

ORDINANCE NO. 10036 (N.S.)

AN ORDINANCE AMENDING TITLE 6 OF THE SAN DIEGO COUNTY  
CODE, RELATING TO HEALTH AND SANITATION

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1: Title 6, Division 1, Chapter 1 of the San Diego County Code is amended to read as follows:

**CHAPTER 1. REGULATION OF RETAIL FOOD FACILITIES  
AND FOOD HANDLERS**

**SEC. 61.101. PURPOSE.**

Health and Safety Code (H & S Code) sections 113700 et seq., also referred to as the California Retail Food Code (CRFC), provide Statewide health and sanitation standards for retail food facilities. These sections allow a county to establish some local requirements for retail food facilities and their employees. These sections also provide that a local enforcement agency shall have primary enforcement responsibility for the State regulations in its jurisdiction. The purpose of this chapter is to adopt additional regulations for retail food facilities and their employees to protect the public health and safety in San Diego County and to appoint the Department of Environmental Health to enforce State and County regulations for retail food facilities and their employees.

**SEC. 61.102. DEFINITIONS.**

The following definitions shall apply to this chapter:

- (a) "DEH" means the Department of Environmental Health.
- (b) "Director" means the Director of DEH and any person appointed or hired by the Director to enforce or administer this chapter.
- (c) "Equipment" has the same meaning as the term "equipment" in H & S code section 113777.
- (d) "Food" has the same meaning as the term "food" in H & S code section 113781.
- (e) "Food facility" has the same meaning as the term "food facility" in H & S code section 113789.

(f) "Food handler" means a person who prepares, handles, packages, serves or stores food or handles utensils, or assists another person in any of those tasks at a food facility that requires a permit pursuant to this chapter.

(g) "Imminent health hazard" has the same meaning as the term "imminent health hazard" in H & S code section 113810.

(h) "Limited food preparation facility" means for purposes of section 65.107(a), a retail food facility that only serves frozen ice cream, hot dogs, beverages that are not potentially hazardous, coffee or cocoa based beverages that may contain cream, milk or similar dairy products requiring no preparation other than heating, blending, assembly, scooping or dispensing. A limited food preparation facility also includes an Alcoholic Beverage Control license type 42 or 48 facility, as long as that facility does not engage in slicing, chopping or grinding of raw potentially hazardous foods, reheating for hot holding, washing of foods, or cooking, baking, barbecuing, broiling, frying or grilling any food.

(i) "Prepare" means to package, process, assemble, portion or engage in any operation that changes the form, flavor or consistency of food, but does not include trimming produce.

(j) "Ready-to-eat food" has the same meaning as the term "ready-to-eat food" in H & S code section 113881.

(k) "Tableware" has the same meaning as the term "tableware" in H & S code section 113926.

(l) "Utensil" has the same meaning as the term "utensil" in H & S code section 113934.

### **SEC. 61.103. DEPARTMENT OF ENVIRONMENTAL HEALTH TO ENFORCE RETAIL FOOD REGULATIONS.**

DEH shall be the local enforcement agency for the CRFC and the regulations adopted in this chapter.

### **SEC. 61.104. PERMIT REQUIRED FROM DEPARTMENT OF ENVIRONMENTAL HEALTH.**

A person who is required to obtain a food facility permit pursuant to the CRFC shall submit an application for the permit to DEH on a form provided by the

department. The application shall be accompanied by the fee required in Title 6, Division 5, Chapter 1.

**SEC. 61.105. PENALTY FOR ACTIVITIES WITHOUT A PERMIT.**

When DEH initiates an enforcement action against a person operating a food facility without a permit required by the CRFC the department may recover its enforcement costs from the violator, up to a maximum of three times the cost of the permit. After the enforcement activity has been completed DEH, may send the violator a penalty assessment for its enforcement costs. The violator shall pay the assessment within 15 days from the date of the assessment or at the time the violator applies for the permit, whichever occurs first.

**SEC. 61.106. PLAN REVIEW FEE.**

A person required to submit written plans and specifications to DEH pursuant to H & S code section 114380 shall pay the plan review fee required in Title 6, Division 5 at the time the person submits plans and specifications.

**SEC. 61.107. GRADING SYSTEM FOR CERTAIN FOOD FACILITIES.**

(a) The Director may adopt regulations to grade permanent food facilities that prepare ready-to-eat food, using a letter grade system. The grading system may be used during any inspection DEH conducts. An "A" grade shall represent a score of 90 percent or higher. A "B" grade shall represent a score of 80 to 89 percent. A "C" grade shall represent a score less than 80 percent. DEH shall issue an alphabetical grade card to each food facility graded during an inspection pursuant to this section and shall provide the permit holder with a list of deficiencies found during the grading inspection. If DEH determines from the inspection, however, that the facility presents an imminent health hazard that warrants immediate closure DEH shall not issue the facility a grade card.

(b) DEH may order a food facility permit holder receiving a grade of "B" or "C" to submit to subsequent re-grade inspections within 30 days, until the facility receives an "A" grade. DEH may also order a permit holder to correct a deficiency found during an inspection in less than 30 days. The permit holder shall pay DEH a re-grade fee at the time of each re-grade inspection.

(c) DEH may use information obtained during an inspection pursuant to this section to temporarily suspend a food facility permit and order a food facility to immediately close due to an imminent health hazard that cannot be immediately corrected. DEH may also use the information obtained during an inspection to modify, suspend or revoke the food facility's permit.

### **SEC. 61.108. ALPHABETICAL GRADE CARD TO BE POSTED.**

(a) The permit holder of a permanent food facility that prepares ready-to-eat food shall post the alphabetical grade card DEH issues whenever the facility is open for business. The grade card shall be posted so that it is clearly visible to patrons of the facility.

(b) If the food facility is enclosed, the permit holder shall post the grade card: (1) in the front window of the facility, (2) in an accessible display case mounted on the outside of the front door, (3) in an accessible display case mounted on the outside front wall of the facility within five feet of the front door or (4) in some other location DEH approves. If the food facility has a drive-through feature, the permit holder shall also post the grade card at the drive-in pickup window of the facility.

(c) If the food facility is not enclosed, the permit holder shall display the grade card in a location clearly visible to any patron of the facility. DEH may require the permit holder of an unenclosed facility to display the grade card in a specific location.

(d) The permit holder shall protect the alphabetical grade card from damage by weather conditions and shall not allow the card to be defaced, marred, camouflaged or hidden so as to prevent the general public from observing it. The permit holder shall request a new card from DEH within one business day of the grade card being damaged, marred, altered or lost.

### **SEC. 61.109. HEARING REQUESTED BY PERMIT HOLDER OR DEPARTMENT OF ENVIRONMENTAL HEALTH.**

If a permit holder requests a hearing within 15 days after receiving notice that DEH proposes to suspend or revoke a food facility permit pursuant to the CRFC, or if DEH temporarily closes a food facility for an imminent health hazard, the Director shall schedule a hearing. The Director shall also schedule a hearing when DEH proposes to modify, suspend or revoke a permit for serious or repeated violations of the CRFC. A hearing pursuant to this section shall be with a DEH employee, at the supervisor level or higher, who was not involved in the decision to modify, suspend or revoke the permit or to temporarily close the facility.

## **SEC. 61.110. ADMINISTRATIVE PROBATION.**

(a) A permit holder and DEH may enter into a written administrative probation agreement to modify a decision by a departmental hearing officer to suspend a permit.

(b) If a permit holder fails to comply with the terms of an administrative probation agreement DEH may reinstate the original permit suspension and enforce any additional violation of the CRFC. The Director shall be the sole judge of whether the permit holder failed to comply with the agreement.

## **SEC. 61.111. NOTICE OF CLOSURE OF FOOD FACILITY.**

(a) If the Director determines that a food facility is operating without a permit required by the CRFC the Director may order the person who owns or operates the facility to close immediately. In addition to taking any legal action authorized by law to compel a facility owner or operator to cease operating without a permit, the Director may post a notice of closure at or on a food facility operating without a permit, advising the public that the facility does not have a permit to sell food.

(b) The Director may also post a notice of closure on a food facility:

(1) When the Director orders the facility to close due to an imminent health hazard that the food facility does not immediately correct.

(2) When the Director suspends or revokes the facility's permit.

(c) No person other than the Director shall remove a notice posted by the Director pursuant to this section.

## **SEC. 61.112. ANNUAL INSPECTION FOR MOBILE FOOD FACILITIES.**

A mobile food facility permit holder shall pass an annual certification inspection at the same time the permit holder renews the annual permit or at a later date that DEH designates. A mobile food facility permit holder that passes inspection shall be issued a certification sticker, which the permit holder shall display on the mobile food facility at all times. If the mobile food facility permit holder fails to timely complete the annual inspection process the permit holder shall pay a late fee of 50% of the cost of the permit. No person shall operate or allow another person to operate a mobile food facility unless the facility passes the annual inspection.

### **SEC. 61.113. RENTING OR LEASING EQUIPMENT AND UTENSILS.**

(a) No person shall rent or lease equipment, tableware or utensils to a food facility without a permit issued by DEH.

(b) No person shall rent or lease equipment, tableware or utensils to a food facility unless it complies with the following requirements:

(1) The equipment is stored in a building that complies with the requirements the CRFC requires a food facility to comply with for storing equipment in a building.

(2) The tableware and utensils have been cleaned and sanitized by the same methods the CRFC requires a food facility to follow.

### **SEC. 61.114. FOOD HANDLER REQUIREMENTS.**

(a) Except as provided in subsection (e) below no person shall employ a person as a food handler in a food facility unless the food handler: (1) has been issued a current food handler training certificate as provided in subsection (b) or (2) is supervised by a food safety certified owner or employee pursuant to the CRFC and has passed a food handler test, as described in subsection (d) below. A person may employ a food handler, however, who for the first ten days of employment has not passed the food handler test.

(b) The Director or a person the Director authorizes, may issue a food handler training certificate to a person who successfully completes a three hour food sanitation training course and scores a grade of 80% or higher on a proficiency test, provided the Director approves the instructor, the course and the test. To be approved, the course of instruction shall include all of the following subjects:

- (1) Major causes of foodborne illness.
- (2) Time and temperature control of potentially hazardous foods.
- (3) Proper employee health and hygiene practices.
- (4) Methods to protect food from contamination
- (5) Required consumer advisories.
- (6) Approved food sources.

(7) Washing and sanitizing of utensils and equipment.

