Director* shall either:
 - (1) Deny an award and notify the applicant in writing of the reasons why the award was denied; or
 - (2) Recommend to the *Manager* that a *franchise* be awarded.
- (e) If the *Director* fails to act on a *franchise* application within 60 days from the receipt of the application, the application shall be deemed denied.
- (f) If the *Council* approves the award of a *franchise*, the *Director* will notify the applicant of the award in writing.

§66.0117 Franchise Operations

- (a) All *franchisee* customer agreements must contain clauses that automatically terminate such customer agreements in the event that the *agreement* with the *City* is terminated.
- (b) *Franchisee* must provide each customer with a three (3)-container *collection* service that includes separate containers for *recyclable material*, *organic waste*, and *refuse*.
- (c) Customer agreements shall include requirements relating to the frequency and hours of *collection*; the size, color, signage, placement, and care of the containers; proper separation of *recyclable material*, *organic waste*, and *refuse*; and special *collections*.

§66.0119 Other Franchise Provisions

- (a) The *Council* may expand or contract the scope of the *agreement* over time due to changes in law or interpretations of law.

- (b) The *Manager* has the right to inspect *franchisee*'s records for purposes of determining compliance with State requirements including, but not limited to, *AB 939*, *SB 1383*, and other reporting requirements. The *Manager* may also inspect *franchisee*'s records to determine proper calculation and payment of *franchise* fees and *recycling fees*. The *Manager* will provide *franchisee* with reasonable notice of its intent to inspect any of *franchisee*'s records.
- (c) The *Manager* retains the right to terminate or suspend the *agreement*, as provided in the *agreement*.
- (d) The *Council* may convert a *Class I Franchise* to a *Class II Franchise* at any time that all criteria in the *agreement* for such conversion are met. Notwithstanding San Diego Municipal Code section 66.0114(b), the submittal time period for applications requesting conversion of a *Class I Franchise* to a *Class II Franchise* shall be governed by the provisions of the *agreement*. Applications for conversion of a *Class I Franchise* to a *Class II Franchise* shall be submitted in accordance with San Diego Municipal Code section 66.0112 and reviewed in accordance with San Diego Municipal Code section 66.0114.
- (e) In conjunction with *franchisee*'s annual reporting under San Diego Municipal Code section 66.0711, *franchisee* shall certify on a form or using a format prescribed by the *Director*, that all *recyclable material* that *franchisee* serviced during the period from July 1 through June 30 of the immediately preceding twelve-month period, which *franchisee* claims as exempt from the *franchise* requirement under San Diego Municipal Code

section 66.0109(c)(1), was sold or donated by a *person*. *Franchisee's* certification shall include:

- (1) [No change in text.]
- (2) The date(s) that *franchisee collected* the sold or donated *recyclable material* from the *person*;
- (3) The total amount of sold or donated *recyclable material*, measured in tons, that *franchisee collected* from each *person*; and
- (4) [No change in text.]

§66.0124 Rules and Regulations

The *collection* and subsequent transfer, transportation, and *disposal* or *recycling* of *refuse* and *recyclable material* in the *City* is under the supervision of the *Manager*, who shall have the power to promulgate rules and regulations regulating such *collection* and subsequent transfer, transportation, and *disposal* or *recycling* including, but not limited to:

- (a) *Collection* routes and scheduling and designation of *disposal sites* and *recycling* sites and any limitations thereon;
- (b) [No change in text.]
- (c) Handling of *hazardous substances*.

A copy of said rules and regulations and all amendments thereto shall be posted to the *Department's* website. To the extent not otherwise provided by law, it shall be unlawful for a *franchisee* to *collect* and subsequently transfer, transport, *dispose* of or *recycle refuse* or *recyclable material* contrary to any regulation, order, permit or requirement promulgated by the *Manager*.

§66.0126 Refuse and Recyclable Material Containers

- (a) It is unlawful for any *responsible person* in lawful possession, charge, or control of any boarding house, lodging house, bungalow court, hotel, motel, inn, apartment, residence, or any other dwelling, or public or private campground, or any *commercial* establishment to fail to provide containers which are adequate to contain the amount of *refuse* and *recyclable material* ordinarily accumulated at such place during the intervals between *collection*.
- (b) It is unlawful for any *responsible person* in lawful possession, charge, or control of any boarding house, lodging house, bungalow court, hotel, motel, inn, apartment, residence, or any other dwelling, or public or private campground, or any *commercial* establishment to fail to maintain covered *refuse* and *recyclable material* containers.
- (c) It is unlawful for any *responsible person* in lawful possession, charge, or control of any boarding house, lodging house, bungalow court, hotel, motel, inn, apartment, residence, or any other dwelling, or public or private campground, or any *commercial* establishment to fail to maintain the area surrounding the *refuse* and *recyclable material* containers clear of waste.
- (d) All *refuse* and *recyclable material* shall be placed out for *collection* in containers that are in good condition, clean and free of putrescible residue, leakproof, and waterproof, except as otherwise provided in San Diego Municipal Code sections 66.0126(e) and (h).

- (e) All containers placed out for manual *collection* shall be designed for the express purpose of *refuse* and *recyclable material* storage and *collection*. Reusable containers shall be equipped with tight-fitting lids or closures. Such containers shall be tapered with the larger diameter at the top to facilitate emptying of the *refuse* and *recyclable material* by gravity. The interior of the containers shall be smooth without interior projections which would interfere with the emptying of the containers.
- (f) Single-use waterproof paper and plastic bags designed expressly for the storage of *solid waste* are acceptable for the *disposal* of *refuse*. The amount of *refuse* placed in such bags shall be limited so the bags will not rip or tear when handled. Such bags shall not weigh more than 40 pounds filled and shall be tied or sealed at all times.
- (g) No container placed out for manual *collection* shall weigh more than 50 pounds filled, nor shall it have a capacity of more than 45 gallons. Fifty-five (55) gallon oil drums and other heavy gauge reusable petroleum or chemical containers are not acceptable for *City refuse collection*.
- (h) Brush, landscape, trimmings, crushed cardboard boxes, and similar materials shall be tied securely in bundles weighing not more than 50 pounds and shall be not more than 4 feet long.
- (i) Reusable containers supplied by a *franchisee* which are used for mechanized *collection*, including stationary compactors, and used for putrescibles or similar waste matter shall be equipped with close-fitting lids and be leak-proof and rodent-proof. Containers which are used expressly for dry wastes (construction, demolition, industrial, etc.) may be

kept uncovered except as required under applicable provisions of the California Vehicle Code and this Code while being transported upon any street or *highway*. Containers shall be sanitary and in good repair and shall be clearly identified with the name and telephone number of the *franchisee*.

- (j) *Persons* receiving *refuse* and *recyclable material collection* services from the *City* who fail to comply with the requirements of San Diego Municipal Code section 66.0126, or who fail to replace containers which have deteriorated to the point where they are no longer serviceable, will not have their containers *collected* and may have their service terminated at the *City's* discretion.

Section 2. That Chapter 6, Article 6, Division 7 of the San Diego Municipal Code is amended by amending sections 66.0701, 66.0702, 66.0703, 66.0706, 66.0707, 66.0709, 66.0710, 66.0711, 66.0712, 66.0713, 66.0714, and 66.0715, and by adding new sections 66.0719 and 66.0720, to read as follows:

§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 in 2030. 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, 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, *organic waste*, 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 17% of the waste generated in the *City* and delivered for landfill *disposal* is paper and 32% is compostable *organic waste*, all of which could be *diverted* from landfill *disposal*.
- (d) Efforts by the *City* and the private sector for *diversion* of residential and *commercial* waste as required by this Division have been successful, but additional efforts are necessary to ensure continued compliance with *AB 939* requirements and with other State laws that mandate *recycling*, including *recycling* of *organic waste*.
- (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*, including *organic waste*, and have been favorably received by the California Department of Resources Recycling and Recovery.

§66.0702 Purpose

The purpose of this Division is to establish requirements for *recycling* of *recyclable materials*, including *organic waste*, generated from *residential facilities*, *commercial facilities* (including *City* buildings), and special events.

These requirements are intended to increase the *diversion* of *recyclable materials*, including *organic waste*, 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 State-mandated *recycling* 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 in San Diego Municipal Code section 66.0102.

Certified recyclable materials collector [No change in text.]

City has the same meaning as in San Diego Municipal Code section 66.0102.

Collect or *Collection* [No change in text.]

Commercial edible food generator has the same meaning as in title 14, section 18982(a)(7) of the California Code of Regulations, as it may be amended.

Commercial facilities means any facilities that are not *residential facilities* or *mixed use facilities* and includes, but is not limited to, mercantile, institutional, governmental, and industrial facilities. *Commercial facilities* include *City* buildings for which the *responsible person* is a *City* employee.

Construction and demolition waste through Department [No change in text.]

Director has the same meaning as in San Diego Municipal Code section 66.0102.

Disposal has the same meaning as in San Diego Municipal Code section 66.0102.

Diversion or *Divert* [No change in text.]

Edible food has the same meaning as in title 14, section 18982(a)(18) of the California Code of Regulations, as it may be amended.

Food material [No change in text.]

Food recovery has the same meaning as in title 14, section 18982(a)(24) of the California Code of Regulations, as it may be amended.

Food recovery organization has the same meaning as in title 14, section 18982(a)(25) of the California Code of Regulations, as it may be amended.

Food recovery service has the same meaning as in title 14, section 18982(a)(26) of the California Code of Regulations, as it may be amended.

Franchisee has the same meaning as in San Diego Municipal Code section 66.0102.

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

Hazardous substance through *Hazardous waste* [No change in text.]

Large event has the same meaning as in title 14, section 18982(a)(38) of the California Code of Regulations, as it may be amended.

Large venue has the same meaning as in title 14, section 18982(a)(39) of the California Code of Regulations, as it may be amended.

Lot [No change in text.]

Manager has the same meaning as in San Diego Municipal Code section 66.0102.

Medical waste through *Multi-family residential facility* [No change in text.]

