

Article 6: Collection, Transportation and Disposal of Refuse and Solid Waste**Division 7: Recycling Ordinance**

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

§66.0701 Findings

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

- (a) The *City* operates the Miramar Landfill, which is currently the only municipal landfill in the *City*. The Miramar Landfill currently is expected to close 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.

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

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

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§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.

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

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

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

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

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

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

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

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

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

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

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

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 means a parcel, tract, or area of land established by plat, subdivision, or by means described in San Diego Municipal Code section 113.0237(a) to be owned, used, or developed.

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

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

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

Multi-family residential facility means two or more residences on a single *lot*.

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

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

Residential facility means a *single family residential facility* or a *multi-family residential facility*.

Responsible person has the same meaning as in San Diego Municipal Code section 11.0210 and includes the *person* responsible for the management, including disposal and recycling, of *solid waste* generated at the *residential facility*, *commercial facility*, *mixed use facility*, or special event.

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

Single family residential facility means one residence on a single lot.

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

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

(Amended 11-1-2016 by O-20736 N.S.; effective 12-1-2016.)

(Amended 2-9-2018 by O-20900 N.S.; effective 3-11-2018.)

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0704 Unlawful Acts

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

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

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

Persons who are provided with curbside *recycling collection* services by the City of San Diego shall participate in the City curbside *recycling* program by separating *recyclable materials* from other *solid waste*, depositing the *recyclable materials* in the approved *recycling* containers, and placing the *recycling* containers out for *collection* at the time and place designated by the City.

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

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

§66.0706 Recycling Requirement for Residential Facilities Serviced by Franchisee

- (a) *Residential Facilities.* For single family residential facilities that receive solid waste collection services from a Franchisee, the responsible person shall provide curbside recycling services to occupants as required by section 66.0706(c). For multi-family residential facilities that receive solid waste collection services from a Franchisee, the responsible person shall provide on-site recycling services to occupants as required by sections 66.0706(c) and 66.0706(d).
- (b) *Occupants of Residential Facilities.* Occupants of residential facilities that receive solid waste collection services from a Franchisee shall participate in a recycling program, offered by the Franchisee or a Recyclable Materials Collector, by separating recyclable materials from other solid waste, depositing the recyclable materials in the designated recycling containers, and placing the recycling containers out for collection at the time and place designated by the Franchisee or Recyclable Materials Collector.
- (c) *Recycling Services.* Recycling services for residential facilities shall include, at a minimum, all of the following:
- (1) collection in a separate container and at least two times per month of 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) 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;

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- (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) All new occupants shall be given information and instructions upon occupancy; and
 - (3) All occupants shall be given information and instructions upon any change in *recycling* service to the facility.
- (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.

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

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0707 Recycling Requirements for Commercial Facilities Serviced by Franchisee

- (a) *Commercial Facilities.* For *commercial facilities* that receive *solid waste collection* services from a *Franchisee*, the *responsible person* shall provide on-site *recycling* services to occupants as required by sections 66.0707(c) and 66.0707(d).
- (b) *Occupants of Commercial Facilities.* Occupants of *commercial facilities*, that receive *solid waste collection* services from a *Franchisee*, shall participate in a *recycling* program by separating *recyclable materials* from other *solid waste*, depositing the *recyclable materials* in the designated *recycling* containers, and placing the *recycling* containers out for *collection* at the time and place designated by the *Franchisee* or *Recyclable Materials Collector*.
- (c) *Recycling Services.* *Recycling* services for *commercial facilities* shall include, at a minimum, all of the following:
- (1) *collection* in a separate container and as frequently as necessary to meet demand of 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) 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;

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

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

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0708 Recycling Requirements for Mixed Use Facilities

- (a) Majority Residential. For a *mixed use facility* which has the majority of its square footage devoted to residential uses, the *responsible person* shall comply with the *recycling* requirements set forth in Section 66.0706 of this Division.
- (b) Majority Commercial. For a *mixed use facility* which has the majority of its square footage devoted to commercial uses, the *responsible person* shall comply with the *recycling* requirements set forth in Section 66.0707 of this Division.
- (c) Occupants of Majority Residential *Mixed Use Facility*. Occupants of a *mixed use facility* which has the majority of its square footage devoted to residential uses, shall comply with the *recycling* requirements applicable to occupants set forth in Section 66.0706 of this Division.
- (d) Occupants of Majority Commercial *Mixed Use Facility*. Occupants of a *mixed use facility* which has the majority of its square footage devoted to commercial uses, shall comply with the *recycling* requirements applicable to occupants set forth in Section 66.0707 of this Division.

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

§66.0709 Delivery of Recyclable Materials to Recycling Facility

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*.

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

(Amended 2-9-2018 by O-20900 N.S.; effective 3-11-2018.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

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§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.