(8) Pest control.

(c) A food handler training certificate shall be valid for three years from the date it is issued. A person issued a food handler training certificate continuing employment at the facility shall obtain a new certificate every three years. The Director or a person the Director authorizes may renew a food handler training certificate for additional three year periods if the food handler is able to obtain a score of 80% or higher on the proficiency test at renewal time. If the food handler is unable to achieve a score 80% on the test, the food handler shall repeat the food handler training certificate course and pass the proficiency test in order to obtain a renewal certificate. The Director may also require a person with a food handler training certificate to retake the training certificate course or retake and pass the proficiency test after less than three years from the date the certificate is issued.

(d) A food safety certified owner or employee may administer a food handler test that the Director prepares covering fundamental principles of food safety practices. A grade of 80% or higher is a passing grade. The food handler's passing test score shall be valid for three years from the test date or until the food handler ceases working as a food handler at the facility. A food handler continuing employment at the facility shall obtain a passing grade on the food handler test every three years. The Director may require a food handler to retake the test after less than three years.

(e) Notwithstanding the requirements of this section, the Director may allow the owner or operator of a temporary food facility to employ a food handler who does not have a current food handler certificate or who has not passed the food handler test within the last three years if: (1) the temporary food facility complies with H & S Code section 113947.1(c) and (2) the food handler is able to demonstrate adequate knowledge of food safety principles related to the operation of the temporary food facility. If a temporary food facility operator has passed the approved and accredited food safety certification examination specified in H & S code sections 113947.2 and 113947.3 the temporary food facility may apply for an annual temporary food facility permit rather than having to obtain a temporary event permit for each temporary event the facility participates in.

#### **SEC. 61.115. FOOD HANDLER RECORDS.**

The permit holder of a food facility shall maintain at the food facility a complete list of all food handlers and food safety certificate holders the facility employs. The permit holder shall also maintain a copy of any employed food handler's current: (a) food handler training certificates, (b) food handler test and

(c) food safety certificate required by the CRFC. The Director may inspect any of these records the permit holder is required to maintain at the facility whenever the facility is open for business.

Section 2: Amend the chapter name for Title 6, Division 1, Chapter 2 of the San Diego County Code to read as follows:

## **CHAPTER 2. WHOLESALE FOOD WAREHOUSES**

Section 3: Amend Title 6, Division 1, Chapter 2 to delete sections 61.201 through and including 61.210.

Section 4: Repeal Title 6, Division 1, Chapter 3 of the San Diego County Code.

Section 5: Amend Title 6, Division 2, Chapter 6 of the San Diego County Code to read as follows:

## **CHAPTER 6. ANIMAL CONTROL**

### **ARTICLE 1. GENERAL PROVISIONS**

#### **SEC. 62.601 PURPOSE.**

The California Food and Agriculture Code establishes some animal control regulations that apply Statewide and authorizes a county to adopt its own comprehensive regulations to control animals within its jurisdiction. This chapter establishes animal control regulations in the unincorporated area of the County related to dog licensing, rabies vaccinations, treatment and isolation of diseased animals, impoundment of strays, guard dogs, potentially dangerous dogs, cats and other animals. The purpose of this chapter is to supplement State law, to protect the health and safety of the public and animals in the unincorporated area of the County. Because the County also provides animal control services in some incorporated cities that contract with the County and adopt this chapter, these regulations will also protect the public and animals in incorporated cities that contract with the County for these services.

#### **SEC. 62.602. DEFINITIONS.**

The following definitions shall apply to this chapter:

(a) "Altered" means an animal that has been spayed or neutered.



(b) "Abate" means to take action to remove a nuisance and may include confining, isolating or destroying an animal.

(c) "At large" means:

(1) Being on private property without the permission of the owner or person who has the right to possess or use the property.

(2) Being unrestrained by a leash on private property open to the public or on public property, unless a law or regulation expressly allows an animal to be unrestrained on the property. If a leash is not being held in the hand of a person capable of controlling the animal or a person is not actually controlling an animal attached to the leash, the animal is "at large."

(3) In a place or manner which presents a substantial risk of imminent interference with animal or public health, safety or welfare.

(d) "Attack" means an action by an animal which places a person in reasonable apprehension that the animal will cause the person immediate bodily harm.

(e) "Attack dog" has the same meaning as the term "attack dog" in Health and Safety Code section 121881.

(f) "Bite" means an action by an animal with its teeth or mouth that breaks the skin of a human or animal and does not require the presence of teeth marks.

(g) "Business day" means any day that County animal shelter facilities are open to the public.

(h) "Cat" means an animal of the genus and species *Felis domesticus*.

(i) "County animal shelter" means a facility the County operates to temporarily house animals that are relinquished by their owners, found at large, impounded or otherwise come into County custody.

(j) "Curb" means to restrain or control an animal so that it urinates or defecates only in the street gutters.

(k) "Custodian" means a person not the owner of an animal who has been entrusted by the owner or the owner's agent to care for and maintain an animal until it is returned to the owner.

(l) "Dangerous dog" means a dog that has attacked, bitten or in some other manner injured a person engaged in lawful activity: (1) two or more times in a 48-month period or (2) one or more times resulting in death or substantial injury.

(m) "Declared dangerous dog" means a dog: (1) that the Department has declared a dangerous dog after affording the dog's owner or custodian the right to a hearing, (2) that a dog's owner has stipulated is a dangerous dog or (3) that another jurisdiction has declared to be a dangerous or vicious dog.

(n) "Department" means the County Department of Animal Services, its agents or deputies.

(o) Director means the Director of the County Department of Animal Services and anyone the Director hires or appoints to administer or enforce this chapter.

(p) "Dispose of" means to make arrangements for an animal and includes euthanasia.

(q) "Dog" means an animal of the genus and species *Canis familiaris* or any other member of the *Canis* genus if a person owns, keeps or harbors the animal.

(r) "Dog license" means a certificate the County or other authorized agency issues indicating that a dog has been registered with animal control authorities.

(s) "Guard dog" has the same meaning as the term "guard dog" in Health and Safety Code section 121881 and includes a "sentry dog" defined in Health and Safety Code section 121880.

(t) "Guard dog operator" means the owner of an attack, guard or sentry dog, or other person, that operates or maintains a business to sell, rent, or train an attack, guard or sentry dog.

(u) "Guard dog premises" means a place where a guard dog operator keeps or maintains an attack, guard or sentry dog.

(v) "Health Officer" means the County Public Health Officer and any person hired or appointed by the Public Health Officer to implement or enforce the duties of the Public Health Officer.

(w) "Impound" or "impoundment" means an action by the Department to take possession of an animal.

(x) "Kennel" means a facility, whether or not operated for profit, that keeps or maintains seven or more dogs at least four months old. It includes a facility owned or operated by an animal welfare agency, but does not include an animal shelter operated or established by the Department or a veterinary hospital operated by a veterinarian licensed by the State. A kennel also includes a facility with the requisite seven dogs that also keeps or maintains other animals. As used in this definition a "facility" means any combination of adjacent buildings, structures, enclosures or lots under common ownership or operated as one unit, to keep or maintain dogs.

(y) "Kennel house" means a protected space or enclosure in a kennel in which an animal is assigned to sleep, rest or be segregated from other animals.

(z) "Kennel operator" means a person who owns, controls or operates a kennel or who participates in the control or operation of a kennel.

(aa) "Leash" means any rope, leather strap, chain or other material six feet or less in length, intended to be held in the hand of a person for the purpose of controlling an animal to which it is attached.

(bb) "License tag" means the official tag the County or other authorized agency issues to a dog owner or custodian signifying the dog has been registered with that agency.

(cc) "Neutered" means a male animal whose testicles have been surgically removed.

(dd) "Owner" means a person, other than a custodian, who owns, keeps or harbors an animal or a person who takes possession of an animal after claiming to be the owner.

(ee) "Potentially dangerous animal" means any of the following:

(1) An animal of a species or type likely to cause injury to a person.

(2) An animal, other than a declared dangerous dog, which has within the prior 48-month period attacked, bitten or otherwise caused injury to a person engaged in lawful activity.

(ff) "Primary enclosure" means a structure in a kennel, other than a kennel house, used to restrict an animal to a limited amount of space, such as a room, pen, run, fenced area, cage or compartment.

(gg) "Rabies certificate" means the certificate a licensed veterinarian, the County or other authorized agency issues verifying that an animal has been vaccinated against rabies.

(hh) "Stray" means an animal which is "at large."

(ii) "Spayed" means a female animal whose ovaries and uterus have been surgically removed.

(jj) "Substantial injury" means a substantial impairment of a person's physical condition which requires professional medical treatment including, loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of a bodily member or organ, a muscle tear, a disfiguring laceration, a wound requiring multiple sutures or an injury that requires surgery to restore the person to the condition the person was in before the incident that resulted in the injury.

(kk) "Veterinarian" means a person currently licensed to practice veterinary medicine in the United States.

(ll) "Vicious dog" has the same meaning as the term "vicious dog" in Food and Agriculture Code section 31603.

(mm) "Wild animal" means any animal of the classes of animals listed in Fish and Game Code section 2116 et seq. and supplemented by 14 CCR sections 671 et seq., which are not normally domesticated or not allowed in the State of California.

## **SEC. 62.603. DEPARTMENT OF ANIMAL SERVICES TO ENFORCE.**

The Department of Animal Services shall implement and enforce this chapter.

## **ARTICLE 2. RABIES PROVISIONS**

### **SEC. 62.610. VACCINATION REQUIRED.**

(a) The owner or custodian of a dog shall have the dog vaccinated against rabies by a licensed veterinarian, with a rabies vaccine approved by the California Department of Health Services for use in dogs, within 30 days after the dog becomes four months of age or within 30 days after obtaining or bringing a dog four months of age or older into the unincorporated area of the County. A dog owner or custodian shall also have the dog receive subsequent vaccinations at the intervals the California Department of Health Services requires.

(b) The owner or custodian shall retain the rabies certificate for inspection and produce the certificate when requested by: (1) any person who enforces this chapter, (2) any person bitten by the dog or (3) any law enforcement officer. No person who possesses a rabies certificate shall refuse to produce the certificate when it is requested pursuant to this section.