Organic waste has the same meaning as in title 14, section 18982(a)(46) of the California Code of Regulations, as it may be amended.

Person has the same meaning as in San Diego Municipal Code section 66.0102.

Recyclable has the same meaning as in San Diego Municipal Code section 66.0102 and includes *organic waste*.

Recyclable materials has the same meaning as in San Diego Municipal Code section 66.0102 and includes *organic waste*.

Recyclable materials collector has the same meaning as in San Diego Municipal Code section 66.0102 and includes those who *collect organic waste*.

Recycling or *Recycle* has the same meaning as in San Diego Municipal Code section 66.0102 and includes *organic waste*.

Recycling facility [No change in text.]

Refuse has the same meaning as in San Diego Municipal Code section 66.0102.

Residential facility through *Single family residential facility* [No change in text.]

Solid waste means all putrescible and nonputrescible solid and semi-solid wastes, including garbage, trash, *refuse*, rubbish, *construction and demolition waste*, metallic discards, vegetable or animal solid or semi-solid wastes, and other solid or semi-solid wastes. *Solid waste* does not include *hazardous waste*, *hazardous substances*, *medical waste*, or *recyclable materials*.

Solid waste facility has the same meaning as in San Diego Municipal Code section 66.0102.

Tier one commercial edible food generator has the same meaning as in title 14, section 18982(a)(73) of the California Code of Regulations, as it may be amended.

Tier two commercial edible food generator has the same meaning as in title 14, section 18982(a)(74) of the California Code of Regulations, as it may be amended.

Vegetative food material [No change in text.]

§66.0706 Recycling Requirement for Residential Facilities Serviced by Franchisee

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

(c) *Recycling Services.* *Recycling services for residential facilities* shall include, at a minimum, all of the following:

- (1) [No change in text.]
- (2) weekly *collection* in a separate container of yard trimmings and nonhazardous wood waste. If yard trimmings or nonhazardous wood waste will be hauled away by a gardening or landscaping service provider as an incidental part of its services at the property, then the service contract or agreement shall require the gardening or landscaping service provider to take the yard trimmings and nonhazardous wood waste to a mulching or composting facility for *recycling*;
- (3) weekly *collection* in a separate container of *food material* and food-soiled paper mixed with *food material*;
- (4) alternatively, in lieu of San Diego Municipal Code sections 66.0706(c)(2) and 66.0706(c)(3), weekly *collection* in a separate container of *food material* or food-soiled paper mixed with *food material* that is commingled with yard trimmings or nonhazardous wood waste;
- (5) *collection* of other *recyclable materials* for which markets exist, such as scrap metal, as determined by the *Director*, with *collection* of such *recyclable materials* required beginning on the 181st day after the *City* gives public notice by placing an advertisement of at

least one-eighth page in a newspaper of general daily circulation in the *City* and posting a notice including such *recyclable materials* on the *Department's* website;

- (6) utilization of *recycling* containers that comply with the size and color standards in the Container and Signage Guidelines established by the *Manager*;
- (7) designated *recycling collection* and storage areas;
- (8) 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 *Manager*; and
- (9) containers for *recyclable materials* in all areas where *solid waste* containers are located.

(d) Education. For *multi-family residential facilities*, and for *single family residential facilities* receiving *recycling* services through a homeowners' association, the *responsible person* shall ensure that *persons* are educated about the *recycling* services as follows:

- (1) Information, including the types of *recyclable materials* accepted and not accepted, the location of *recycling* containers, the *recycling* requirements, and the *person's* responsibility to *recycle* pursuant to this Division, shall be distributed to all occupants, employees, and contractors annually;
- (2) through (3) [No change in text.]

- (e) Container Contamination. For all *residential facilities*, the *responsible person* shall prohibit placing *recyclable materials* in a container not designated to receive those *recyclable materials* and shall periodically inspect containers and inform occupants, employees, and contractors if containers are contaminated.

§66.0707 Recycling Requirements for Commercial Facilities Serviced by Franchisee

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

- (c) *Recycling Services.* *Recycling services for commercial facilities* shall include, at a minimum, all of the following:
 - (1) [No change in text.]
 - (2) weekly *collection* in a separate container of yard trimmings and nonhazardous wood waste. If yard trimmings or nonhazardous wood waste will be hauled away by a gardening or landscaping service provider as an incidental part of its services at the property, then the service contract or agreement shall require the gardening or landscaping service provider to take the yard trimmings and nonhazardous wood waste to a mulching or composting facility for *recycling*;
 - (3) weekly *collection* in a separate container of *food material* and food-soiled paper mixed with *food material*;

- (4) alternatively, in lieu of San Diego Municipal Code sections 66.0707(c)(2) and 66.0707(c)(3), weekly *collection* in a separate container of *food material* or food-soiled paper mixed with *food material* that is commingled with yard trimmings or nonhazardous wood waste;
- (5) *collection* of other *recyclable materials* for which markets exist, such as scrap metal, as determined by the *Director*, with *collection* of such *recyclable materials* required beginning on the 181st day after the *City* gives public notice by placing an advertisement of at least one-eighth page in a newspaper of general daily circulation in the *City* and posting a notice including such *recyclable materials* on the *Department's* website;
- (6) utilization of *recycling* containers that comply with the size and color standards in the Container and Signage Guidelines established by the *Manager*;
- (7) designated *recycling collection* and storage areas;
- (8) 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 *Manager*; and
- (9) containers for *recyclable materials* in all areas where *solid waste* containers are located.

(d) Education. For *commercial facilities*, the *responsible person* shall ensure that *persons* are educated about the *recycling* services as follows:

(1) Information, including the types of *recyclable materials* accepted and not accepted, the location of *recycling* containers, the *recycling* requirements, and the *person's* responsibility to *recycle* pursuant to this Division, shall be distributed to all tenants, employees, customers, and contractors annually;

(2) through (3) [No change in text.]

(e) Container Contamination. The *responsible person* for the *commercial facility* shall prohibit placing *recyclable materials* in a container not designated to receive those *recyclable materials* and shall periodically inspect containers and inform tenants, employees, customers, and contractors if containers are contaminated.

§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)(4), *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*.

§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 label, imprinted text or graphic images of the primary *recyclable materials* which shall be deposited in the container and the primary *recyclable materials* which shall not be deposited in that container. Container signage shall comply with the Container and Signage Guidelines established by the *Manager*.
- (b) Container Color: Containers shall comply with the container color requirements in the Container and Signage Guidelines established by the *Manager*.
- (c) Container Features. 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 equipped with close-fitting lids and be leak-proof and rodent-proof.

§66.0711 Reports from Franchisees and Certified Recyclable Materials Collectors

- (a) *Franchisees* and *certified recyclable materials collectors* shall submit semi-annual reports to the *Department*, by March 1 and September 1 of each year, on a form or using a format prescribed by the *Director*. Semi-annual reports shall include the following information for each

facility serviced in the *City* for the period January 1 through June 30 or July 1 through December 31, as applicable, of the immediately preceding six-month period:

- (1) The name of the *person(s)* responsible for *solid waste* and *recyclable materials* management at the facility serviced;
 - (2) through (5) [No change in text.]
- (b) *Franchisees* and *certified recyclable materials collectors* also shall include in the semi-annual reports for the time period specified in San Diego Municipal Code section 66.0711(a) the following information:
- (1) through (2) [No change in text.]
- (c) *Certified recyclable materials collectors that collect recyclable food materials* in accordance with San Diego Municipal Code section 66.0109(c)(4) 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) through (6) [No change in text.]
- (d) *Franchisees* and *certified recyclable materials collectors* shall submit additional reports as requested by the *Director* which are necessary to meet the *City's* reporting requirements to the California Department of Resources Recycling and Recovery, or its successor, or to any other State or federal agency.

§66.0712 Special Events Recycling

- (a) **Special Events.** For a community special event requiring an event permit from the *City*, the *responsible person* shall provide *recycling* receptacles throughout the event venue and shall provide *recycling* services as described in San Diego Municipal Code section 66.0712.
- (b) **Recycling Services.** *Recycling* services shall include, at a minimum, all of the following:
 - (1) separate containers for commingled plastic and glass bottles and jars, paper, newspaper, metal containers, cardboard, and rigid plastics, including clean food containers, jugs, tubs, trays, pots, buckets, and toys;
 - (2) separate containers for wood pallets;
 - (3) separate containers for commingled *food material*, food-soiled paper, yard trimmings, and nonhazardous wood waste, if the event generates, distributes, provides or sells food or other organic material;
 - (4) separate containers for other *recyclable materials* for which markets exist, such as scrap metal, as determined by the *Director*, with *collection* of such *recyclable materials* required beginning on the 181st day after the *City* gives public notice by placing an advertisement of at least one-eighth page in a newspaper of general daily circulation in the *City* and posting a notice including such *recyclable materials* on the *Department's* website;

- (5) a specified number of *recycling* receptacles relative to the quantity of *solid waste* receptacles based upon the size of the event and as approved in the special event permit;
 - (6) placement of *solid waste* and *recycling* receptacles next to one another throughout the event venue; and
 - (7) *organic waste recycling* receptacles set up in compliance with the Container and Signage Guidelines established by the *Manager*.
- (c) Receptacles. Each *recycling* receptacle shall be clearly identified as a *recycling* receptacle and shall display a label, imprinted text, or graphic images of the primary *recyclable materials* which shall be deposited into the *recycling* receptacle and the primary *recyclable materials* which shall not be deposited in that receptacle. Container signage shall comply with the Container and Signage Guidelines established by the *Manager*.
- (d) Delivery to *Recycling Facility*. 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) Cubic yard exemption.
 - (1) *Multi-family residential facilities, commercial facilities, and mixed use facilities* that generate 0.001 cubic yard or less per week of *solid waste* including *recyclable materials*, described in San Diego

Municipal Code sections 66.0706(c)(1) through 66.0706(c)(4) or 66.0707(c)(1) through 66.0707(c)(4) as applicable, mixed with *solid waste* are exempt from the requirements of this Division.