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

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

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

- (5) Additional information as required by the *Director*.
- (b) *Franchisees* and *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) The total amount of *recyclable materials*, measured in tons, *collected* by the *Franchisee* or *Certified Recyclable Materials Collector* within the City; and
 - (2) The names and addresses of the *recycling facilities* to which the *recyclable materials collected* within the City were delivered for *recycling*.
- (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) The name of the *person(s)* responsible for *recyclable materials* management at the facility whose *recyclable food materials* were serviced;
 - (2) The name and address of the facility serviced;
 - (3) The volume in cubic yards or gallons of *recyclable food materials*, measured by the size of the applicable containers in use at the facility, *collected* per week from the facility;
 - (4) The names and addresses of the sites to which the *recyclable food materials collected* within the City were delivered for composting or final processing;
 - (5) For *recyclable vegetative food materials collected* within the City and delivered for composting or final processing to a site other than a *recycling facility*, a letter of acknowledgement from the site property owner providing their acceptance of the *recyclable vegetative food materials* for composting or final processing; and
 - (6) The volume in cubic yards or gallons of *recyclable food materials* delivered to each site per week for that calendar year quarter.

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- (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.

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

(Retitled from “Annual Reports from Franchisees and Recyclable Materials Collectors” to “Reports from Franchisees and Certified Recyclable Materials Collectors” and amended 2-9-2018 by O-20900 N.S.; effective 3-11-2018.)

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§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;

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- (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*.

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

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§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.

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- (b) **Other Exemptions.** Other exemptions to some or all of the requirements of this Division may be granted at the discretion of the *Director's* designee. Applications for exemptions may be granted upon consideration of the following factors: available markets for *recyclable materials*, available space for *recycling* containers, alternative *recycling* efforts, and the amount and type of *solid waste* or *recyclable materials* generated. To be effective, an exemption must be in writing and signed by the *Director's* designee. An exemption may be revoked at any time at the discretion of the *Director's* designee if one or more of the factors justifying the exemption no longer exist, or other change in circumstances warrant revocation. Unless earlier revoked, an exemption shall be effective for a period of one year from the date it was granted. Subsequent applications for exemptions may be granted at the discretion of the *Director's* designee upon consideration of the factors listed in this section 66.0713(b).
- (c) **Application for Exemption.** Applications for an exemption shall be submitted to the *Department* in writing, on a form approved by the *Director*, together with a cost-recovery processing fee. The processing fee shall be reviewed annually by the City Manager and adjusted accordingly to ensure full cost-recovery for processing the application for exemption.
- (d) If the *Director's* designee denies an application for an exemption, the *Director's* designee shall notify the applicant in writing of the reasons for the denial. The denial of an application for an exemption or the revocation of an exemption may be appealed to the *Director*, whose decision shall be final.

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

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0714 Certified Recyclable Materials Collector

- (a) **Certified Recyclable Materials Collector.** A *recyclable materials collector* may apply to the *Director* to become a *certified recyclable materials collector*. The certification will be valid for no more than two years after the date it is issued by the *Director*, unless it is renewed in accordance with the *Department's* renewal procedures prior to its expiration. A certificate may not be transferred, sold, leased, or assigned, in whole or in part, to another *person* without prior *Director* approval. Approval may be obtained by filing an application with the *Director* on a form prescribed by the *Director*. The *Director* shall maintain a current list of *certified recyclable materials collectors* on the *Department's* website and in other educational materials published by the *Department*.

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- (b) Application Form and Fee. Applicants for a *recyclable materials collector* certificate shall complete and submit to the *Director* a written application, on a form approved by the *Director*, together with a cost-recovery processing fee. The processing fee shall be reviewed annually by the City Manager and adjusted accordingly to ensure full cost-recovery for processing the application for certification. The application shall include, at a minimum, all of the following:
- (1) name, address, and telephone number of the applicant;
 - (2) name, address, and telephone number of an individual contact for the applicant;
 - (3) description of each vehicle the applicant will use to provide *recyclable materials collection* services within the City including, but not limited to make, model, serial or vehicle identification number, and license number;
 - (4) address where all vehicles and operating equipment used to provide *recyclable materials collection* services within the City will be stored and maintained;
 - (5) the applicant's agreement to defend, with counsel to be agreed upon by both parties, indemnify, and hold harmless, City and its agents, officers, servants, and employees from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to City's employees, agents, or officers which arise from, or are connected with, or are caused or claimed to be caused by acts or omissions of the applicant, or its agents, officers or employees, in the performance of the *recyclable materials collection* services, and all costs and expenses of investigating and defending against same; provided, however, that the applicant's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the City, its agents, officers, or employees;
 - (6) without limiting the indemnification obligation above, the applicant's agreement to obtain and maintain in full force and effect throughout the term of the *recyclable materials collector* certificate, and any extensions or modifications thereof, insurance coverage which meets or exceeds the requirements established by the *Director*; and