#### **SEC. 62.612. CERTIFICATE OF VACCINATION.**

(a) A veterinarian who vaccinates a dog for rabies shall certify the vaccination by properly completing the "license application - rabies certificate form" the County issues or another rabies vaccination form the County approves. In order to be complete, the vaccination certificate shall contain all the following:

(1) The dog owner's first and last name, street address and mailing address, if different, and telephone number.

(2) The dog's name and description, including breed, color, sex and if known, day, month and year of birth.

(3) The type, lot number, and manufacturer of the rabies vaccine.

(4) The date of vaccination.

(5) The signature, or an authorized signature, of the veterinarian administering the vaccine.

(b) A veterinarian who vaccinates a dog for rabies shall forward to the Department a copy of each completed form at least once a month.

#### **SEC. 62.613. EXEMPTION FROM RABIES VACCINATION DURING ILLNESS.**

Notwithstanding any other provision of this chapter, the owner or custodian of a dog shall not be required to have the dog vaccinated for rabies during an illness if a licensed veterinarian has examined the dog and certifies in writing that vaccination should be postponed because of a specified illness. A dog's old age, weakness or pregnancy is not considered a valid reason to excuse a dog from receiving a rabies vaccination. An exemption certificate is subject to the Department's approval and shall only be valid for the duration of a dog's illness. An exemption from vaccination does not exempt a dog owner or custodian from the requirement to obtain a license for a dog.

#### **SEC. 62.614. REPORTING SUSPECTED CASE OF RABIES.**

An animal owner or custodian whose animal exhibits rabies symptoms or acts in a manner which would lead a reasonable person to suspect that the animal may have rabies, shall notify the Department, the County Veterinarian or the Health Officer and comply with all applicable laws and regulations regarding suspected cases of rabies. An animal owner or custodian of an animal that is suspected of having rabies shall also comply with all instructions and orders from the Department, the County Veterinarian and the Health Officer.

#### **SEC. 62.615. REPORTING OF BITES.**

(a) A person bitten and the parents or guardians of a minor child bitten by a dog, cat, skunk, fox, bat, coyote, bobcat or other animal of a species subject to rabies shall notify the Department or the Health Officer as soon as practicable after the bite.

(b) A physician treating a bite and any other person that knows of a bite by an animal of a species subject to rabies shall notify the Department or the Health Officer as soon as practicable after becoming aware of the bite.

(c) An animal owner or custodian of an animal of a species subject to rabies which bites a person shall notify the Department or the Health Officer as soon as practicable after the person knows of the bite.

(d) A person having knowledge of a bite by an animal subject to rabies, who fails to report the bite within 24 hours of the bite, shall be deemed to have violated this section unless the person establishes that it was impossible for that person to report the bite earlier.

#### **SEC. 62.616. CONFINEMENT AND ISOLATION OF SUSPECTED RABID ANIMALS.**

(a) The Department, the County Veterinarian or the Health Officer may order the owner or custodian of a suspected rabid animal to deliver the animal to be confined and isolated under the care and observation of a licensed veterinarian at an animal shelter, veterinary hospital or other facility as approved by the Department, the County Veterinarian or the Health Officer. The order may also include a prohibition against destroying the animal.

(b) It shall be unlawful for a person to fail to comply with an order the Department, the County Veterinarian or the Health Officer issues under this section. The Department, the Health Officer or the County Veterinarian, however,

may grant permission to destroy the animal for the purpose of laboratory examination.

#### **SEC. 62.617. ISOLATION OF BITING ANIMALS.**

(a) The Department, the County Veterinarian or the Health Officer may order any dog, cat, skunk, fox, bat, coyote, bobcat or other animal of a species subject to rabies which has bitten or exposed a person to rabies to be impounded and isolated in strict confinement as approved by the Department, the County Veterinarian or the Health Officer and observed for at least 14 days after the bite or other exposure, except that a dog or cat need only be observed for at least 10 days. No person shall release an animal impounded or confined under this section until the Department, the County Veterinarian or the Health Officer examines the animal and approves its release.

(b) As an alternative to the 10 day isolation of dogs and cats referred to in subsection (a), dogs and cats which have been isolated in strict confinement under proper care and observation as approved by the Department, the County Veterinarian or the Health Officer may be released from isolation by the Department, the Health Officer or County Veterinarian after five days of veterinary observation if upon conducting a thorough physical examination on the fifth day or more after infliction of the bite, the observing veterinarian certifies that there are no clinical signs or symptoms of any disease.

(c) Notwithstanding the requirements in subsection (a), the Department, the Health Officer or the County Veterinarian may authorize, with the consent of the owner, if known, that the impounded animal be euthanized for the purpose of laboratory examination.

#### **SEC. 62.618. ANIMALS POSSIBLY EXPOSED TO RABIES.**

(a) An animal of a species subject to rabies, which has been bitten by or had intimate contact with an animal known to be rabid or suspected of being rabid, shall be confined and isolated as approved by the Department, the County Veterinarian or the Health Officer and observed for a period of six months or destroyed.

(b) Notwithstanding the requirements of subsection (a), if a dog or cat has been vaccinated against rabies at least thirty days prior to possible rabies exposure with a type of vaccine and within the time period approved by the California Department of Health Services: (1) the dog or cat may be revaccinated within 48 hours as prescribed by the Department, the County Veterinarian or the Health Officer, (2) confined and isolated as approved by the Department, the County

Veterinarian or the Health Officer and (3) observed for a period of thirty days following revaccination.

### **SEC. 62.619. FEES AND EXPENSES FOR CONFINEMENT AND IMPOUNDMENT.**

The owner of an animal which is confined pursuant to this article shall pay all County fees and expenses related to the cost of impounding, boarding and examining the animal and the altering deposit, when required by this chapter.

## **ARTICLE 3. DOG LICENSES**

### **SEC. 62.620. DOG LICENSE REQUIRED.**

(a) A dog owner or custodian, except a tourist or visitor who stays less than 30 days in the unincorporated area of the County, shall apply for and obtain from the Department a dog license for the dog after the dog is four months old. The owner or custodian shall have a license for a dog by the time the dog is five months old or within 30 days after obtaining a dog four months or older or bringing a dog over four months old into the unincorporated area of the County. An attack dog, guard dog or sentry dog, however, shall not work in the unincorporated area of the County unless the dog has a current County license.

(b) A dog which the Department impounds pursuant to this chapter or other applicable law that does not have a valid dog license at the time scheduled for release, shall be presumed to be a dog which, prior to impounding, required a Department issued dog license, regardless of the dog's age or the owner or custodian's place of residence.

(c) If a dog owner or custodian presents a properly completed dog license application form to the Department, including proof that a rabies vaccination will be valid throughout the license period, and pays the proper license fee and if applicable, a late fee, the Department shall issue a dog license and with the initial license, a dog license tag. The dog owner or custodian shall retain the dog license for inspection by any person authorized to enforce this chapter.

(d) A license shall be valid for a term not to exceed the maximum immunity duration period specified for the canine rabies vaccine approved by the California Department of Health Services and shall be renewed prior to the expiration of the term by paying the current renewal fee.

(e) A dog owner or custodian shall securely affix the license tag to the collar or harness of the dog for which the license tag was issued and shall ensure that the



dog wears the license tag at all times, except when the dog is being exhibited at a dog show.

(f) No person shall transfer or attach a license tag to a dog for which the license was not issued.

(g) No person other than the dog owner, custodian, licensed veterinarian or member of the Department shall remove a license tag from a collar or harness or remove the collar or harness bearing the tag from a dog.

(h) Whenever a license tag is lost or damaged, the dog owner or custodian shall immediately apply for and obtain a replacement license tag from the Department and shall pay the prescribed fee for the replacement tag.

(i) A person subject to subsection (a) shall renew a dog license before it expires for as long as the person is the owner or custodian of the dog. If renewal is not required, the owner or custodian shall notify the Department within 30 days after the license expiration date of the reason why the license does not need to be renewed.

#### **SEC. 62.621. TRANSFER LICENSE.**

The owner of a dog having a current license issued in the owner's name by another dog licensing agency may obtain a County dog license by paying the applicable transfer fee. The dog owner possessing a license from another licensing agency shall obtain a Department issued dog license within 30 days after bringing the dog into the unincorporated area of the County. The transferred license shall only be valid for the period of time that the rabies vaccination for the dog is valid or the duration of the other jurisdiction's license, whichever is shorter.

#### **SEC. 62.622. CHANGE OF ADDRESS.**

An owner of a dog required to be licensed under this chapter shall notify the Department within 30 days of any change of address. The Department may presume an owner's last known address is valid and the Department may serve any notice required by this chapter at the owner's last known address.

#### **SEC. 62.623. CHANGE OF OWNERSHIP.**

(a) A person who acquires a dog licensed by the Department shall, within 30 days of acquiring the dog, apply for and obtain a change of ownership from the Department and pay the applicable fee.

(b) A dog's owner or custodian or the parent or guardian of a minor who sells or transfers ownership or custody of a dog shall inform the Department of the name, address and telephone number of the new owner or custodian and the name and description of the dog within 30 days of sale or transfer.

#### **ARTICLE 4. SHELTERS**

##### **SEC. 62.631. EUTHANASIA AT ANIMAL SHELTERS.**

(a) The Department may accept animals to be euthanized at a County Animal Shelter. A person requesting an animal be euthanized shall provide proof of ownership or demonstrate that the person has the right to request an animal be euthanized. The person shall agree in writing to hold the County and its agents and employees harmless from any liability for accepting and euthanizing the animal. The person requesting euthanasia of an animal shall certify in writing under penalty of perjury, to the best of the person's knowledge: (1) whether or not the animal has bitten a human being within the period established by this chapter for isolating an animal that has bitten a human or (2) whether the person has reason to believe the animal is rabid. The Department, the Health Officer or the County Veterinarian, however, may authorize with the owner's consent, that an animal that has bitten a human or is suspected of being rabid, be euthanized during the isolation period, for the purpose of laboratory examination.

(b) When an animal's owner or custodian releases an animal to the Department for euthanasia the Department may place the animal for adoption.

#### **ARTICLE 5. KENNELS**

##### **SEC. 62.641. KENNEL LICENSING REQUIREMENTS AND TERMS.**

(a) It shall be unlawful for a person to operate or maintain a kennel in the unincorporated area of the County without a kennel license from the Department. The procedures for kennel license applications, renewals, denials, suspensions, revocations, hearings and appeals, except as provided in this chapter, shall be as provided in sections 21.101 et seq. of this code.