- (2) The cubic yard thresholds may be adjusted at the discretion of the *Manager* and shall be effective 90 days after the *City* gives public notice by placing an advertisement of at least one-eighth page in a newspaper of general daily circulation in the *City* and posting a notice on the *Department's* website.

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

§66.0714 Certified Recyclable Materials Collector

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

- (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 label, imprinted text, or graphics of the primary *recyclable materials* which shall be deposited in the container and the primary *recyclable materials* which shall not be deposited in that container. Container signage shall comply with the Container and Signage Guidelines established by the *Manager*.

- (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, and shall comply with the color standards in the Container and Signage Guidelines established by the *Manager*.

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

§66.0715 Self-Haul and Use of Non-Certified Recyclable Materials Collector

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

- (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 complete and submit to the *City* a *recycling* hauling report form, and maintain an annual log documenting the types and quantities of *solid waste* and *recyclable materials* generated and delivered to *recycling facilities*, *organic waste* facilities, *solid waste facilities*, salvage operations, and other locations. Each annual log shall cover the time period from January 1 through December 31. Annual logs shall be maintained for a period of three (3) years, shall include delivery receipts and weigh tickets from the facilities that received the *solid waste* and *recyclable materials*, and shall be made available to the *Director* within 15 business days upon request.
- (d) Except for occupants of *single family residential facilities*, a *person* who uses the services of a *recyclable materials collector*, that 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 complete and submit to the *City* a *recycling* hauling report form, and maintain an annual log documenting the types and quantities of *solid waste* and *recyclable materials* generated and delivered to *recycling facilities*, *organic waste* facilities, *solid waste facilities*, salvage operations, and other locations. Each annual log shall cover the time period from January 1 through December 31. Annual logs shall be maintained for a period of three (3) years, shall include delivery receipts and weigh tickets from the facilities that received the *solid waste* and *recyclable materials*, and shall be made available to the *Director* within 15 business days upon request.

- (e) Notwithstanding San Diego Municipal Code section 66.0715(a), the *responsible person* for a *multi-family residential facility*, *commercial facility*, or a *mixed use facility* shall subscribe to a minimum level of *recycling service* from a *franchisee* as set forth in the Container and Signage Guidelines established by the *Manager*.

§66.0719 Requirements for Commercial Edible Food Generators

- (a) Compliance Schedule.
 - (1) *Tier one commercial edible food generators* shall comply with the requirements of San Diego Municipal Code section 66.0719, effective on JUN 08 2022.
 - (2) *Tier two commercial edible food generators* shall comply with the requirements of San Diego Municipal Code section 66.0719 beginning January 1, 2024, unless a different schedule is

established pursuant to title 14, section 18991.3 of the California Code of Regulations, in which case that schedule shall apply.

- (3) *Large venue or large event* operators not providing food service, but allowing for food to be provided by others, shall require food facilities operating at the *large venue* or *large event* to comply with the requirements of San Diego Municipal Code section 66.0719 beginning January 1, 2024.
- (b) *Food Recovery Requirements. Commercial edible food generators* shall arrange to recover the maximum amount of *edible food* that would otherwise be *disposed* by doing the following:
 - (1) entering into a contract or written agreement with a *food recovery organization* or *food recovery service* for the *collection of edible food for food recovery*; or
 - (2) entering into a contract or written agreement with a *food recovery organization* to accept *edible food* that the *commercial edible food generator self-hauls* to the *food recovery organization* for *food recovery*; and
 - (3) not intentionally spoiling *edible* food capable of being recovered by a *food recovery organization* or *food recovery service*.
- (c) *Recordkeeping. Commercial edible food generators* shall maintain for a period of three (3) years and make available to the *Director* within 15 business days upon request, the following records:
 - (1) A list of each *food recovery service* or *food recovery organization* that *collects* or receives its *edible food*;

- (2) A copy of all contracts or written agreements with *food recovery organizations* and *food recovery services* for the *collection* of its *edible food* for *food recovery*; and
- (3) A record of the following information for each *food recovery service* and *food recovery organization*:
 - (A) the name, address, and contact information of the *food recovery service* or *food recovery organization*;
 - (B) the types of food to be *collected* by the *food recovery service* or *self-hauled* to the *food recovery organization*;
 - (C) the established frequency that food is or will be *collected* by the *food recovery service* or *self-hauled* to the *food recovery organization*; and
 - (D) the quantity of food, measured in pounds recovered per month, *collected* by the *food recovery service* or *self-hauled* to the *food recovery organization* for *food recovery*.
- (d) Food Donation. Nothing in this Division shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017.
- (e) Exemption. A *commercial edible food generator* shall comply with San Diego Municipal Code section 66.0719 unless the *commercial edible food generator* demonstrates the existence of extraordinary circumstances beyond its control that make such compliance impracticable. If an enforcement action is commenced against a *commercial edible food*

generator for noncompliance, the burden of proof shall be upon the *commercial edible food generator* to demonstrate extraordinary circumstances that make such compliance impracticable.

§66.0720 Requirements for Food Recovery Organizations and Services

- (a) *Food Recovery Services.* Food recovery services that collect edible food directly from *commercial edible food generators*, under a contract or written agreement for *food recovery*, shall maintain the following records:
 - (1) The name, address, and contact information for each *commercial edible food generator* from which the *food recovery service* collects edible food;
 - (2) The quantity, in pounds per month, of *edible food* collected from each *commercial edible food generator*;
 - (3) The quantity, in pounds per month, of *edible food* transported by the *food recovery service* to each *food recovery organization*; and
 - (4) The name, address, and contact information for each *food recovery organization* to which the *food recovery service* transports *edible food* for *food recovery*.
- (b) *Food Recovery Organizations.* Food recovery organizations that collect or receive *edible food* directly from *commercial edible food generators*, under a contract or written agreement for *food recovery*, shall maintain the following records:
 - (1) The name, address, and contact information for each *commercial edible food generator* from which the *food recovery organization* receives *edible food*;

- (2) The quantity, in pounds per month, of *edible food* received from each *commercial edible food generator*; and
 - (3) The name, address, and contact information for each *food recovery service* from which the *food recovery organization* receives *edible food* for *food recovery*.
- (c) Good Samaritan Laws. *Food recovery organizations* and *food recovery services* shall provide written notice to *commercial edible food generators*, from which they *collect* or receive *edible food*, about California and Federal Good Samaritan Food Donation Act protection.
- (d) Reporting Requirements. *Food recovery services* and *food recovery organizations* that have a contract or written agreement with one or more *commercial edible food generators* for *food recovery* shall submit an annual report to the *Department*, by January 31 of each year, on a form or using a format prescribed by the *Director*. Annual reports shall include the following information:
 - (1) *Food recovery services* shall include the information listed in San Diego Municipal Code section 66.0720(a) in their reports, with the exception that quantities shall be reported in pounds per year.
 - (2) *Food recovery organizations* shall include the information listed in San Diego Municipal Code section 66.0720(b) in their reports, with the exception that quantities shall be reported in pounds per year.

Section 3. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the 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.

Section 5. That the City Clerk is instructed to insert the effective date of this Ordinance, once known, in the blank space provided in San Diego Municipal Code section 66.0719(a)(1).

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Nicole M. Denow
Nicole M. Denow
Deputy City Attorney

GCL:cm
December 9, 2021
Or.Dept: ESD
Doc. No. 2917792

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 26 2022.

ELIZABETH S. MALAND
City Clerk

By [Signature]
Deputy City Clerk

Approved: 5/9/22
(date)

[Signature]
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 6, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 66.0102, 66.0108, 66.0109, 66.0110, 66.0112, 66.0114, 66.0117, 66.0119, AND 66.0124, AND RETITLING AND AMENDING SECTION 66.0126; AND AMENDING CHAPTER 6, ARTICLE 6, DIVISION 7 BY AMENDING SECTIONS 66.0701, 66.0702, 66.0703, 66.0706, 66.0707, 66.0709, 66.0710, 66.0711, 66.0712, 66.0713, 66.0714, AND 66.0715, AND BY ADDING NEW SECTIONS 66.0719 AND 66.0720, REGARDING CITY SOLID WASTE AND RECYCLING REQUIREMENTS.

§66.0102 Definitions

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

AB 341 means California Assembly Bill 341 approved by the Governor and filed with the Secretary of State on October 6, 2011, which amended and/or added Public Resources Code sections 40004, 41730, 41731, 41734, 41734.5, 41735, 41736, 41780.01, 41780.02, 41800, 42926, 44004, and 50001 and Chapter 12.8 (commencing with section 42649) to Part 3 of Division 30, as they may be amended.

AB 939 [No change in text.]

AB 1826 means California Assembly Bill 1826 approved by the Governor and filed with the Secretary of State on September 28, 2014, which added Chapter 12.9 (commencing with section 42649.8) to Part 3 of Division 30 of the Public Resources Code, as it may be amended.

Affiliate [No change in text.]

~~Agreement shall mean~~ a non-exclusive ~~franchise agreement~~ franchise agreement between the ~~City and a franchisee for collection~~ City and a franchisee for the collection and subsequent transfer, transportation, recycling, processing, and disposal of commercial, industrial, and recycling or disposal of commercial and certain residential ~~solid waste~~ solid waste.

~~Central Traffic District shall be defined in accordance with~~ has the same meaning as in San Diego Municipal Code section 81.0102.5

~~Certified Recyclable Materials Collector~~ has the same meaning as in San Diego Municipal Code section 66.0703.

City [No change in text.]

~~Class I Franchise is~~ means a non-exclusive ~~Franchise~~ franchise granted to a ~~Franchisee to collect~~ franchisee to collect a maximum of 75,000 tons of ~~Refuse~~ solid waste per year within the ~~City~~ City. For the purpose of determining the eligibility of a ~~solid waste collection~~ solid waste collection enterprise to be granted a ~~Class I Franchise~~ Class I Franchise, the annual tonnage of ~~Refuse~~ solid waste collected in the ~~City~~ City by that enterprise, its parent company, and all affiliates shall be combined.

