

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

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

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

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

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

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

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

WHEREAS, recycling solid waste generated from residential and commercial facilities will assist the City in its efforts to maintain and exceed the state-mandated waste diversion rate; and

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

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

WHEREAS, large volumes of recyclable solid wastes also are generated at special events;
NOW THEREFORE,

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

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

Division 7: Mandatory Recycling Ordinance

§ 66.0701 Findings

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

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

residential *recyclable wastes*, will assist the City in maintaining and exceeding the goal of *diverting* 50% of its waste from landfill *disposal*.

- (c) Studies show that approximately 21% of the waste generated in the City of San Diego and delivered for landfill *disposal* is paper and 16% is compostable organics, all of which could be *diverted* from landfill *disposal*.
- (d) Efforts by the City and the private sector to encourage voluntary diversion of residential, commercial, and special event waste have not been as successful as the City had hoped and additional efforts are necessary to ensure continued compliance with *AB 939* requirements.
- (e) Mandatory recycling programs in other jurisdictions in the State, similar to the one implemented by this Division, have proven successful in increasing diversion of *recyclable wastes* and have been favorably received by the California Integrated Waste Management Board.

§ 66.0702 Purpose

The purpose of this Division is to establish regulations for *recycling* of solid waste generated from residential and commercial facilities, and special events.

These regulations are intended to increase the *diversion of recyclable wastes* from landfill *disposal*, conserve the capacity and extend the useful life of the Miramar Landfill, and avoid the potential financial and other consequences to the City of failing to timely meet *AB 939* requirements.

§ 66.0703 **Definitions**

All defined terms in this Division appear in *italics*. Italicized terms shall have the meanings set forth in Section 66.0102 of this Article. For the purposes of this Division, the following additional definitions apply:

Commercial facilities means any facilities that are not *residential facilities* or *mixed use facilities*.

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

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

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

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

Recyclable waste means solid waste which can be processed into a form suitable for reuse through reprocessing or remanufacturing consistent with the requirements of *AB 939*.

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

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

§ 66.0704 Unlawful Acts

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

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

Effective July 1, 2007, *persons* who receive City-provided *solid waste* collection services shall participate in the City curbside *recycling* program by separating *recyclable waste* from other *solid waste* and depositing the *recyclable waste* in the approved *recyclable waste* container.

§ 66.0706 Recycling Requirement for Residential Facilities Serviced by Franchisees

- (a) *Single Family Residential Facilities*. Effective January 1, 2008, occupants of single-family *residential facilities* which receive *solid waste* collection service from a *Franchisee* shall participate in a *recycling* program by separating *recyclable waste* from other *solid waste* and depositing the *recyclable waste* in the *recycling* container provided by the *Franchisee* or as otherwise directed by the *Franchisee*.
- (b) *Multi-Family Residential Facilities*. For multi-family *residential facilities* which receive *solid waste* collection service from a *Franchisee*, the *responsible person* shall provide on-site *recycling* services to occupants as required by this Division, on or before the following dates:
 - (1) Up to 100 residential units: by January 1, 2009.
 - (2) 100 residential units or more: by January 1, 2008.

- (c) Occupants of multi-family *residential facilities* which receive *solid waste* collection service from a *Franchisee*, shall participate in a *recycling* program by separating *recyclable waste* from other *solid waste* and depositing the *recyclable waste* in the *recycling* container provided by the *Franchisee* or as otherwise directed by the *Franchisee*, on or before the applicable dates specified for the multi-family *residential facilities* in Section 66.0706(b).
- (d) The *recycling* services required by this Section 66.0706 shall include all of the following:
- (1) collection of *recyclable wastes* at least two times per month;
 - (2) collection of plastic bottles, paper, aluminum containers, cardboard, and glass containers;
 - (3) utilization of *recycling* receptacles which comply with the standards in the Commercial/Multi-Family Recycling Guidelines established by the *Department*; and
 - (4) designated *recycling* collection and storage areas that comply with the standards in the Refuse and Recyclable Materials Storage Regulations contained in Section 142.08 of the San Diego Municipal Code, if the facility was constructed after January 1, 2000.

- (e) For multi-family *residential facilities*, the *responsible person* shall ensure that *recycling* containers or receptacles are clearly labeled as such and that occupants are educated about the *recycling* services as follows:
 - (1) Information shall be distributed to all occupants annually.
 - (2) All new occupants shall be given information and instructions upon occupancy.
 - (3) All occupants shall be given information and instructions upon any change in *recycling* service to the facility.

§ 66.0707 Recycling Requirements for Commercial Facilities Serviced by Franchisees

- (a) Commercial facilities. For *commercial facilities* which receive *solid waste* collection services from a *Franchisee*, the *responsible person* shall provide on-site *recycling* services to occupants as required by this Division, on or before the following dates:
 - (1) Up to 10,000 square feet: by January 1, 2010.
 - (2) 10,000 square feet or more, but less than 20,000 square feet: by January 1, 2009.
 - (3) 20,000 square feet or more: by January 1, 2008.
- (b) Occupants of *commercial facilities* which receive *solid waste* collection service from a *Franchisee*, shall participate in a recycling program by separating *recyclable waste* from other *solid waste* and depositing the

recyclable waste in the *recycling* container provided by the *Franchisee* or as otherwise directed by the *Franchisee*, on or before the applicable dates specified for the *commercial facilities* in Section 66.0707(a).