(b) A kennel license shall expire one year from the date it is issued unless the Department selects a different expiration date. Fees for kennel licenses for less than one year shall be prorated.

(c) The Department may issue a kennel license subject to any condition or restriction necessary to protect the health and safety of animals or humans.

(d) The Department may inspect a kennel at any reasonable time.

#### **SEC. 62.642. ADDITIONAL GROUNDS TO DENY A KENNEL LICENSE.**

In addition to the reasons stated in sections 21.107 the issuing officer may deny a kennel license on any of the following grounds:

(a) The operation of the kennel is not allowed at the location proposed.

(b) The applicant has a suspended kennel license for the period the applicant is seeking a license.

(c) The applicant was or is an officer, agent or employee of a kennel licensee whose kennel license was suspended or revoked and the applicant was responsible for or participated in the violation on which the suspension or revocation order was based. In that case, the applicant shall be ineligible: (1) for the period during which the suspension order is in effect, (2) in the case of revocation, for a period of one year after the revocation effective date and (3) if a revocation order has been stayed, during the revocation period and one year after the stay's expiration.

(d) The applicant, within one year from the application date: (1) had a kennel license revoked or (2) was a partner or principal in a firm, corporation or other legal entity that had its kennel license revoked or (3) if a revocation has been stayed, the application is within one year from the stay's expiration date.

(e) The facility in which the applicant proposes to locate the kennel or the facility the applicant proposes to construct, does not meet the requirements for a kennel provided by this chapter.

#### **SEC. 62.643. KENNEL OPERATING REQUIREMENTS.**

A kennel operator shall comply with the following requirements:

(a) Each kennel building, fence and other structure shall be structurally sound and be maintained in good repair to protect the animals from injury, contain the animals and to prevent other animals from entering the kennel.

(b) The kennel shall have reliable and adequate electric power and potable water.

(c) The kennel shall have adequate quantities of food and supplies, adequate refrigeration to protect perishable food, and adequate storage facilities to keep food and supplies dry, clean and uncontaminated.

(d) The operator shall maintain the entire kennel facility in a clean and sanitary condition at all times. The operator shall prepare a maintenance schedule for the entire facility that describes how often the operator will clean each part of the facility and have the maintenance schedule available for inspection when the Department inspects the facility. The maintenance schedule shall provide a program to control insects, ectoparasites and avian and mammalian pests. The kennel operator shall clean and sanitize the facility in accordance with the maintenance schedule and at a minimum, shall remove excrement daily, or more often if necessary, to keep the animals and staff safe from contamination, disease and odors, and keep the entire facility free of accumulations of trash and debris.

(e) The kennel shall have and maintain adequately supplied toilet rooms, washrooms, and sinks that allow animal caretakers to practice good hygiene.

(f) The operator shall provide each animal housed in the kennel with food that is uncontaminated, wholesome and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal. The food shall be provided in clean and sanitary receptacles accessible to each animal and located to minimize contamination by excreta.

(g) The operator shall provide each animal with potable water in clean and sanitary receptacles available to the animal at all times, unless a licensed veterinarian has restricted an animal's water intake. The water receptacle shall be secured to prevent the receptacle from being tipped over.

(h) The kennel shall protect each animal housed in the facility from the elements, including sun, heat, cold, wind, dampness, rain and snow and shall maintain environmental conditions for each animal that are appropriate for that animal.

(i) The kennel shall provide adequate fresh air ventilation for the health and comfort of each animal in a manner that minimizes drafts, odors and moisture condensation.

(j) The kennel shall provide ample light that is uniformly distributed throughout the facility to allow kennel staff to inspect and clean the kennel during the hours of 7 a.m. to 10 p.m. and shall protect the animals from harmful or annoying illumination.

(k) The kennel's interior walls and floors shall be constructed of material impervious to moisture and maintained in that condition. The material shall have a surface that may be readily sanitized.

(l) The kennel shall have a drainage system to rapidly drain animal excreta from the facility. The drainage shall be constructed and maintained to prevent unpleasant odors and to prevent any drainage backup into the facility.

#### **SEC. 62.644. GENERAL REQUIREMENTS FOR PRIMARY ENCLOSURES.**

A kennel operator shall provide a primary enclosure for each animal housed at the kennel. Each primary enclosure shall be:

(a) Constructed and maintained in good repair to protect the animal housed in the enclosure from injury, be able to keep the animal from getting out of the enclosure and keep other animals out.

(b) Constructed and maintained to enable each animal housed in the enclosure to remain dry and clean.

(c) Constructed and maintained to enable the animal housed in the enclosure to have convenient access to clean food and water.

(d) Large enough to allow each animal housed in the enclosure to obtain adequate exercise. A separate kennel house that an animal uses as sleeping quarters shall provide sufficient space to allow each animal in the house to turn about freely, stand easily and sit or lie in a comfortable position. It is unlawful to keep an animal in a primary enclosure or kennel house that does not provide adequate space.

#### **SEC. 62.645. ADDITIONAL GENERAL REQUIREMENTS FOR PRIMARY ENCLOSURES HOUSING CATS.**

(a) A kennel operator who maintains a primary enclosure that houses one or more cats shall:

(1) Provide a receptacle containing sufficient clean litter in an enclosure to contain excreta based upon the number of cats in the enclosure.

(2) Provide adequate solid resting surfaces to comfortably hold all cats occupying the enclosure at the same time. In a primary enclosure housing two or more cats, each solid resting surface shall be elevated.

(b) No kennel operator shall house more than 12 adult cats in the same primary enclosure.

**SEC. 62.646. ADDITIONAL SPACE REQUIREMENTS FOR DOGS.**

A kennel operator shall comply with the following additional space requirements for dogs:

- (a) An unattended primary enclosure shall not house more than 12 dogs of any size.
- (b) The number of dogs in an attended primary enclosure shall not exceed that number that may be safely supervised by the number of attendants on duty and shall not exceed 12 dogs per attendant within the enclosure.
- (c) A passageway into a kennel house shall be large enough to allow easy access for each dog in the house.
- (d) A kennel that confines a dog in a kennel house which does not meet the space requirements in this chapter for a primary enclosure shall not house the dog in a kennel house for more than 12 hours in any 24 hour period.
- (e) A primary enclosure or kennel house of a kennel which was not licensed on September 11, 1986 or a primary enclosure or kennel house erected or installed in a kennel after September 11, 1986, shall meet the minimum space requirements in Table 62.646.

**TABLE 62.646**

WEIGHT OF DOG IN POUNDS	PRIMARY ENCLOSURE		KENNEL HOUSE	
	WIDTH	SQ FOOTAGE	WIDTH	SQ FOOTAGE
Up to 15	2.0'	6.0	1.5'	3.0
Over 15 to 35	2.5'	10.0	2.0'	5.0
Over 35 to 65	3.0'	15.0	2.5'	7.5
Over 65 to 95	3.0'	18.0	2.5'	9.0
Over 95 to 130	3.5'	24.0	3.0'	12.0
Over 130	4.0'	32.0	3.5'	14.0

- (f) If a primary enclosure or kennel house contains more than one dog, the minimum square feet required is the sum of the square feet requirements for each individual dog kept in the primary enclosure or kennel house.

#### **SEC. 62.647. EMPLOYEES.**

A kennel operator shall employ a sufficient number of caretakers to maintain the standards set forth in this article. It shall not be a defense to an action to suspend or revoke a kennel license or a civil or criminal action to enforce a violation of this article that the licensee was unable to comply due to an insufficient number of employees.

#### **SEC. 62.648. CLASSIFICATION AND SEPARATION.**

Animals housed in the same primary enclosure shall be maintained in compatible groups, with the following additional restrictions:

- (a) A female in estrus shall not be housed in the same primary enclosure as a male, except for breeding purposes.
- (b) Any animal exhibiting a vicious disposition shall be housed by itself.
- (c) A puppy shall not be housed in the same primary enclosure with an adult other than its dam, and a kitten shall not be housed with an adult cat other than its dam, except when an animal owner specifically requests they be housed together.
- (d) No dog shall be housed in the same primary enclosure with a cat and no dog or cat shall be housed in the same primary enclosure with any other species of animal, unless an animal owner requests the kennel operator house specific animals together.
- (e) An animal under quarantine or treatment for a communicable disease or an animal with a serious injury or disability shall be kept separate from any other animal.

#### **SEC. 62.649. RECORDS.**

(a) A kennel operator shall maintain a register for each dog housed at the kennel that includes: (1) the dog owner's name, address, and telephone number, (2) the dog's name and description, including breed, color, sex, month and year of birth, (3) the date of its most recent rabies vaccination and (4) a copy of the current vaccination certificate, the name and telephone number of the veterinarian who vaccinated the dog, or the telephone number of the licensing agency verifying the vaccination.

(b) For all animals other than dogs, the kennel operator shall maintain a register with the name, current address and telephone number of the owner of each animal kept at the kennel, the description of the animal, including its age, if known, or approximate age, breed, sex and color.

(c) The kennel operator shall have someone in attendance at the kennel when the facility is housing one or more animals who can identify each animal in the kennel, except that animals under four months of age may be identified as to litter.

#### **SEC. 62.650. VACCINATION REQUIRED FOR INDIVIDUAL DOGS.**

A kennel operator shall not be required to obtain the dog license required by this chapter for each dog housed in the kennel, but shall not house a dog in the kennel that has not been vaccinated as required by this chapter.

#### **SEC. 62.651. KENNELS OPERATED CONTRARY TO THIS CHAPTER.**

A kennel the Department determines is unsanitary or a threat to animal or public health, safety or welfare, or being operated contrary to this chapter is declared to be a public nuisance. The Department may take action against the kennel operator as authorized by State law or this code to abate the nuisance. If the Department determines immediate action is necessary to preserve or protect an animal or public health, safety or welfare, the Department may summarily abate a nuisance by any reasonable means including impoundment of any animal and immediate closure of a kennel until the nuisance is abated. The Department may recover its abatement costs from the kennel operator.

### **ARTICLE 6. CONTROL PROVISIONS**

#### **SEC. 62.660. PRESUMPTION OF RESPONSIBILITY FOR VIOLATION.**

(a) In any prosecution under this chapter where the section violated does not require proof that the violator failed to exercise ordinary care, proof by the People of the State of California that: (1) an animal described in the complaint was found in violation of the section charged and (2) the defendant named in the complaint was the owner or custodian of the animal at the time of the alleged violation, shall constitute prima facie evidence that the owner or custodian of the animal was the person responsible for the violation.