Class II Franchise ~~is means~~ a non-exclusive ~~Franchise~~ franchise granted to a ~~Franchisee to collect~~ franchisee to collect more than 75,000 tons of ~~Refuse~~ solid waste per year within the ~~City~~ City.

Collect or Collection [No change in text.]

Commercial means nonresidential and includes, but is not limited to, mercantile, institutional, governmental, and industrial.

Construction and ~~D~~emolition ~~W~~aste ~~shall means~~ mixed solid waste containing less than 10% of organic materials generated as a result of ~~from~~ construction, remodeling, repair, alteration, and/or demolition activities, and which may include a mixture of concrete, asphalt, wood, metals, bricks, dirt, rocks, and other inert solid waste.

Council [No change in text.]

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

~~*Designated Waste* shall be defined in accordance with the California Code of Regulation, Title 23, Division 3, Chapter 15, Article 2, Section 2522.~~

Director [No change in text.]

Disposal ~~shall means~~ the final disposition of any ~~solid waste collected by franchisee~~ solid waste at a permitted landfill or other permitted facility.

Disposal Site(s) ~~site~~ shall means a permitted solid waste handling facility or facilities ~~solid waste facility for the ultimate disposal of solid waste collected by franchisee~~ disposal of solid waste.

Diversion [No change in text.]

Edible food has the same meaning as in title 14, section 18982(a)(18) of the California Code of Regulations, as it may be amended.

Environmental Laws through *Food Material* [No change in text.]

Food recovery has the same meaning as in title 14, section 18982(a)(24) of the California Code of Regulations, as it may be amended.

Food recovery organization has the same meaning as in title 14, section 18982(a)(25) of the California Code of Regulations, as it may be amended.

Food recovery service has the same meaning as in title 14, section 18982(a)(26) of the California Code of Regulations, as it may be amended.

Franchise ~~shall mean~~ the special right granted by the ~~City~~City, as authorized in ~~this~~ the San Diego Charter and this Division, to operate on public property in the City as a non-exclusive enterprise for ~~solid waste collection services within the City~~ the collection and subsequent transfer, transportation, and disposal or recycling of solid waste. ~~Franchise includes Class I and Class II Franchises~~ Franchise includes Class I Franchises and Class II Franchises as defined in San Diego Municipal Code section 66.0102.

Franchisee ~~shall mean~~ any ~~person or business~~ person who holds a valid, unrevoked, and unexpired ~~City-granted, non-exclusive franchise to operate on public property an enterprise for the collection and subsequent transportation, or disposal of solid waste within the City~~ non-exclusive franchise.

Green Material through *Manager* [No change in text.]

~~Medical Wwaste~~ ~~shall~~ means any solid-waste which is generated or has been used in the diagnosis, treatment or immunization of human beings or animals, or research pertaining thereto, and shall include, but not be limited to, biohazardous and medical waste, or other solid-waste as defined by federal, state or local law.

Organic waste has the same meaning as in title 14, section 18982(a)(46) of the California Code of Regulations, as it may be amended.

Person [No change in text.]

~~Recyclable~~ ~~shall~~ means a material which can be processed into a form suitable for reuse through reprocessing or remanufactured consistent with the requirements of AB 341, AB 939, AB 341, AB 1826, and SB 1383.

~~Recyclable Mmaterial~~ means residential, ~~commercial or industrial~~ commercial source--separated by-products of some potential economic value, set aside, handled, packaged, or offered for ~~collection~~ collection in any manner different from ~~refuse~~ refuse, and includes organic waste.

~~Recyclable Materials Collector~~ ~~shall~~ materials collector means an enterprise that ~~collects recyclable materials~~ collects recyclable material within the ~~City~~ City. A ~~recyclable materials collector~~ recyclable materials collector shall not be authorized to ~~collect~~ collect any material that contains greater than ten (10) percent by volume of ~~solid waste~~ solid waste.

~~Recycling~~ ~~shall or~~ Recycle means the process of separating for ~~collection~~, ~~collecting~~ collection, collecting, treating, and/or reconstituting ~~recyclable materials~~ recyclable material that would otherwise be discarded without receiving compensation, and returning them to the economy in the form of raw materials for

new, reused, or reconstituted products. The ~~collection~~collection, transportation, or disposal of solid waste disposal of solid waste not intended for, or capable of reuse, is not ~~recycling~~recycling. For the purpose of this ~~article~~Division, recycling recycling does not include use of ~~solid waste~~solid waste for conversion to energy. Recycling Fee means that fee authorized by California Public Resources Code section 41901 and San Diego Municipal Code section 66.0134.

Refuse ~~shall mean~~ any mixture of putrescible and nonputrescible solid solid waste and semi-solid wastes, including garbage, trash, residential refuse as defined herein and in Section 66.0127 of this Code, industrial and commercial solid and semi-solid wastes, vegetable or animal solid and semi-solid wastes, and other solid and semi-solid wastes destined for ~~disposal sites~~disposal sites. The definition of refuse herein does not alter in any manner the definition of "Refuse" for purposes of the People's Ordinance codified at San Diego Municipal Code section 66.0127.

Responsible person has the same meaning as in San Diego Municipal Code section 66.0703.

SB 1383 means California Senate Bill 1383 approved by the Governor and filed with the Secretary of State on September 19, 2016, which added sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code and Chapter 13.1 (commencing with section 42652) to Part 3 of Division 30 of the Public Resources Code, as they may be amended.

Self-haul has the same meaning as in San Diego Municipal Code section 66.0703.

Solid ~~W~~waste means all putrescible and nonputrescible solid and semi-solid wastes, including garbage, trash, ~~refuse~~refuse, “Refuse” as defined in San Diego Municipal Code section 66.0127, rubbish, *construction and demolition waste*, metallic discards, ~~vegetable or~~organic waste, animal solid or semi-solid wastes, and other solid or semi-solid wastes. *Solid waste* does not include *hazardous waste, hazardous substances, medical waste, or the recyclable materials* specified in San Diego Municipal Code section 66.0109(c)(1).

Solid ~~W~~waste ~~F~~facility ~~shall~~ means a public or private facility that transfers, ~~recycles~~recycles, mulches, composts, transforms, or ~~disposes of solid waste~~disposes of solid waste.

Waste Generator [No change in text.]

§66.0108 Franchise Requirement

- (a) Except as provided below and in San Diego Municipal Code section 66.0109 of this Code, no ~~person shall collect~~person shall collect and subsequently transfer, transport, and/or ~~dispose~~recycle or dispose of residential or ~~commercial solid waste~~commercial solid waste in the ~~City~~City without first obtaining from the ~~City~~City a current ~~agreement~~agreement to perform such services. The ~~agreement~~agreement shall include all the terms and conditions for the ~~collection~~collection and subsequent transfer, transportation, ~~processing, and disposal of such material in the City~~and recycling or disposal of solid waste in the City. The ~~franchisee~~franchisee is obligated to comply with the provisions of the ~~agreement~~agreement on its effective date.

- (b) No vehicle shall be used in the ~~collection~~collection and subsequent ~~transfer,~~ transportation, and/or ~~disposal of solid waste within the City~~ recycling or disposal of solid waste in the City unless it carries a current, unrevoked tag or decal issued by the ~~City~~City authorizing such activity.

§66.0109 Franchise Exclusions

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

- (a) All ~~residential refuse collected~~ “Residential Refuse,” as defined in San Diego Municipal Code section 66.0127, collected on public streets in the ~~City~~City, which the ~~City~~City is obligated to ~~collect~~collect under San Diego Municipal Code section 66.0127.
- (b) All ~~residential refuse collected~~ “Residential Refuse,” as defined in San Diego Municipal Code section 66.0127, which the City collects on private streets for which there is a valid hold harmless agreement to provide such service, as described in San Diego Municipal Code section 66.0127.
- (c) *Recyclable materials* as follows:
- (1) ~~Until June 30, 2017, all recyclable materials.~~
- (2) ~~Beginning July 1, 2017, the following recyclable materials:~~
- (A) Recyclable material that is sold or donated by a *person*. *Recyclable material* shall be subject to the ~~franchise~~franchise requirement if the seller or donor pays the buyer or donee any consideration for

the ~~collection~~collection, ~~processing~~, ~~recycling~~, transportation and/or disposal of the *recyclable material*, and the consideration collectively exceeds the fair market value of the *recyclable material*.

- (B2) *Recyclable material* that consists of inert material, such as concrete, asphalt, dirt, and rock.
- (C3) *Recyclable material* that consists of shredded document material that is removed from residential or ~~commercial~~commercial property by a *person* engaged in the business of providing secure document shredding services, and where its removal is an incidental part of the total shredding services offered by that *person*.
- (D4) *Recyclable material* that is ~~collected~~collected by a *certified recyclable materials collector*, as limited by the following:
 - (iA) 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 March 11, 2018, and is continuously maintained thereafter; or the valid certification is granted after March 11, 2018, so long as a complete application for such certification was submitted to

the *Director* prior to March 11, 2018. The ~~franchise~~
franchise exclusion shall not begin to apply until a valid
certification is granted;

(~~##~~B) The amount of *recyclable material* ~~collected~~collected
within the *City* under this exclusion may not exceed 1,000
tons per year. ~~For the purposes of this subsection, t~~The
annual tonnage of *recyclable material* ~~collected~~collected in
the *City* by the *certified recyclable materials collector*, its
parent company, and all ~~affiliates~~affiliates shall be
combined;

(~~##~~C) 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~~collected; and

(~~iv~~D) The *certified recyclable materials collector* achieves an
annual 90% *diversion* rate. The *certified recyclable*
materials collector shall certify their *diversion* rate in their
annual reporting under San Diego Municipal Code section
66.0711.

(d) Beverage Containers as defined in and delivered for ~~recycling~~recycling
under the California Beverage Container Recycling and Litter Reduction
Act, California Public Resources Code, § section 14500, et seq.