(c) The recycling services required by this Section 66.0707 shall include all of the following:

(1) collection of paper, cardboard, beverage containers, metals, glass, and food waste;

(2) *recycling* receptacles or containers which comply with the standards in the Commercial/Multi-Family Recycling Guidelines established by the *Department*;

(3) designated *recycling* collection and storage areas that comply with the standards in the Refuse and Recyclable Materials Storage Regulations contained in section 142.08 of the San Diego Municipal Code, if the facility was constructed after January 1, 2000.

(d) For *commercial facilities*, the *responsible person* shall ensure that *recycling* containers or receptacles are clearly labeled as such and that occupants are educated about the recycling services as follows:

(1) Information shall be distributed to all occupants annually.

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

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

§ 66.0708 Recycling Requirements for Mixed Use Facilities

- (a) 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) 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 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 a *mixed use facility* which has the majority of its square footage devoted to commercial uses, shall comply with the *recycling* requirements applicable to occupants set forth in Section 66.0707 of this Division.

§ 66.0709 Residential, Commercial, and Mixed Use Recycling Reporting Requirements

- (a) For existing *residential facilities, commercial facilities, and mixed use facilities*, the *responsible person* shall submit the following information, and other information as required by the *Department*, on a form or using a format prescribed by the *Director*, by March 31 of each year after the applicable effective date:

- (1) Types of *recyclable wastes* that were recycled;
 - (2) Name and contact information of the *Franchisee* used by the facility for trash and *recycling* services, or indicate if self-hauling;
 - (3) Whether the *recyclable waste* was separated at the *recycling facility* or at the facility where the *recyclable waste* was generated;
 - (4) The cubic yards of *solid waste* and the cubic yards of *recyclable waste* collected per month at the facility which generated the waste;
 - (5) The name and contact information of the owner, management company, and on-site representative responsible for implementing the *recycling* program; and
 - (6) Any additional information as required by the *Director*.
- (b) For new *residential facilities, commercial facilities, and mixed use facilities*, which will receive *solid waste* collection service from a *Franchisee*, the *responsible person* shall submit a *recycling* plan to the *Department* no later than 30 days after beginning operations.
- (c) The *responsible person* shall submit any change to the information originally submitted pursuant to this Section 66.0709 to the *Department* no later than 15 days after the change.

§ 66.0710 Delivery of Recyclable Waste to Recycling Facility

Franchisees who collect *recyclable wastes* generated within the City of San Diego shall deliver those *recyclable wastes* to a *recycling facility*. The *recycling facility* may be located at a landfill, but Franchisees shall not *deliver* such *recyclable wastes* to a landfill for *disposal*.

§ 66.0711 Annual Reports from Franchisees

Franchisees providing *solid waste* collection services to *residential facilities*, *commercial facilities*, and/or *mixed use facilities*, shall submit an annual report by January 1 of each year, beginning January 1, 2008, to the Department, on a form or using a format prescribed by the *Director*. Annual reports shall include the following information for each facility serviced for the immediately preceding calendar year:

- (a) The name of the person(s) responsible for *solid waste* collection at the facility serviced;
- (b) The name and address of the facility serviced;
- (c) The volume, measured in cubic yards, of *refuse* and *recyclable wastes* collected from the facility;
- (d) The frequency of *refuse* and *recyclable waste* collection service provided to the facility;
- (e) The types of *recyclable waste* collected from the facility; and

- (f) Additional information as required by the Director.

§ 66.0712 Special Events Recycling

- (a) Effective January 1, 2008, for a community special event requiring an event permit from the City of San Diego, the *responsible person* shall provide recycling receptacles throughout the event venue.
- (b) The number of recycling receptacles shall equal the number of *refuse* receptacles.
- (c) The *refuse* and recycling receptacles shall be placed next to one another throughout the event venue.

§ 66.0713 Enforcement

- (a) Authority. The *Department* shall have the authority and responsibility for enforcing this Division. Any violation of this Division may be subject to enforcement pursuant to Chapter 1 of the San Diego Municipal Code. Each instance of a violation of this Division is a separate offense.
- (b) Exemptions. Exemptions to some or all of the requirements of this Division may be granted at the discretion of the *Director*. Exemptions may be granted upon consideration of the following factors: available space for recycling bins, number of employees, alternative recycling efforts, and the amount and type of *solid waste* or *recyclable waste* generated. To be effective, an exemption must be in writing and signed by the *Director*. An exemption may be revoked at any time at the discretion

of the *Director* if one or more of the factors justifying the exemption no longer exist, or other change in circumstances warrant revocation.

Section 2. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Deputy City Attorney