(b) The presumption in subsection (a) shall not apply if prior to the date of the alleged violation, the person charged has made a bona fide sale or transfer of the animal found in violation and has complied with the applicable requirements of:



(1) section 62.623, (2) section 62.674 for a dangerous dog, or (3) section 62.682 for a public nuisance animal.

#### **SEC. 62.661. ENFORCEMENT PROVISIONS.**

An employee of the Department who is assigned to enforce State law and this chapter and who has completed the training required by Penal Code section 832, may arrest any person for violating this chapter, any other State law the Department enforces or Penal Code section 148, when the violation occurs in connection with enforcement of this chapter in the unincorporated area of the County.

#### **SEC. 62.662. ARREST AND CITATION.**

An employee of the Department, who is assigned to enforce State law and this chapter, as provided in section 62.661, is authorized to make an arrest under section 62.661 without a warrant as provided in Penal Code section 836.5. A person arrested under this section who does not demand to be taken before a magistrate may instead be cited in the manner prescribed in Penal Code sections 853.5 et seq.

#### **SEC. 62.663. DOG LICENSE VIOLATIONS.**

(a) Whenever a person is arrested for violating section 62.620 and the officer issues a Notice to Appear, the officer may note on the notice that the charge shall be dismissed on proof that the person has corrected the violation, unless the arresting officer determines the person is disqualified as provided in subdivision (b) below. If the arrested person presents proof of correction by mail or in person to the court, on or before the date on which the person promised to appear, the person shall be entitled to have the court dismiss the violation. Proof of correction means that the person arrested provides a Certificate of Correction from the Department verifying that the person has corrected the alleged violation.

(b) When an officer issues a Notice to Appear, the notice shall provide the person who is issued the notice the opportunity to correct the violation before trial unless the officer finds any of the following disqualifying conditions:

- (1) Evidence of fraud.
- (2) The person has been charged within the past one year period with violating section 62.620.

(3) The violation involves a dog that has attacked, bitten or otherwise caused injury to a person or that otherwise presents an immediate safety hazard to the community.

(4) The person refuses to agree to correct the violation or is unable to promptly correct the violation.

(c) It shall be unlawful for a person to provide false or fictitious information to the Department to obtain a Certificate of Correction or to provide a Certificate of Correction to any person that contains false or fictitious information.

#### **SEC. 62.665. ENTRY ON PRIVATE PROPERTY.**

The Department, the County Veterinarian, the Health Officer or any peace officer may enter private property when the person entering has reasonable grounds to believe that there is a dangerous dog, a rabid animal, animal suffering from some other contagious animal disease or there has been a violation of this chapter, section 21.103 of this code, section 148 of the California Penal Code or any other State or County law relating to or affecting an animal.

#### **SEC. 62.667. ANIMALS EXPOSED TO DANGEROUS DISEASES OR TOXIC SUBSTANCES.**

It shall be unlawful for a person to fail to comply with an order issued by the Public Health Officer or the County Veterinarian ordering the quarantine, vaccination or destruction of a diseased animal or animal exposed to a dangerous disease or toxic substance.

#### **SEC. 62.668. CONDITIONS OF ANIMAL OWNERSHIP.**

An animal owner or custodian shall maintain the area where an animal is kept in a sanitary condition and shall not allow the area to become a breeding area for flies, a source of offensive odors or of human or animal disease, or an area that creates any other public nuisance or condition hazardous to humans or animals.

#### **SEC. 62.669. RESTRAINT OF DOGS REQUIRED.**

(a) A dog's owner or custodian or a person who has control of a dog shall prevent the dog from being at large, except as provided in subsections (b) and (d) below.

(b) A dog's owner or custodian who has direct and effective voice control over a dog to ensure that it does not violate any law, may allow a dog to be unrestrained by a leash while a dog is assisting an owner or custodian who is:

- (1) Legally hunting.
- (2) Legally herding livestock.

(3) On public property with the written permission of and for the purposes authorized by the agency responsible for regulating the use of the property.

(c) A dog's owner or custodian or a person having control of a dog that is lawfully on private property shall keep the dog: (1) leashed or tethered as allowed under Health and Safety Code section 122335, (2) under direct and effective control by voice or electronic pet containment system or (3) in a building or enclosure that is adequate to ensure the physical confinement of the dog and that also meets humane standards. An animal is not considered leashed if the leash is not in the hand of a person capable of controlling the animal or if the person is not actually controlling the animal attached to the leash.

(d) This section shall not apply to a dog assisting or training to assist a law enforcement officer in the course and scope of the officer's duties.

#### **SEC. 62.669.1. PUBLIC PROTECTION FROM DOGS.**

(a) A dog's owner or custodian or other person having control of a dog shall exercise ordinary care to prevent the dog, while the dog is under the owner, custodian or other person's care, custody or control from:

(1) Attacking, biting or otherwise causing injury to any person engaged in a lawful act.

(2) Interfering with a person or animal legally using public or private property.

(3) Damaging personal property that is lawfully on public property or that is on private property with the permission of the property owner or other person who has the right to possess or use the private property.

(b) The owner of any unaltered dog that bites a person engaged in a lawful act shall pay the Department an altering deposit in addition to any other applicable fees the Board of Supervisors (Board) establishes. The altering deposit shall be refunded or forfeited as provided in section 62.679(c).

(c) This section shall not apply to a dog assisting or training to assist a law enforcement officer while that officer is executing law enforce duties or responsibilities.

#### **SEC. 62.669.5. GUARD DOGS, DANGEROUS DOGS OR POTENTIALLY DANGEROUS ANIMALS.**

(a) It shall be unlawful for the owner, custodian or person having control of a guard dog, dangerous dog, or potentially dangerous animal to fail to exercise ordinary care over the animal that results in the animal causing injury to a person engaged in lawful activity, if the owner, custodian or person having control of the animal knew or should have known the animal had vicious or dangerous propensities or that the animal was a guard dog, dangerous dog, or potentially dangerous animal, as those terms are defined in this chapter.

(b) This section shall not apply to an animal that is being used by the military or law enforcement while the animal is performing in that capacity.

#### **SEC. 62.670. CURBING A DOG.**

No person having control of a dog shall allow a dog to defecate or to urinate on private property other than property belonging to the dog owner, custodian or person having control of the dog. A person having control of a dog shall curb the dog and immediately remove any feces to a proper receptacle. This section shall not apply to a blind or visually impaired person who is relying on a seeing-eye dog.

#### **SEC. 62.671. FEMALE DOGS IN ESTRUS.**

The owner or custodian of a female dog in estrus shall securely confine the dog within an enclosure in a manner that will prevent the attraction of male dogs to the location where the female dog is located.

#### **SEC. 62.674. PROCEEDINGS TO DECLARE A DOG A DANGEROUS DOG.**

(a) Whenever the Department has reasonable cause to believe that a dog is a dangerous dog, it may commence proceedings to declare the dog a dangerous dog as follows:

(1) The Department shall serve on the owner or custodian a notice of intent to declare the dog a dangerous dog.

(2) The notice shall inform the dog's owner or custodian of all of the following:

(A) The Department's authority to declare a dog a dangerous dog.

(B) Each incident that forms the basis for the Department's proposed action.

(C) The owner or custodian's right to request a hearing to contest whether grounds exist for the Department's proposed declaration:

(D) The potential consequences if the Department issues a declaration declaring the dog a dangerous dog.

(E) That a request for a hearing must be in writing and must be received by the Department within 10 days from the date of notice.

(F) Failure to request a hearing or failure to attend or be represented at a scheduled hearing shall satisfy the Department's obligation to provide a hearing and shall result in the Department issuing a declaration that the dog is a declared dangerous dog.

(G) A finding at the hearing that the dog meets the definition of a dangerous dog as prescribed by section 62.602(1), shall result in the Department declaring the dog a dangerous dog. A declared dangerous dog designation shall remain in effect for the dog's lifetime.

(b) When the Department determines it is necessary to immediately impound a dog to preserve the public health and safety or the safety of an animal, before the Department follows the procedures in subsection (a) above, the Department may impound a dog before issuing the declaration declaring the dog a dangerous dog. In that case, with the notice required by subsection (a), the Department shall include the reasons why immediate impoundment was necessary.

#### **SEC. 62.675. IMPOUNDMENT, ABATEMENT AND RESTRICTIONS ON DANGEROUS DOGS.**

(a) The Department may impound or abate any declared dangerous dog whenever the Department determines that impoundment or abatement is necessary to protect the public health and safety or the safety of an animal. When the Department determines abatement is necessary, the Department may destroy the dog or impose conditions enumerated in subsection (b) on the dog's owner or

custodian, as a prerequisite for the dog's owner or custodian continuing to keep the dog. The Department may modify the conditions depending on a change in circumstances. It shall be unlawful for a person to fail to comply with a condition the Department imposes under this section.

(b) The Department may impose one or more of the following conditions on a dog owner or custodian for a declared dangerous dog:

(1) A requirement that the owner or custodian obtain and maintain liability insurance from an insurer licensed to transact insurance business in the State of California with coverage amounts that complies the requirements of this subsection. The insurance shall provide liability insurance to the owner or custodian for any loss or injury that may result to any person or property caused by the dog. The insurance shall provide coverage for the owner or custodian in an amount of not less than \$100,000 per occurrence, combined single limit for bodily injury and property damage. The owner or custodian shall furnish a certificate of insurance to the Department and notify the Department by registered mail within 10 days of receiving notice from the insurance company that the policy has been cancelled or will not be renewed. The insurance certificate shall provide the following information:

(A) The full name and address of the insurer.

(B) The name and address of the insured.

(C) The insurance policy number.

(D) The type and limits of coverage.

(E) The effective dates of the coverage.

(F) The certificate issue date.

(2) Requirements as to the design, specifications, materials and other components of the dog's enclosure.

(3) Requirements as to the type of residence where the dog shall be maintained.

(4) Requirements as to the type and method of restraint or muzzling the owner or custodian shall employ when the dog is not within its approved enclosure.

(5) Requirements for photo identification, microchip implantation or permanent marking of the dog for purposes of identification.

(6) A requirement that the owner or custodian obtain and maintain a dangerous dog registration in addition to the license required under section 62.620.

(7) A requirement to alter the dog.

(8) A requirement that the dog's owner or custodian allow the Department or any other law enforcement agency, to inspect the dog and its enclosure.