- (e) ~~Green material~~ Green material removed from a premises by a gardening, landscaping, or tree trimming contractor as an incidental part of a total service offered by that contractor rather than as a hauling service.
- (f) ~~Solid waste~~ 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~~ the owner's or occupant's full-time employees to a licensed ~~solid waste management facility~~ solid waste facility, transfer station ~~or disposal site~~, or disposal site in a manner consistent with the San Diego Municipal Code and other applicable laws.
- (g) ~~Construction and demolition waste or debris~~ Construction and demolition waste or construction and demolition debris, as defined in San Diego Municipal Code section 66.0603, removed from a premises by a licensed demolition or construction contractor using its own employees and its own or rented equipment as an incidental part of a total service offered by that contractor rather than ~~as only~~ a hauling service.
- (h) ~~Hazardous waste, medical waste and designated waste~~ Hazardous waste or medical waste regardless of its source.
- (i) [No change in text.]
- (j) Residue or non-processible waste from a ~~solid waste management facility~~ solid waste facility; including, but not limited to, material recovery, composting, and transformation facilities.
- (k) [No change in text.]

- (l) Municipal corporations and other governmental agencies using their own vehicles engaged in the ~~collection~~collection, transportation, ~~or disposal of solid waste within the City~~disposal, or recycling of solid waste within the City.
- (m) *Solid waste* or debris removed from residential or ~~commercial~~commercial property by a *person* engaged in the business of cleaning ~~residential or commercial~~such property, when the *solid waste* and debris removed consists of by-products of the cleaning services provided and the removal is an incidental part of the total cleaning services offered by that *person* rather than ~~just~~only a hauling service.
- (n) Solid or semi-solid by-products of food or beverage processing that are ~~collected~~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~~the owner's or occupant's full-time employees, or by a *person* ~~collecting~~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~~disposal or *recycling*. This exclusion does not include liquefied or slurried *food material*.

- (p) Edible food collected for the purpose of distribution for human consumption or self-hauled to a food recovery organization or food recovery service for the purpose of food recovery pursuant to San Diego Municipal Code section 66.0719.

§66.0110 Franchise Authority to Grant

- (a) The ~~Council~~Council may grant to qualified applicants a ~~franchise~~franchise for use of ~~City's~~the City's streets and right-of-ways for the ~~collection~~collection and subsequent transfer, transportation, ~~recycling,~~processing, and disposal of commercial, industrial, and recycling or disposal of commercial and certain residential ~~solid waste~~solid waste kept, accumulated, or ~~produced~~generated in the ~~City~~City.
- (b) The ~~Council~~Council may grant a ~~franchise~~franchise to an applicant based on compliance with this ~~d~~Division. Any grant of a ~~franchise~~franchise by the ~~Council~~Council may be subject to such terms, conditions, rules, regulations, restrictions, and limitations as the ~~Council~~Council deems necessary to protect the public health, safety, or welfare.
- (c) The ~~Council~~Council hereby empowers and grants to the ~~Manager~~Manager the authority to administer and negotiate nonsubstantive changes to the ~~franchise agreements~~franchise agreements.

§66.0112 Franchise Application Process

- (a) Applications for ~~agreements~~agreements to provide for the ~~collection~~collection and subsequent transfer, transportation, ~~processing, and disposal~~of commercial, industrial and recycling or disposal of commercial and

certain residential ~~solid waste~~ solid waste kept, accumulated, or ~~produced~~ generated in the ~~City~~ City shall be on a ~~City~~ City-approved form and shall be filed with the ~~Director~~ Director. Applications for such ~~franchises~~ franchises shall include, but not be limited to, the following information:

(1) Identification

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

(C) Address where all vehicles and operating equipment used within the ~~City~~ City will be kept.

(D) If the applicant is a partnership, the name and address of each partner and their percentage of ownership. If the applicant is a corporation's, the names and addresses of the corporation's directors, date and place of incorporation, main offices, major stockholders and associates, and the names and addresses of the parent and subsidiary companies. If the applicant is an ~~affiliate~~ affiliate or a franchised operation of another corporation (not to be confused in this instance with a ~~solid waste franchisee of the City~~ franchisee of the City), list the names and addresses of the parent or subsidiary companies, together with a description of their business interests and/or ownership. If the applicant is a joint venture or other combination of

~~persons and corporations~~persons, identify separately the names and addresses of each member of the joint venture or combined effort, together with their percentage interest.

(2) Business Operations

(A) [No change in text.]

(B) Obtain insurance prior to commencing business subject to the ~~agreement~~agreement.

(C) Maintain and report on a timely basis all ~~operational~~ information ~~and data elements~~ needed by the ~~City~~City to comply with its reporting requirements ~~such as~~including, but not limited to,- those established under AB 939 required by AB 939 and SB 1383, and as defined in the ~~agreement~~agreement.

(D) [No change in text.]

(3) Facilities and Equipment

(A) A description of all vehicles and equipment that the applicant owns, has control of, or intends to acquire for ~~collection, transportation, or disposal of solid waste in the City~~the collection, transfer, transportation, and recycling or disposal of solid waste in the City and which are subject to the provisions of the ~~agreement~~agreement. A ~~S~~statement as to whether said vehicles and equipment are self-unloading and equipped with audible automatic back-up warning

devices. The minimum vehicle description for existing vehicles shall include the Vehicle Identification Numbers (VIN) and license plate numbers.

- (B) [No change in text.]
 - (C) Evidence demonstrating that the applicant owns or will have the legally enforceable right to use at least two ~~collection~~collection vehicles, the bodies of which are closed, leak resistant, and constructed for the purpose of ~~solid waste collection, transportation, and disposal~~solid waste collection, transfer, transportation, and recycling or disposal. In the alternative, for the purposes of this provision, an applicant may demonstrate by the evidence that they service and transport open-top roll-off boxes for the ~~collection, transportation, and disposal~~collection, transfer, transportation, and recycling or disposal of nonputrescible waste and/or roll-off compaction boxes which are closed, leak resistance, and are constructed for the purpose of ~~solid waste collection, transportation, and disposal~~solid waste collection, transfer, transportation, and recycling or disposal.
- (4) Services Provision
- (A) A general description of the geographic area to be served, if less than the entire ~~City~~City.

- (B) A report of ~~collection~~collection activity (number of accounts and tons ~~collected~~collected) within the ~~City~~City for the prior calendar year, if any, or a description of plans showing proof of ability to provide such services.
- (5) Other
 - (A) Any additional evidence which demonstrates that the applicant is able to render ~~collection~~collection and subsequent transfer, transportation, ~~and/or disposal~~recycling, and disposal services in accordance with applicable federal, state and local statutes.

§66.0114 Franchise Application Review Process

- (a) The ~~Council~~Council may award ~~franchises~~franchises for the ~~collection~~collection and subsequent transfer, transportation, and recycling or disposal of commercial and certain residential ~~and commercial solid waste with solid waste kept, accumulated, or generated~~ in the ~~City~~City. The franchises awarded by the Council shall be granted to currently licensed private haulers meeting all terms and conditions of both this division and agreement.
- (b) Applicants may submit their completed application for a ~~franchise~~franchise, as provided in San Diego Municipal Code section 66.0112, to the ~~Director~~Director for review and consideration at any time during a designated application period. ~~The Director shall review such submittals and either make a recommendation to the Council to award~~

~~such franchise, or notify applicant of denial, all within a reasonable period of time.~~

- (c) The ~~Director~~ Director shall take into consideration all components of the completed application; including, but not limited to, the following:
- (1) ~~¶~~ The ability of the applicant to meet all terms of the agreement;
 - (2) ~~a~~ Any history of civil or criminal convictions that may compromise the public's interests; and
 - (3) ~~¶~~ The completeness, accuracy, and validity of the application.
- The ~~Director~~ Director shall also have the authority to verify independently any and all statements made and implied in the application. The ~~Director~~ Director may also request clarification from the applicant of any or all elements of the submitted application.
- (d) ~~After a reasonable review period~~ Within 60 days from the receipt of the application, the ~~Director~~ Director shall either:
- (1) Deny an award and notify the applicant in writing of the reasons why the award was denied; or
 - (2) ~~¶~~ Recommend to the City Manager Manager ~~that a franchise~~ franchise be awarded; ~~or,~~
- (e) ~~if the Director~~ If the Director fails to act on a ~~franchise~~ franchise application within ~~thirty (30)~~ 60 days from the receipt of ~~said~~ the application, ~~the applicant may at his or her option deem the application~~

~~shall be deemed denied. Upon concurrence with a positive recommendation, the Council will award the franchise within a reasonable period of time. The Manager~~

- (f) If the Council approves the award of a franchise, the Director will notify the applicant of the award in writing of an award.

§66.0117 Franchise Operations

- (a) All franchisee customer agreements must contain clauses that automatically terminate such customer agreements in the event that the ~~agreement~~ agreement with the ~~City~~ City is terminated.
- (b) ~~Franchisee~~ Franchisee must offer ~~recycling services to each of its customers or provide its each customers with a list of companies who provide recycling services in the area~~ three (3)-container collection service that includes separate containers for recyclable material, organic waste, and refuse.
- (c) ~~The Customer agreements shall provide for the include requirements relating to the frequency and hours of collection, collection; the size, color, signage, placement, and care of the containers; proper separation of recyclable material, organic waste, and refuse; and special collections~~ collections.

§66.0119 Other Franchise Provisions

- (a) The ~~Council~~ Council may expand or contract the scope of the ~~agreement~~ agreement over time due to changes in law or interpretations of law.