- (7) A written statement certifying that the applicant has reviewed and will comply with the requirements of this Division and in the certificate.
- (c) Insurance. The *Director*, in consultation with the City's Risk Management Department, shall establish minimum reasonable insurance requirements for *Certified Recyclable Materials Collectors*. Simultaneously with the submittal of its application, the applicant shall furnish proof satisfactory to the *Director* that the applicant has obtained the required insurance coverage. Annually on each anniversary of the issuance of the certificate, the applicant shall furnish proof satisfactory to the *Director* that the applicant maintains at least the minimum required insurance coverage.
- (d) Vehicles and Equipment. All vehicles, containers, and other equipment used to provide the *recyclable materials collection* services shall be kept in a clean and well-maintained condition.
- (e) Container Signage. Automatic lift containers, bins, roll-offs, and other containers used to *collect* and store *recyclable materials* pending *collection* shall be clearly identified as a *recyclable materials* container, shall display the name and phone number of the *certified recyclable materials collector* to whom the container belongs, and shall display a 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) Compliance with Law. *Certified Recyclable Materials Collectors* shall conduct all of their activities in compliance with all applicable federal, state, and local laws, regulations, ordinances, and requirements and shall be responsible for obtaining all applicable permits, licenses, certifications, and registrations.
- (h) Application Verification. The *Director* may independently verify any and all statements made or implied in the application or any accompanying documents. The *Director* may also request clarification from the applicant of any such statements or information.

- (i) **Application Review.** In reviewing each application, the *Director* shall take into consideration all components of the application including, but not limited to:
 - (1) the ability of the applicant to meet the requirements of this Division and the certificate;
 - (2) any history of criminal or civil violations that may compromise the public's interest; and
 - (3) the completeness, accuracy, and validity of the application.
- (j) **Application Determination.** After a reasonable review period, the *Director* shall grant or deny the application. If the *Director* fails to grant an application after thirty days from the receipt of a complete application, including accompanying documentation, the applicant may at the applicant's option deem the application denied. If the *Director* denies an application, the *Director* shall notify the applicant in writing of the reasons for the denial.
- (k) **Certificate Revocation.** The *Director* may revoke a certificate if the *Director* determines, after providing notice and an opportunity for a hearing, that a *Certified Recyclable Materials Collector* has violated the provisions in the certificate or any applicable law. If the *Director* revokes a certificate, the *Director* shall notify the applicant in writing of the reasons for the revocation.
- (l) **Appeal Upon Denial of Application or Revocation of Certificate.** Within thirty days after the issuance of a written notice of the denial of an application or the revocation of a certificate, the applicant or *Certified Recyclable Materials Collector* may request in writing to the *Director* that the City Manager review the *Director's* decision. Within thirty days of the Department's receipt of such a request, a meeting with the City Manager or designee shall be scheduled to review the items cited in the written notice. At that meeting, the applicant or *Certified Recyclable Materials Collector* may provide any additional information in support of their position. Within thirty days of such a meeting, the City Manager will issue a written decision on the application or revocation, which shall include the reasons for the decision. The City Manager's decision shall be final. A copy of the City Manager's written decision shall be provided to the applicant or *Certified Recyclable Materials Collector* and the *Director*.

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

(Amended 11-1-2016 by O-20736 N.S.; effective 12-1-2016.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

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

- (a) Nothing in this Division shall preclude any *person* from *self-hauling recyclable materials* generated by that *person* to a *recycling facility*.
- (b) The *responsible person* for a *multi-family residential facility*, *commercial facility*, or a *mixed use facility* that *self-hauls solid waste* to a *disposal facility* shall comply with the *recycling* requirements in this Division applicable to that *multi-family residential facility*, *commercial facility*, or *mixed use facility*.
- (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*.

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

(Amended 2-25-2021 by O-21295 N.S.; effective 3-27-2021.)

(Amended 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§66.0716 Selling or Donating Recyclable Materials

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

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

(Amended 11-1-2016 by O-20736 N.S.; effective 12-1-2016.)

§66.0717 Scavenging of Recyclable Materials Prohibited

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

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

§66.0718 Enforcement

- (a) Authority. The *Director* is authorized to administer and enforce the provisions of Chapter 6, Article 6, Division 7 of this Code. The *Director* or anyone designated by the *Director* to be an *enforcement official* may exercise any enforcement powers as provided in Chapter 1 of this Code.
- (b) Remedies. It is unlawful to violate any provision or requirement of Division 7. The failure to comply with any requirement of Division 7 constitutes a violation of Division 7. Each instance of a violation of Division 7 is a separate offense. Violations of the provisions or requirements of Division 7 may be prosecuted as misdemeanors subject to the penalties provided in section 12.0201 of this Code. The *Director* or designee may seek injunctive relief or civil penalties in the Superior Court pursuant to section 12.0202 of this Code or may pursue any administrative remedy provided in Chapter 1, Article 2, Divisions 3 through 10 inclusive, of this Code.
- (c) Remedies Cumulative. Remedies under section 66.0718 are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

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

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

§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 June 8, 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:

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- (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.

(“Requirements for Commercial Edible Food Generators” added 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)

§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.

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(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.

(“Requirements for Food Recovery Organizations and Services” added 5-9-2022 by O-21454 N.S.; effective 6-8-2022.)