(9) A requirement that the dog's owner or custodian provide the Department with proof satisfactory to the Department that the owner or custodian is complying with all the requirements of this section.

(10) A requirement that the dog's owner or custodian agree to surrender the dog to the Department on demand.

(11) A requirement that the dog not be allowed to work as guard dog, attack dog or sentry dog.

(12) Any other requirement the Department determines is necessary to protect the public health and safety or the safety of an animal from the actions of a declared dangerous dog.

(13) A requirement that the owner or custodian pay the Department fees to recover the Department's costs to enforce and to verify compliance with this section.

(c) The Department shall provide a dog's owner or custodian with written notice at least 10 days before impounding or abating a declared dangerous dog. The notice shall inform the owner or custodian of the right to a hearing to contest whether grounds exist to impound or abate the dog. If the owner or custodian requests a hearing under this section the hearing may be held in conjunction with the hearing pursuant to section 62.674(a). If the dog's owner or custodian requests a hearing before the dog is impounded or abated the Department shall not impound or abate the dog until the hearing is concluded unless there is a need for immediate action as provided in subsection (e).

(d) A dog's owner or custodian who receives a notice under subsection (c) may request a hearing to contest the Department's determination to impound or abate a dangerous dog. The owner or custodian's request shall be in writing and shall be received by the Department within 10 days of the date of the notice.

(e) When the Department determines it is necessary to immediately impound a dog to preserve the public health and safety or the safety of an animal, or if a dog has already been impounded under another provision of law, no pre-impoundment hearing shall be held. In that case, the Department shall provide the dog's owner or custodian with written notice allowing 10 days from the date of the notice to request a hearing to contest the abatement of the dog. The hearing request shall be in writing and shall be received by the Department within the specified time period. If the owner or custodian requests a hearing, the dog shall not be disposed of until the hearing requirements are satisfied. Once the hearing procedures enumerated in section 62.684 have been completed and there is a final decision that grounds exist to impound or abate a dog or the owner or custodian fails to request a hearing or attend or be represented at a scheduled hearing, the Department may impound or abate the dog.

(f) The owner or custodian of a declared dangerous dog, who intends to change the ownership, custody or residence of the dog, shall provide at least 15 days advance written notice to the Department of the proposed change. The notice shall identify the dog and provide the name, address and telephone number of the proposed new owner or custodian or the proposed new residence. The Department may prohibit the proposed change when the Department has reasonable grounds to believe that the change would be harmful to the public health and safety or the safety of an animal, by issuing a written order to the owner or custodian. No person shall fail to comply with an order the Department issues under this subsection.

(g) An owner or custodian who transfers ownership or custody shall provide written notice to a new owner or custodian that the dog is a declared dangerous dog and the conditions the Department imposed pursuant to subsection (b). The owner or custodian shall obtain a written acknowledgment signed and dated by the new owner or custodian, acknowledging receipt of the notice and acceptance of the conditions the Department imposed. The owner or custodian shall provide the Department with a copy of the notice and the signed acknowledgment from the new owner or custodian.

(h) If a declared dangerous dog dies, the owner or custodian shall notify the Department no later than 24 hours after the dog's death. The owner or custodian shall produce the dog's remains when requested by the Department.

(i) If a declared dangerous dog escapes, the owner or custodian shall immediately notify the Department of the escape and make every reasonable effort to recapture it. The owner shall also notify the Department within 24 hours of the dog's recapture.



(j) The owner, custodian or person in possession of a dog declared dangerous dog shall keep the dog restrained, confined or muzzled as appropriate for the circumstances, to prevent the dog from biting, attacking or otherwise causing injury to another.

(k) The Department's authority to act under this section is independent of any pending or resolved criminal prosecution, no matter what stage in the proceeding or the result in that case.

#### **SEC. 62.676. CAPTURE OF DOGS AT LARGE.**

(a) An employee of the Department, a peace officer or a person in an area where the Department provides animal services who is employed for animal control purposes may capture or attempt to capture any dog found at large in violation of law and may destroy the dog if, in the person's judgment, destroying the dog is required for public health and safety.

(b) The Department shall not seize or impound any dog for being at large that has strayed from but then returned to the private property of its owner or custodian, provided the owner or custodian is at home when the dog returns. In that case the Department may issue the owner or custodian a citation. If the owner or custodian is not home, the Department may impound the dog, and shall post a notice that the dog was impounded on the front door of the owner or custodian's dwelling unit. The notice shall provide the following information: The dog has been impounded, where the dog is being held, the name, address, and telephone number of the agency or person to be contacted regarding release of the dog and an indication of the ultimate disposition of the dog if the owner or custodian does not take action to regain the dog within a specified time period.

(c) A person who finds a dog at large may take the dog into the person's possession and shall as soon as possible, but no later than twenty-four hours, notify the Department. The Department may accept the animal for impoundment and the person who finds the animal shall surrender the animal to the Department upon demand. No person shall be entitled to any compensation from the County for keeping the dog. A person who takes possession of the dog shall use reasonable care to preserve it from injury, but shall not be held liable if the dog dies, escapes, or injures itself while under the person's care.

#### **SEC. 62.677. RELINQUISHING AN ANIMAL.**

A person who relinquishes an animal to the Department shall provide the person's name, address and if the person is not the owner, the person shall also

provide the circumstances under which the person came into possession of the animal.

**SEC. 62.678. NOTIFICATION OF OWNER -- RIGHT TO HEARING.**

(a) Upon impoundment of an animal wearing a license tag or identification listing the owner's name and address, the Department shall as soon as practicable attempt to notify the owner at the owner's address of record, by mail, personal delivery to the owner or posting a notice on the owner's property advising that the animal is in the Department's custody.

(b) The notice shall include a statement that the owner may make a written request for a hearing within 10 days of the notice, contesting the legality of the impoundment.

(c) Requesting a hearing under this section extends the holding period during which the Department shall not dispose of an impounded animal other than by return to the owner, until the conclusion of the hearing. If at the conclusion of the hearing the impoundment is found to be unwarranted, the Department shall return the animal to the owner or custodian without charge for the impoundment.

**SEC. 62.679. RETURN OF ANIMALS TO THEIR OWNERS, ALTERING DEPOSIT, MICROCHIP FEE REQUIRED.**

(a) The owner of an impounded animal that the Department is not seeking to abate may claim the animal prior to other legal disposition by providing proper identification, meeting all requirements and paying the Department the applicable redemption fees.

(b) If an animal owner redeems an unaltered dog or cat found at large that the Department justifiably impounded pursuant to this chapter, the owner shall pay an altering deposit in addition to other redemption fees the Board establishes.

(c) A person paying an altering deposit shall be entitled to a refund if the person provides proof that the animal has been altered by a licensed veterinarian within 30 days of paying the deposit, unless the animal is under four months old at the time of payment. In that case, the person paying the deposit shall be entitled to a refund if the person provides proof that the animal has been altered by a licensed veterinarian by the time the animal is five months old. A person may also obtain a refund of the altering deposit if the owner submits, within the time period that the animal was required to be altered, a written certification from a licensed veterinarian stating that due to health considerations the animal should not be altered or that the animal has previously been altered. If the person paying the

altering deposit does not provide the Department with either proof the animal was altered or the written certification from a licensed veterinarian that the animal should not be altered within the period the animal was required to be altered, the person shall forfeit the deposit to the County. All forfeited deposits shall be used to offset the costs of animal control services.

(d) When a person redeems a justifiably impounded dog or cat found at large and without identification, the Department may require the owner to pay the cost to implant a microchip identification device, in addition to other redemption fees the Board establishes.

**SEC. 62.680. HOLDING PERIODS AND AVAILABILITY FOR REDEMPTION, ADOPTION, OR RELEASE OF IMPOUNDED STRAY OR RELINQUISHED ANIMALS.**

(a) The holding period and availability for redemption, adoption or release of an impounded stray or relinquished animal shall conform to applicable provisions of this chapter, sections 17006, 31108, 31752, 31752.5, 31753, and 31754 of the California Food and Agricultural Code and section 597.1 of the California Penal Code.

(b) The Department may determine the animal holding period and disposition not specified in subsection (a) or other provisions of law.

(c) No person who adopts or accepts the transfer of an impounded dog or cat shall fail to have the animal altered within 30 days of the adoption or transfer unless a California licensed veterinarian authorizes a 30 day extension in writing. It shall be unlawful to fail to provide the Department with proof the animal was altered or that an extension was granted, when demanded by the Department.

(d) The Department may create by policy, a Senior Citizen/Disabled Persons Pet Adoption Program for San Diego County residents who are 60 years or older or recipients of either Supplemental Security Income or Social Security Disability payments, and who are qualified to adopt a dog or cat. The Department may also develop policies for the administration of other special redemption, adoption, or release programs. The Director may waive or adjust applicable fees established by the Board in conjunction with this program, provided that the animals involved shall be vaccinated for rabies and shall be altered as required by law.

**SEC. 62.681. WILD ANIMALS.**

(a) Except as provided in subsection (d) it shall be unlawful for any person to own, possess or maintain any venomous reptile.

(b) The owner or custodian of any wild animal shall at all times:

(1) Keep the animal in a cage, enclosure or other confinement that is designed, constructed and maintained to preclude the animal's escape. The cage, enclosure or confinement shall be of sufficient size to allow the animal reasonable freedom of movement.

(2) Keep the cage, enclosure or other area of confinement in a clean and sanitary condition at all times.

(3) Provide the animal with adequate food, water, shelter and veterinary care and take all necessary steps to preserve the animal's health, safety and welfare.

(4) Keep the animal in a manner that will not threaten or annoy any person of normal sensitivity.

(5) Reimburse the Department for any costs the Department incurs to enforce this section.

(6) Reimburse the County for any damage the County incurs as a result of any action or behavior of an animal regulated by this section.

(c) Additional requirements apply to the owner or custodian of a wild animal that may create a greater risk to the public. The following animals do not create a greater risk to the public: a fish, an invertebrate, an amphibian, a bird that attains a maximum adult weight less than 15 pounds or a rodent that attains an adult weight less than 10 pounds. A reptile does not create a greater risk to the public unless it is one of the following: a crocodylian (order Crocodylia), a boa or python (family Boidae) that attains an adult weight over 15 pounds or an adult length over three and one-half feet, or a Monitor Lizard (family Varanidae) that attains an adult weight over 10 pounds or an adult overall length over three feet. The owner or custodian of a wild animal, other than a wild animal recognized in this subsection as not creating a greater risk to the public shall, in addition to the requirements in subsection (b), comply with all of the following:

(1) Employ adequate safeguards to prevent unauthorized access to the animal.