- (b) The ~~Manager~~ Manager has the right to inspect ~~franchisee's~~ franchisee's records for purposes of determining compliance with State requirements including, but not limited to, AB 939, SB 1383, and other reporting requirements. The ~~Manager~~ Manager may also inspect ~~franchisee's~~ franchisee's records to determine proper calculation and payment of ~~franchise~~ franchise fees and recycling fees. The ~~Manager~~ Manager will provide ~~franchisee~~ franchisee with reasonable notice of its intent to inspect any of ~~franchisee's~~ franchisee's records.
- (c) The ~~Manager~~ Manager retains the right to terminate or suspend the ~~agreement~~ agreement, as provided in the ~~agreement~~ agreement.
- (d) The *Council* may convert a *Class I Franchise* to a *Class II Franchise* at any time that all criteria in the Agreement for such conversion are met. Notwithstanding San Diego Municipal Code section 66.0114(b), the submittal time period for applications requesting conversion of a *Class I Franchise* to a *Class II Franchise* shall be governed by the provisions of the Agreement. Applications for conversion of a *Class I Franchise* to a *Class II Franchise* shall be submitted in accordance with San Diego Municipal Code section 66.0112 and reviewed in accordance with San Diego Municipal Code section 66.0114.
- (e) ~~Beginning July 1, 2017, i~~In conjunction with *franchisee's* annual reporting under San Diego Municipal Code section 66.0711, *franchisee* shall certify on a form or using a format prescribed by the *Director*, that all *recyclable material* that *franchisee* serviced during the period from July 1 through

June 30 of the immediately preceding twelve-month period, which *franchisee* claims as exempt from the ~~franchise-franchise~~ requirement under San Diego Municipal Code section 66.0109(c)(2)(A1), was sold or donated by a *person*. *Franchisee's* certification shall include:

- (1) [No change in text.]
- (2) The date(s) that *franchisee* ~~collected~~ collected the sold or donated *recyclable material* from the *person*;
- (3) The total amount of sold or donated *recyclable material*, measured in tons, that *franchisee* ~~collected~~ collected from each *person*; and
- (4) [No change in text.]

§66.0124 Rules and Regulations

The ~~collection and subsequent transportation and disposal of refuse with in the City of San Diego~~ collection and subsequent transfer, transportation, and disposal or recycling of refuse and recyclable material in the City is under the supervision of the ~~Manager~~ Manager, who shall have the power to promulgate rules and regulations regulating such ~~collection and subsequent transportation and disposal;~~ collection and subsequent transfer, transportation, and disposal or recycling including, but not limited to:

- (a) ~~Collection~~ Collection routes and scheduling and designation of ~~disposal sites~~ disposal sites and recycling sites and any limitations thereon;
- (b) [No change in text.]
- (c) Handling of ~~hazardous materials~~ hazardous substances.

A copy of said rules and regulations and all amendments thereto shall be ~~sent by registered or certified mail, postage prepaid, to all affected franchises addressed to their last place of business~~ posted to the Department's website. To the extent not otherwise provided by law, it shall be unlawful for a ~~franchisee to collect and subsequently transport or dispose of refuse~~ franchisee to collect and subsequently transfer, transport, dispose of or recycle refuse or recyclable material contrary to any regulation, order, permit or requirement promulgated by the ~~Manager~~ Manager.

§66.0126 Refuse and Recyclable Material Containers

- (a) It is unlawful for any ~~Responsible Person~~ responsible person in lawful possession, charge, or control of any boarding house, lodging house, bungalow court, hotel, motel, inn, apartment, residence, or any other dwelling, or public or private campground, or any ~~restaurant, business, commercial or manufacturing~~ commercial establishment to fail to provide containers which are adequate to contain the amount of ~~refuse~~ refuse and recyclable material ordinarily accumulated at such place during the intervals between ~~collection~~ collection.
- (b) It is unlawful for any ~~Responsible Person~~ responsible person in lawful possession, charge, or control of any boarding house, lodging house, bungalow court, hotel, motel, inn, apartment, residence, or any other dwelling, or public or private campground, or any ~~restaurant, business, commercial or manufacturing~~ commercial establishment to fail to maintain covered ~~refuse~~ refuse and recyclable material containers.

- (c) It is unlawful for any ~~Responsible Person~~ responsible person in lawful possession, charge, or control of any boarding house, lodging house, bungalow court, hotel, motel, inn, apartment, residence, or any other dwelling, or public or private campground, or any ~~restaurant, business, commercial or manufacturing~~ commercial establishment to fail to maintain the area surrounding the refuse and recyclable material containers clear of waste.
- (d) All ~~refuse~~ refuse and recyclable material shall be placed out for ~~collection~~ collection in containers that are in good condition, clean and free of putrescible residue, leakproof, and waterproof, except as otherwise provided in San Diego Municipal Code sections 66.0126(e) and (h).
- (e) All containers placed out for manual ~~collection~~ collection shall be designed for the express purpose of ~~refuse~~ refuse and recyclable material storage and ~~collection~~ collection. Reusable containers shall be equipped with tight-fitting lids or closures. Such containers shall be tapered with the larger diameter at the top to facilitate emptying of the ~~refuse~~ refuse and recyclable material by gravity. The interior of the containers shall be smooth without interior projections which would interfere with the emptying of the containers.
- (f) Single-use waterproof paper and plastic bags designed expressly for the storage of ~~solid wastes~~ solid waste are acceptable for the ~~disposal of~~ refuse disposal of refuse. The amount of ~~refuse~~ refuse placed in such bags

shall be limited so the bags will not rip or tear when handled. Such bags shall not weigh more than ~~forty (40)~~ pounds filled and shall be tied or sealed at all times.

- (g) No container placed out for manual ~~collection~~collection shall weigh more than ~~fifty (50)~~ pounds filled, nor shall it have a capacity of more than ~~forty-five (45)~~ gallons. Fifty-five (55) gallon oil drums and other heavy gauge reusable petroleum or chemical containers are not acceptable for ~~City refuse collection~~City refuse collection.
- (h) Brush, landscape, trimmings, crushed cardboard boxes, and similar materials shall be tied securely in bundles weighing not more than ~~fifty (50)~~ pounds and shall be not more than ~~four (4)~~ feet long.
- (i) Reusable containers supplied by a ~~licensee~~franchisee which are used for mechanized ~~collection~~collection, including stationary compactors, and used for putrescibles or similar waste matter shall be equipped with close-fitting lids and be leak-proof and rodent-proof. Containers which are used expressly for dry wastes (construction, demolition, industrial, etc.) may be kept uncovered except as required under applicable provisions of the California Vehicle Code and this Code while being transported upon any street or ~~highway~~highway. Containers shall be sanitary and in good repair and shall be clearly identified with the name and telephone number of the ~~licensee~~franchisee.

- (j) ~~Containers which~~ Persons receiving refuse and recyclable material collection services from the City who fail to comply with the requirements of San Diego Municipal Code section 66.0126, or who fail to replace containers which have deteriorated to the point where they are no longer in compliance, will be marked by the City of San Diego and will not be collected serviceable, will not have their containers collected and may have their service terminated at the City's discretion.
- (k) ~~Recyclable waste material placed out for collection at designated locations shall be in containers designated by the City Manager for such purpose.~~

§66.0701

Findings

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

- (a) The ~~City~~ City operates the Miramar Landfill, which is currently the only municipal landfill in the ~~City~~ City. The Miramar Landfill currently is expected to close in 202830. Preserving landfill capacity at the Miramar Landfill in order to extend the useful life of the Miramar Landfill for the citizens of the ~~City~~ City is a paramount concern.
- (b) The ~~City~~ City has met, 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, organic waste, and other *recyclable materials*, will assist the ~~City~~ City in maintaining and exceeding the goal of *diverting* 50% of its waste from landfill *disposal*.

- (c) Studies show that approximately 17% of the waste generated in the ~~City of San Diego~~ City and delivered for landfill *disposal* is paper and 32% is compostable ~~organics~~ organic waste, all of which could be *diverted* from landfill *disposal*.
- (d) Efforts by the ~~City~~ City and the private sector for *diversion* of residential, ~~commercial, and special event~~ and commercial waste as required by this Division have been successful, but additional efforts are necessary to ensure continued compliance with AB 939 requirements and with other State laws that mandate *recycling*, ~~commercial waste and multi-family residential waste~~ including recycling of organic waste.
- (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*, including organic waste, and have been favorably received by the California Department of Resources Recycling and Recovery.

§66.0702 Purpose

The purpose of this Division is to establish requirements for *recycling of recyclable materials*, including organic waste, generated from *residential facilities* (~~both single family and multi-family~~), *commercial facilities* (including ~~City~~ City buildings), and special events. These requirements are intended to increase the *diversion of recyclable materials*, including organic waste, 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~~ City of failing to meet State-mandated *recycling* 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~~ San Diego Municipal Code section 66.0102 of this Article.

Certified Recyclable Materials Collector [No change in text.]

City has the same meaning as in San Diego Municipal Code section 66.0102.

Collect or Collection [No change in text.]

Commercial edible food generator has the same meaning as in title 14, section 18982(a)(7) of the California Code of Regulations, as it may be amended.

Commercial facilities means any facilities that are not *residential facilities* or *mixed use facilities* and includes, but is not limited to, mercantile, institutional, governmental, and industrial facilities. *Commercial facilities* includes ~~City~~ City buildings for which the *responsible person* is a ~~City of San Diego~~ City employee.

Construction and demolition waste through Department [No change in text.]

Director has the same meaning as ~~set forth in~~ San Diego Municipal Code section 66.0102 of this Article.

Disposal ~~means the final deposition of waste at a permitted landfill or other permitted waste facility~~ has the same meaning as in San Diego Municipal Code section 66.0102.

Diversion or Divert [No change in text.]

Edible food has the same meaning as in title 14, section 18982(a)(18) of the California Code of Regulations, as it may be amended.

Food material [No change in text.]

Food recovery has the same meaning as in title 14, section 18982(a)(24) of the California Code of Regulations, as it may be amended.

Food recovery organization has the same meaning as in title 14, section 18982(a)(25) of the California Code of Regulations, as it may be amended.

Food recovery service has the same meaning as in title 14, section 18982(a)(26) of the California Code of Regulations, as it may be amended.

Franchisee has the same meaning as ~~set forth in~~ San Diego Municipal Code section 66.0102 of this Article.

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

Hazardous substance through Hazardous waste [No change in text.]

Large event has the same meaning as in title 14, section 18982(a)(38) of the California Code of Regulations, as it may be amended.