(2) Keep the animal in any escape proof enclosure at all times, including when the owner or custodian is transporting the animal to property that the owner or custodian owns, leases or has the right to use.

(3) Obtain written permission from the Department whenever the owner or custodian, or any person on the owner or custodian's behalf, is transporting that animal to a property that the owner or custodian does not own, lease or have the right to use.

(4) Immediately notify the Department if the animal escapes and make every reasonable effort to recapture an animal that escapes.

(5) Allow the Department to inspect the animal, and the property to determine whether the owner or custodian is complying with this section.

(6) Allow the Department to inspect any permit an agency of the federal or State government has issued to the owner or custodian that regulates the animal.

(d) Subsections (a) and (c) shall not apply to a legally operated zoo, circus, educational institution or scientific research facility, unless the operator is not taking adequate steps to confine an animal, fails to adequately protect the public from an animal under its control, fails to employ adequate sanitation measures, or due to a particular hazard connected with an animal, endangers the health and safety of the public or an animal.

(e) The Department may impound or abate an animal that a person is keeping in violation of this section and relocate or dispose of the animal in a humane manner or impose conditions on the animal owner or custodian as a prerequisite for the owner or custodian to keep the animal. The Department shall provide the owner or custodian with at least 10 days written notice before impounding or abating an animal under this section. The notice shall inform the owner or custodian of the right to a Departmental hearing to contest whether grounds exist for the Department to impound or abate the animal under this section. If the owner or custodian requests a hearing before the animal is impounded or abated, the Department shall not impound or abate the animal until the hearing is concluded, unless there is a need to take immediate action as provided in subsection (g) below.

(f) The owner or custodian of a wild animal who receives a notice under subsection (e) may request a Departmental hearing to contest the Department's determination to impound or abate a wild animal. The owner or custodian's request shall be in writing and shall be received by the Department within 10 days of the date of the notice.

(g) When the Department determines it is necessary to immediately impound a wild animal to: (1) preserve the public health and safety, (2) the health or safety of

an animal or (3) the animal has already been impounded under another provision of law, no pre-impoundment hearing shall be held. In that case the Department shall provide the owner or custodian with at least 10 days notice to request a hearing to contest whether the impoundment or proposed abatement of the animal. The request for a hearing shall be in writing and shall be received by Department within 10 days from the date of the notice.

(h) If the owner or custodian timely requests a hearing under this section the Department shall not dispose of the animal until the hearing requirements are satisfied. If the hearing officer finds that the Department has grounds to impound or abate an animal or the owner or custodian either fails to request a hearing or fails to attend or be represented at a scheduled hearing, the hearing requirements are satisfied and the Department may impound or abate the animal.

#### **SEC. 62.682. PUBLIC NUISANCE.**

(a) In addition to exercising abatement powers under sections 16.201 et seq. the Department, the County Health Officer, the County Veterinarian or a peace officer, may abate a public nuisance involving an animal by impounding or abating the animal pursuant to this section. If the Department determines that there is an immediate threat to the health and safety of the public or an animal the Department may summarily abate a public nuisance involving an animal or the premises where an animal lives or is maintained, including destroying the animal involved.

(b) When the Department determines that an animal's behavior or the failure of an animal owner or custodian to control an animal results in a public nuisance, the Department may require the owner or custodian of the animal to obtain a public nuisance registration from the Department, in addition to the license required by section 62.620. The Department may impose the same conditions on the owner or custodian of the animal deemed a public nuisance as it may impose on the owner or custodian of dog declared a dangerous dog, enumerated in section 62.674(b). It shall be unlawful for a person to violate any condition the Department imposes pursuant to this subsection.

(c) When the Department determines that a public nuisance exists due to an animal owner or custodian's failure to properly control or care for one or more animals, the Department, in addition to using its abatement powers under subsection (a) to abate any nuisance involving an animal, may require the owner or custodian to register with the Department. This registration need not name a specific animal if the Department is unable to determine which animal or animals were involved. The Department may impose any condition on the owner or custodian enumerated in section 674(b) relative to any or all animals the person

owns or is the custodian of. The Department may also limit the number of animals or type of animals the owner or custodian may own or have custody of. It shall be unlawful for a person to violate any condition the Department imposes pursuant to this subsection.

(d) If a person fails to properly control or care for one or more animals or the premises where one or more animals are maintained, and the Department determines that person, based on the person's conduct, poses a risk to the health or safety of the public or an animal if that person were to own or have custody of any animal or a specific type or breed of animal, the Department may enter a declaration against the person prohibiting that person from having ownership or custody of any animal or a specific type or breed of animal, for up to five years. It shall be unlawful for a person to violate the terms of the declaration entered pursuant to this subsection. If the Department determines a person violated this section, the Department may, in addition to taking any legal action authorized by this code, enter a new declaration against that person prohibiting that person from having ownership or custody of any animal or a specific type or breed of animal, for up to five years from the date of violation.

(e) Except as provided in subsection (g), the Department shall provide an owner or custodian with at least 10 days notice before impounding or abating an animal of their right to a hearing to contest whether grounds exist for an impoundment or abatement. If the owner or custodian requests a hearing before the Department impounds or abates the animal, the County shall not impound or abate the animal until the conclusion of the hearing except as provided in subsection (g). The Department shall also provide notice to an animal owner or custodian of its intent to proceed under subsection (c) or (d) and advise the owner of the right to request a hearing to contest the Department's determination.

(f) The owner or custodian of an animal who receives a notice under subsection (e) may request a hearing to contest the Department's determination to impound or abate an animal under this section or the Department's determination to proceed under subsection (c) or (d). The owner or custodian's request shall be in writing and the request shall be received by the Department within 10 days. All hearings shall be conducted pursuant to section 62.684.

(g) When the Department determines it is necessary to immediately impound an animal under this section to preserve the public health and safety or the safety of an animal, or if the animal has already been impounded under another provision of law, no pre-impoundment hearing shall be held. The Department shall provide the owner or custodian with written notice allowing 10 days from the date of the notice to request a hearing to contest abatement of the animal. The hearing request shall be in writing and shall be received by the Department within the

specified time period. If the owner or custodian requests a hearing, the animal shall not be disposed of until the hearing requirements are satisfied.

Once the hearing procedures enumerated in section 62.684 have been completed and there is a decision that grounds exist to impound or abate an animal under this section or the animal owner or custodian fails to request a hearing, or attend or be represented at a scheduled hearing, the Department may impound or abate an animal deemed a public nuisance under this section.

(h) The owner or custodian of an animal that is required to obtain a public nuisance registration for an animal shall provide at least 15 days advance written notice to the Department of a proposed change in the animal's ownership, custody or residence. The notice shall identify the animal and provide the name, address and telephone number of the proposed new owner or custodian or the proposed new residence. The Department may prohibit the proposed change when the Department has reasonable grounds to believe that the change would be harmful to the public health and safety or the safety of an animal by issuing a written order to the owner or custodian. No person shall fail to comply with an order the Department issues under this subsection.

(i) The owner or custodian who transfers ownership or custody of an animal subject to this section shall provide written notice to the new owner or custodian that the animal requires a public nuisance registration and the terms of any conditions the Department has imposed pursuant to this section. The owner or custodian shall obtain a written acknowledgment signed and dated by the new owner or custodian acknowledging receipt of the notice and acceptance of the conditions the Department imposed. The owner or custodian shall provide the Department with a copy of the notice and the signed acknowledgement from the new owner or custodian.

(j) If an animal that requires a public nuisance registration dies, the owner or custodian shall notify the Department no later than 24 hours after the animal's death. The owner or custodian shall produce the animal's remains when requested by the Department.

(k) If an animal that requires a public nuisance registration escapes, the owner or custodian shall immediately notify the Department of the escape and make every reasonable effort to recapture it. The owner or custodian shall also notify the Department within 24 hours of the animal's recapture.

(l) The owner, custodian or person in possession of animal that requires a public nuisance registration shall use all reasonable efforts to restrain or confine



the animal to prevent it from being at large or from causing damage to any property or injury to any person.

(m) The Department's authority to act under this section is independent of any pending or resolved criminal prosecution, no matter what stage in the proceeding or the result in that case.

### **SEC. 62.683. INJURIES AND COMMUNICABLE DISEASES.**

No person shall knowingly keep an animal that suffers from a serious injury or is afflicted with mange, ringworm, distemper or other contagious disease without providing or obtaining adequate treatment for the animal. The Department or the County Veterinarian may take immediate possession of an animal if either determines that the owner or custodian is not providing or obtaining adequate treatment and may dispose of the animal unless the owner or custodian places the animal with a licensed veterinarian for treatment.

### **SEC. 62.684. HEARINGS.**

(a) Whenever a person (the "respondent") requests a hearing under this chapter the Director shall appoint a Department employee who has not been directly involved in the case to serve as the hearing officer. The hearing officer shall hold the hearing within 30 days from the date the Department receives the request for the hearing. The hearing officer may continue a hearing at the request of either party for good cause. The hearing officer shall issue a written decision that contains findings and the factual bases for the findings. The hearing officer's decision shall be final except as provided below. The fact that no hearing has been conducted shall have no bearing on any criminal prosecution alleging a violation of this chapter.

(b) The Department shall present its evidence first and have the burden of producing evidence at the hearing. The respondent shall have the right to present evidence contesting the Department's case and the Department shall have a right to present a rebuttal case. The standard of proof on the issues before the hearing officer shall be the preponderance of the evidence.

(c) Each party shall have the right at the hearing to call and examine witnesses, introduce evidence, cross-examine an opposing witness on any matter relevant to the issues in the case even though that matter was not covered during direct examination, and impeach any witness regardless of which party first called the witness to testify. The Department may call the animal's owner or custodian as a witness during its case in chief or during its rebuttal case and examine the person as if the person was under cross-examination.

(d) Strict rules of evidence shall not apply. Evidence that might otherwise be excluded under the Evidence Code may be admissible if the hearing officer determines it is relevant and of the kind that reasonably prudent persons rely on in making decisions. All rules of privilege recognized by the Evidence Code, however, apply to the hearing. The hearing officer shall also exclude irrelevant and cumulative evidence.