Large venue has the same meaning as in title 14, section 18982(a)(39) of the California Code of Regulations, as it may be amended.

Lot [No change in text.]

Manager has the same meaning as in San Diego Municipal Code section 66.0102.

Medical waste through Multi-family residential facility [No change in text.]

Organic waste has the same meaning as in title 14, section 18982(a)(46) of the California Code of Regulations, as it may be amended.

Person has the same meaning as ~~set forth in~~ San Diego Municipal Code section 66.0102 ~~of this Article.~~

Recyclable has the same meaning as ~~set forth in~~ San Diego Municipal Code section 66.0102 ~~of this Article~~ and includes *organic waste*.

Recyclable ~~M~~materials has the same meaning as ~~set forth in~~ San Diego Municipal Code section 66.0102 ~~of this Article~~ and includes *organic waste*.

Recyclable ~~M~~materials ~~C~~collector has the same meaning as in San Diego Municipal Code section 66.0102 and includes those who *collect organic waste*.

Recycling or *Recycle* has the same meaning as ~~set forth in~~ San Diego Municipal Code section 66.0102 ~~of this Article~~ and includes *organic waste*.

Recycling facility [No change in text.]

Refuse has the same meaning as ~~set forth in~~ San Diego Municipal Code section 66.0102 ~~of this Article.~~

Residential facility through *Single family residential facility* [No change in text.]

Solid waste means all putrescible and nonputrescible solid and semi-solid wastes, including garbage, trash, ~~refuse~~refuse, rubbish, *construction and demolition waste*, metallic discards, vegetable or animal solid or semi-solid wastes, and other solid or semi-solid wastes. *Solid waste* does not include *hazardous waste*, *hazardous substances*, *medical waste*, or *recyclable materials*.

Solid waste facility has the same meaning as in San Diego Municipal Code section 66.0102.

Tier one commercial edible food generator has the same meaning as in title 14, section 18982(a)(73) of the California Code of Regulations, as it may be amended.

Tier two commercial edible food generator has the same meaning as in title 14, section 18982(a)(74) of the California Code of Regulations, as it may be amended.

Vegetative food material [No change in text.]

§66.0706 Recycling Requirement for Residential Facilities Serviced by Franchisee

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

(c) *Recycling Services.* *Recycling services for residential facilities* shall include, at a minimum, all of the following:

(1) [No change in text.]

(2) weekly collection in a separate container ~~and at least two times per month~~ of yard trimmings and nonhazardous wood waste ~~generated from multi-family residential facilities~~. If yard trimmings or nonhazardous wood waste will be hauled away by a gardening or landscaping service provider as an incidental part of its services at the property, then the service contract or agreement shall require the gardening or landscaping service provider to take the yard trimmings and nonhazardous wood waste to a mulching or composting facility for *recycling*;

(3) weekly collection in a separate container of food material and food-soiled paper mixed with food material;

- (4) alternatively, in lieu of San Diego Municipal Code sections 66.0706(c)(2) and 66.0706(c)(3), weekly collection in a separate container of food material or food-soiled paper mixed with food material that is commingled with yard trimmings or nonhazardous wood waste;
- (35) collection of other *recyclable materials* for which markets exist, such as scrap metal, ~~food material, and food-soiled paper mixed with food material,~~ as determined by the *Director*, with collection of such *recyclable materials* required beginning on the 181st day after the ~~City~~ City gives public notice by placing an advertisement of at least one-eighth page in a newspaper of general daily circulation in the ~~City~~ City and posting a notice including such *recyclable materials* on the *Department's* website;
- (46) utilization of *recycling* containers that comply with the size and color standards in the Container and Signage Guidelines established by the *Manager*;
- (57) designated *recycling collection* and storage areas; ~~and~~
- (68) 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 *Manager*; ~~and~~
- (9) containers for recyclable materials in all areas where solid waste containers are located.

- (d) ~~Occupant~~ Education. For *multi-family residential facilities, and for single family residential facilities receiving recycling services through a homeowners' association*, the *responsible person* shall ensure that ~~occupants~~ *persons* are educated about the *recycling* services as follows:
- (1) Information, including the types of *recyclable materials* accepted and not accepted, the location of *recycling* containers, ~~and the occupants' the recycling requirements, and the person's~~ responsibility to *recycle* pursuant to this Division, shall be distributed to all occupants, employees, and contractors annually;
 - (2) through (3) [No change in text.]
- (e) Container Contamination. For all *residential facilities*, the *responsible person* shall prohibit placing *recyclable materials* in a container not designated to receive those *recyclable materials* and shall periodically inspect containers and inform occupants, employees, and contractors if containers are contaminated.

§66.0707 Recycling Requirements for Commercial Facilities Serviced by Franchisee

- (a) through (b) [No change in text.]
- (c) *Recycling Services*. *Recycling* services for *commercial facilities* shall include, at a minimum, all of the following:
- (1) [No change in text.]
 - (2) weekly collection in a separate container ~~and at least two times per month~~ of yard trimmings and nonhazardous wood waste. If yard trimmings or nonhazardous wood waste will be hauled away by a

- gardening or landscaping service provider as an incidental part of its services at the property, then the service contract or agreement shall require the gardening or landscaping service provider to take the yard trimmings and nonhazardous wood waste to a mulching or composting facility for *recycling*;
- (3) weekly collection in a separate container ~~and at least one time per week~~ of *food material* and food-soiled paper mixed with *food material*;
 - (4) alternatively, in lieu of San Diego Municipal Code sections 66.0707(c)(2) and 66.0707(c)(3), weekly collection, in a separate container ~~and at least one time per week~~, of *food material* or food-soiled paper mixed with *food material* that is commingled with yard trimmings or nonhazardous wood waste;
 - (5) collection of other *recyclable materials* for which markets exist, such as scrap metal, as determined by the *Director*, with *collection* of such *recyclable materials* required beginning on the 181st day after the ~~City~~City gives public notice by placing an advertisement of at least one-eighth page in a newspaper of general daily circulation in the ~~City~~City and posting a notice including such *recyclable materials* on the *Department's* website;
 - (6) utilization of *recycling* containers that comply with the size and color standards in the Container and Signage Guidelines established by the ~~Department~~Manager;

- (7) designated *recycling collection* and storage areas; ~~and~~
 - (8) 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 Manager; and
 - (9) containers for recyclable materials in all areas where solid waste containers are located.
- (d) ~~Occupant~~-Education. For *commercial facilities*, the *responsible person* shall ensure that ~~occupants~~ persons are educated about the *recycling* services as follows:
- (1) Information, including the types of *recyclable materials* accepted and not accepted, the location of *recycling* containers, ~~and the~~ ~~occupants~~ the recycling requirements, and the person's responsibility to *recycle* pursuant to this Division, shall be distributed to all ~~occupants~~ tenants, employees, customers, and contractors annually;
 - (2) through (3) [No change in text.]
- (e) Container Contamination. The responsible person for the commercial facility shall prohibit placing recyclable materials in a container not designated to receive those recyclable materials and shall periodically inspect containers and inform tenants, employees, customers, and contractors if containers are contaminated.

§66.0709 Delivery of Recyclable Materials to Recycling Facility

Except for the collection of *recyclable vegetative food materials* by a ~~C~~ertified ~~R~~ecyclable ~~M~~aterials ~~C~~ollector in accordance with San Diego Municipal Code section 66.0109(c)(2)(D4), ~~F~~ranchisees and ~~R~~ecyclable ~~M~~aterials ~~C~~ollectors who collect *recyclable materials* generated within the ~~City~~ 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~~ City shall not be delivered to a landfill or other site for *disposal*. *Recyclable vegetative food materials* generated within the ~~City~~ 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 ~~F~~ranchisees and ~~R~~ecyclable ~~M~~aterials ~~C~~ollectors 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 ~~F~~ranchisee or ~~R~~ecyclable ~~M~~aterials ~~C~~ollector to whom the container belongs, and shall display a list-label, imprinted text or graphic images of the primary recyclable materials which may shall be deposited in the container and the primary recyclable materials which shall not be deposited in that container. Container signage shall comply with the Container and Signage Guidelines established by the Manager.

- (b) Container Color: Containers shall comply with the container color requirements in the Container and Signage Guidelines established by the Manager.
- (bc) Container Features. Automatic lift containers, bins, roll-offs, and other containers ~~used~~ provided by franchisees and Recyclable Materials Collectors to collect and store *recyclable materials* pending collection shall be equipped with close-fitting lids and be leak-proof and rodent-proof.

§66.0711 Reports from Franchisees and Certified Recyclable Materials Collectors

- (a) *Franchisees* and ~~Certified Recyclable Materials Collectors~~ shall submit ~~an~~ semi-annual reports to the *Department*, by ~~August 15~~ March 1 and September 1 of each year, on a form or using a format prescribed by the *Director*. ~~Annual~~ Semi-annual reports shall include the following information for each facility serviced ~~within the City for the period June 30 through July 1 in the City for the period January 1 through June 30 or July 1 through December 31, as applicable,~~ of the immediately preceding ~~twelve~~ six-month period:
- (1) The name of the *person(s)* responsible for *solid waste* and/or *recyclable materials* management at the facility serviced;
- (2) through (5) [No change in text.]
- (b) *Franchisees* and ~~Certified Recyclable Materials Collectors~~ also shall include in the semi-annual reports for the time period specified in San Diego Municipal Code section 66.0711(a) the following information:

(1) through (2) [No change in text.]

- (c) *Certified ~~R~~recyclable ~~M~~materials ~~C~~ollectors* that collect recyclable food materials in accordance with San Diego Municipal Code section 66.0109(c)(2)(~~D~~4) 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) through (6) [No change in text.]

- (d) *Franchisees and Certified Recyclable Materials Collectors shall submit additional reports as requested by the Director which are necessary to meet the City's reporting requirements to the California Department of Resources Recycling and Recovery, or its successor, or to any other State or federal agency.*

§66.0712 Special Events Recycling

- (a) Special Events. For a community special event requiring an event permit from the ~~City of San Diego~~ City, the *responsible person* shall provide recycling receptacles throughout the event venue and shall provide recycling services as described in San Diego Municipal Code section 66.0712.
- (b) ~~The number of recycling receptacles shall equal the number of solid waste receptacles~~ Recycling Services. Recycling services shall include, at a minimum, all of the following:

- (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, all of the following:~~
 - (1) separate containers for commingled plastic and glass bottles and jars, paper, newspaper, metal containers, cardboard, and rigid plastics, including clean food containers, jugs, tubs, trays, pots, buckets, and toys; and
 - (2) separate containers for wood pallets, if any;
 - (3) separate containers for commingled food material, food-soiled paper, yard trimmings, and nonhazardous wood waste, if the event generates, distributes, provides or sells food or other organic material;
 - (24) separate containers for other recyclable materials for which markets exist, such as scrap metal, wood pallets, food material, and food-soiled paper mixed with food material, as determined by the Director, with collection of such recyclable materials required beginning on the 181st day after the City-City gives public notice by placing an advertisement of at least one-eighth page in a newspaper of general daily circulation in the City-City and posting a notice including such recyclable materials on the Department's website;

- (5) a specified number of *recycling* receptacles relative to the quantity of *solid waste* receptacles based upon the size of the event and as approved in the special event permit;
 - (6) placement of *solid waste* and *recycling* receptacles next to one another throughout the event venue; and
 - (7) *organic waste recycling* receptacles set up in compliance with the Container and Signage Guidelines established by the *Manager*.
- (ec) Receptacles. Each *recycling* receptacle shall be clearly identified as a *recycling* receptacle and shall display a ~~list of the types~~ label, imprinted text, or graphic images of the primary recyclable materials which ~~may~~ shall be deposited into the *recycling* receptacle and the primary *recyclable* materials which shall not be deposited in that receptacle. Container signage shall comply with the Container and Signage Guidelines established by the *Manager*.
- (fd) Delivery to Recycling Facility. 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) Cubic yard exemption.

- (1) *Multi-family residential facilities, ~~and commercial facilities,~~ and mixed use facilities that generate 0.001 cubic yard or less per week of *solid waste* including *recyclable materials*, described in San Diego Municipal Code sections 66.0706(c)(1) through 66.0706(c)(4) or 66.0707(c)(1) through 66.0707(c)(4) as applicable, mixed with *solid waste* are exempt from the requirements of this Division.*
- (2) *~~Multi family residential facilities that generate less than 0.50 cubic yard per week of yard trimmings and non-hazardous wood waste combined are exempt from section 66.0706(c)(2).~~*
- (3) *~~Commercial facilities that generate less than 0.50 cubic yard per week of yard trimmings, non-hazardous wood waste, food material, and food-soiled paper mixed with food material combined are exempt from sections 66.0707(c)(2), 66.0707(c)(3), and 66.0707(c)(4).~~*
- (42) The cubic yard thresholds may be adjusted at the discretion of the City Manager ~~Manager~~ and shall be effective 90 days after the City ~~City~~ gives public notice by placing an advertisement of at least one-eighth page in a newspaper of general daily circulation in the City ~~City~~ and posting a notice on the *Department's* website.

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

§66.0714 Certified Recyclable Materials Collector

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

(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 ~~C~~certified ~~R~~recyclable ~~M~~aterials ~~C~~ollector to whom the container belongs, and shall display a ~~list-label, imprinted text, or graphics~~ of the primary *recyclable materials* which ~~may~~ shall be deposited into the container and the primary *recyclable materials* which shall not be deposited in that container. Container signage shall comply with the Container and Signage Guidelines established by the Manager.

(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, and shall comply with the color standards in the Container and Signage Guidelines established by the Manager.

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

§66.0715 Self-Haul and Use of Non-Certified Recyclable Materials Collector

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

(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 in section 66.0711(a)~~facility shall complete and submit to the City a recycling hauling report form, and maintain an annual log documenting the types and quantities of solid waste and recyclable materials generated and delivered to recycling facilities, organic waste facilities, solid waste facilities, salvage operations, and other locations. Each annual log shall cover the time period from January 1 through December 31. Annual logs shall be maintained for a period of three (3) years, shall include delivery receipts and weigh tickets from the facilities that received the solid waste and recyclable materials, and shall be made available to the Director within 15 business days upon request.

- (d) Except for occupants of *single family residential facilities*, a person who uses the services of a ~~R~~recyclable M~~materials C~~ollector, ~~which that~~ is neither a ~~F~~franchisee nor a ~~C~~ertified R~~ecyclable M~~aterials Collector, to ~~collect~~collect, transport, and deliver *recyclable materials* generated by that person to a *recycling facility*, ~~shall comply with the reporting requirements in section 66.0711(a)~~facility, shall complete and submit to the City a recycling hauling report form, and maintain an annual log documenting the types and quantities of solid waste and recyclable materials generated and delivered to recycling facilities, organic waste facilities, solid waste facilities, salvage operations, and other locations. Each annual log shall cover the time period from January 1 through December 31. Annual logs shall be maintained for a period of three (3)

years, shall include delivery receipts and weigh tickets from the facilities that received the *solid waste* and *recyclable materials*, and shall be made available to the *Director* within 15 business days upon request.

- (e) Notwithstanding San Diego Municipal Code section 66.0715(a), the *responsible person* for a *multifamily residential facility*, *commercial facility*, or a *mixed use facility* shall subscribe to a minimum level of *recycling service* from a *franchisee* as set forth in the Container and Signage Guidelines established by the *Manager*.

§66.0719 Requirements for Commercial Edible Food Generators

- (a) Compliance Schedule.
- (1) *Tier one commercial edible food generators* shall comply with the requirements of San Diego Municipal Code section 66.0719, effective on _____.
- (2) *Tier two commercial edible food generators* shall comply with the requirements of San Diego Municipal Code section 66.0719 beginning January 1, 2024, unless a different schedule is established pursuant to title 14, section 18991.3 of the California Code of Regulations, in which case that schedule shall apply.
- (3) *Large venue* or *large event* operators not providing food service, but allowing for food to be provided by others, shall require food facilities operating at the *large venue* or *large event* to comply with the requirements of San Diego Municipal Code section 66.0719 beginning January 1, 2024.

- (b) Food Recovery Requirements. Commercial edible food generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed by doing the following:
- (1) entering into a contract or written agreement with a food recovery organization or food recovery service for the collection of edible food for food recovery; or
 - (2) entering into a contract or written agreement with a food recovery organization to accept edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery; and
 - (3) not intentionally spoiling edible food capable of being recovered by a food recovery organization or food recovery service.
- (c) Recordkeeping. Commercial edible food generators shall maintain for a period of three (3) years and make available to the Director within 15 business days upon request, the following records:
- (1) A list of each food recovery service or food recovery organization that collects or receives its edible food;
 - (2) A copy of all contracts or written agreements with food recovery organizations and food recovery services for the collection of its edible food for food recovery; and
 - (3) A record of the following information for each food recovery service and food recovery organization:

- (A) the name, address, and contact information of the *food recovery service* or *food recovery organization*;
 - (B) the types of food to be *collected* by the *food recovery service* or *self-hauled* to the *food recovery organization*;
 - (C) the established frequency that food is or will be *collected* by the *food recovery service* or *self-hauled* to the *food recovery organization*; and
 - (D) the quantity of food, measured in pounds recovered per month, *collected* by the *food recovery service* or *self-hauled* to the *food recovery organization* for *food recovery*.
- (d) Food Donation. Nothing in this Division shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017.
- (e) Exemption. A *commercial edible food generator* shall comply with San Diego Municipal Code section 66.0719 unless the *commercial edible food generator* demonstrates the existence of extraordinary circumstances beyond its control that make such compliance impracticable. If an enforcement action is commenced against a *commercial edible food generator* for noncompliance, the burden of proof shall be upon the *commercial edible food generator* to demonstrate extraordinary circumstances that make such compliance impracticable.

§66.0720

Requirements for Food Recovery Organizations and Services

- (a) Food Recovery Services. Food recovery services that collect edible food directly from commercial edible food generators, under a contract or written agreement for food recovery, shall maintain the following records:
- (1) The name, address, and contact information for each commercial edible food generator from which the food recovery service collects edible food;
 - (2) The quantity, in pounds per month, of edible food collected from each commercial edible food generator;
 - (3) The quantity, in pounds per month, of edible food transported by the food recovery service to each food recovery organization; and
 - (4) The name, address, and contact information for each food recovery organization to which the food recovery service transports edible food for food recovery.
- (b) Food Recovery Organizations. Food recovery organizations that collect or receive edible food directly from commercial edible food generators, under a contract or written agreement for food recovery, shall maintain the following records:
- (1) The name, address, and contact information for each commercial edible food generator from which the food recovery organization receives edible food;
 - (2) The quantity, in pounds per month, of edible food received from each commercial edible food generator; and

- (3) The name, address, and contact information for each food recovery service from which the food recovery organization receives edible food for food recovery.
- (c) Good Samaritan Laws. Food recovery organizations and food recovery services shall provide written notice to commercial edible food generators, from which they collect or receive edible food, about California and Federal Good Samaritan Food Donation Act protection.
- (d) Reporting Requirements. Food recovery services and food recovery organizations that have a contract or written agreement with one or more commercial edible food generators for food recovery shall submit an annual report to the Department, by January 31 of each year, on a form or using a format prescribed by the Director. Annual reports shall include the following information:
- (1) Food recovery services shall include the information listed in San Diego Municipal Code section 66.0720(a) in their reports, with the exception that quantities shall be reported in pounds per year.
- (2) Food recovery organizations shall include the information listed in San Diego Municipal Code section 66.0720(b) in their reports, with the exception that quantities shall be reported in pounds per year.

GCL:cm
December 9, 2021
Or.Dept: ESD
Doc. No. 2917793

Passed by the Council of The City of San Diego on APR 26 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 09 2022.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

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

APR 12 2022, and on MAY 09 2022.

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- 21454