(e) The Department shall serve the hearing officer's decision on the respondent. If the hearing officer determines that sufficient grounds exist for the Department to declare a dog to be a dangerous dog or a public nuisance animal, or that the Department will abate a dog, the hearing officer's decision shall include a notice that the respondent may apply for a departmental administrative review of the record. The notice shall advise the respondent that the request for review shall be in writing and served on the Department within 10 days. The request for review shall provide the reasons why the respondent contends that the hearing officer's decision is erroneous.

(f) The administrative review shall be conducted by the Director or an employee the Director designates who has not been directly involved in the case and who shall be of the same rank or higher than the hearing officer.

(g) If a respondent timely requests administrative review, a hearing officer's decision approving the Department's determination to destroy an animal, the decision is stayed until the Department completes its review. A request for administrative review shall not stay the hearing officer's decision approving the Department's determination to declare a dog a dangerous dog or a public nuisance animal, or any condition the Department imposes to allow a person to continue owning or have custody of an animal.

(h) As part of the administrative review process, the employee conducting the review of the record shall consider: (1) the issues the respondent raised in the request for review, (2) whether the Department's determination is supported by substantial evidence and (3) whether the Department acted in compliance with this chapter.

(i) At the conclusion of the administrative review the employee reviewing the record may uphold, modify or overrule the hearing officer's decision or may order the Department to reconsider the case. The reviewer's decision shall be in writing and shall contain the reasons for the decision. If the reviewer upholds the hearing officer's decision to abate an animal by destruction the Department shall serve the respondent with a written notice of the right to apply for a writ of mandate or other order from Superior Court within 10 days from the date of the notice. The

Department shall stay disposition of the animal while the Superior Court action is pending or until the time for filing an action contesting the decision to abate has expired.

**SEC. 62.687. ATTACK, GUARD OR SENTRY DOG OPERATORS.**

(a) Any person or owner of an attack, guard or sentry dog (collectively "guard dog") that operates or maintains a business to sell, rent or train a guard dog in the unincorporated area of the County who is required to obtain an operator's permit from the County pursuant to Health and Safety Code section 121916 (the permittee) shall pay the annual permit fee approved by the Board for this type of permit. The person or owner shall also obtain and pay the fee for a guard dog operator premises permit for each location where the person or owner houses a guard dog.

(b) The Department may suspend an animal from use as a guard dog if the Department determines the animal is not healthy enough to work or if the Department has advised the operator that it intends to declare the dog a dangerous dog. The Department may also permanently bar an animal from working as guard dog, if the Department declares the dog a dangerous dog as provided in this chapter.

(c) A permittee under this section shall comply with all the following requirements:

(1) Supply each animal with sufficient, good and wholesome food and water as often as the animal's feeding habits require.

(2) Keep each animal and each animal's quarters in a clean and sanitary condition.

(3) Provide each animal with proper shelter and protection from the weather at all times. An animal shall not be overcrowded or exposed to temperatures detrimental to the welfare of the animal.

(4) Not allow any animal to be without care or control in excess of 12 consecutive hours.

(5) Take every reasonable precaution to ensure that no animal is teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any person or by any means.

(6) Not maintain or allow any animal to exist in any manner that is, or could be, injurious to that animal.

(7) Not give an animal any alcoholic beverage, unless prescribed by a veterinarian.

(8) Not allow animals that are natural enemies, temperamentally unsuited or otherwise incompatible to be quartered together or so near each other as to cause injury, fear or torment.

(9) Not allow any tack equipment, device, substance or material that is, or could be, injurious or cause unnecessary cruelty to any animal to be used on or with an animal.

(10) Keep or maintain animals confined at all times on the premises for which the permit has been issued unless the Department grants the permittee special permission to remove an animal from the premises. If a guard dog escapes, the owner or custodian shall immediately notify the Department of the escape and make every reasonable effort to recapture it. The owner or custodian shall also notify the Department within 24 hours of the animal's recapture.

(11) Give proper rest periods to any working animal. Any confined or restrained animal shall be given exercise proper for the individual animal under the particular conditions.

(12) Not work, use or rent any animal that is overheated, weakened, exhausted, sick, injured, diseased, lame or otherwise unfit.

(13) Not use or work any animal the Department has suspended from use until the Department releases the animal from suspension.

(14) Not display any animal bearing evidence of malnutrition, ill health, unhealed injury or having been kept in an unsanitary condition.

(15) Keep or maintain each animal in a manner as may be prescribed to protect the public from the animal and the animal from the public.

(16) Provide conspicuously posted, durable signs of sufficient size containing both a clear pictorial depiction of a guard dog and a legible written warning of the presence of a guard dog for every location that houses a guard dog or where a guard dog is working. These signs shall be maintained at every entrance and at not more than 50 foot intervals so as to be clearly visible on the fence or other enclosure where the dog is to be housed or working. Each sign

required by this subsection shall measure a minimum of 11 x 8.5 inches and use lettering of a minimum of 1.25 x .5 inch (91 point) and of contrasting color with the background. The signs shall also include the name and telephone number of the guard dog owner or operator housing or providing the dog.

(17) Take any animal to a veterinarian for examination or treatment when ordered by the Department.

(18) Display no animal whose appearance is, or may be, offensive or contrary to public decency.

(19) Not allow any animal to constitute or cause a hazard, or be a menace to the health, peace or safety of the community.

(20) Obtain and maintain liability insurance from an insurance company authorized to transact insurance business in the State of California, with coverage amounts that complies with this subsection. The insurance shall provide liability insurance coverage for the permittee for any loss due to bodily injury or death with not less than \$500,000 per occurrence and for any loss due property damage with not less than \$500,000 per occurrence. The permittee shall also furnish a certificate of insurance to the Department. The certificate shall provide the insurer will notify the Department in writing at least 30 days prior to policy cancellation or non-renewal. The certificate shall also provide all the following information:

- (A) The full name and address of the insurer.
- (B) The name and address of the insured.
- (C) The insurance policy number.
- (D) The type and limits of coverage.
- (E) The effective dates of the certificate.
- (F) The certificate issue date.

(21) Obtain a signed and dated acknowledgment from each person who hires a guard dog from the permittee before the guard dog is sent on assignment. The acknowledgment shall contain the name, address and telephone number of the permittee, the name, address and telephone number of the person who hired the guard dog and the location where the guard dog will be working while on assignment. The acknowledgement shall also contain the following language:

"In addition to other provision of law, any person or business entity who hires or has custody of a guard dog is responsible for preventing the dog from being at large, as defined in the San Diego County Code and from preventing the dog from attacking or injuring a person engaged in a lawful act. A person who hires a guard dog should immediately notify the guard dog operator in the event a guard dog escapes from its enclosure and the Department of Animal Control at (619) 236-2341 in the event an escaped dog is not immediately recaptured."

"The County Code also provides that a person who has custody or control of a dog which bites a person, shall notify the Department as soon as practicable after the incident and not more than 24 hours after the incident."

(22) Provide the Department with a copy of the signed acknowledgment required by subsection (21).

(23) Isolate and segregate at all times any sick or diseased animal from any healthy animal, so that the illness or disease will not be transmitted from one animal to another. Any sick or injured animal shall be isolated and given proper medical treatment.

(24) Immediately notify the owner of any animal held on consignment or boarded if the animal refuses to eat or drink beyond a reasonable period, is injured, becomes sick or dies. In case of death, the body of the dog shall be retained for 12 hours after notification has been sent to the owner.

(d) Reimburse the Department for all costs incurred in enforcing the provisions of this section.

#### **SEC. 62.688. ADDITIONAL SENTENCING PROVISIONS.**

When a person is convicted of a violation of this chapter that is classified as a misdemeanor, the sentencing court may order, in addition to any other sentencing provision, that the convicted person be prohibited from owning, possessing, caring for or having any contact with animals for a period of up to three years if the court deems the that action is necessary to ensure the animal or public safety or welfare. The court may also require the convicted person to immediately deliver all animals in the person's possession, custody or control to the Department for adoption or other lawful disposition and for the convicted person to provide proof to the court that the person no longer has possession, custody or control of any animal.

Section 6: Repeal Title 6, Division 2, Chapter 7 of the San Diego County Code.

Section 7: Amend Title 6, Division 2, Chapter 8 of the San Diego County Code to read as follows:

## **CHAPTER 8. DISPOSAL OF DEAD ANIMALS**

### **SEC. 62.801. PURPOSE.**

Improper disposal of dead animals may be hazardous to human health or the health of other animals and may spread disease, cause noxious odors or become a breeding or harborage ground for rodents or other pests. This chapter makes it unlawful for a person in the unincorporated area of the County to place or deposit a dead animal on certain locations on private property, for a property owner or tenant to allow a dead animal improperly placed or deposited to remain on private property or for a person to bury a dead animal on private property in a manner that is hazardous to health. This chapter also provides the Director of the Department of Environmental Health may abate a public nuisance on property involving a dead animal to protect the public health and safety.

### **SEC. 62.802. DEFINITIONS.**

As used in this chapter the term "animal" means any member of the animal kingdom other than a human and includes but is not be limited to all of the following: (a) all mammals , whether wild or tame, including but not limited to the dog, cat, horse, mule, cattle, sheep or hog, (b) all reptiles, including but not limited to the snake, (c) all aquatic animals, including but not limited to fish and (d) all birds and all fowl including but not limited to the chicken, turkey or duck.

### **SEC. 62.803. PROHIBITION AGAINST DEPOSITING OR KEEPING DEAD ANIMALS ON PRIVATE PROPERTY.**

(a) To the extent not prohibited by Penal Code section 374d, no person shall deposit a dead animal or allow a dead animal to remain on any private property in the unincorporated area of the County, within a quarter of a mile of a park, County highway, State highway, other public highway, road or alley or a dwelling or other structure used or occupied by a person or in any standing or running water, water well or open excavation.

(b) No person shall bury an animal carcass on property in the unincorporated area of the County less than three feet below the surface of the ground.

(c) An animal deposited or allowed to remain on property or buried on property in violation of this section is declared to be a public nuisance.

**SEC. 62.804. UNLAWFUL TO DISPOSE OF DEAD ANIMAL IMPROPERLY.**

It shall be unlawful for a person who owns, harbors, keeps or has custody of an animal to dispose of the dead animal or engage another person to dispose of the dead animal in violation of this chapter.

**SEC. 62.805. OWNER OR OCCUPANT OF LAND TO REMOVE DEAD ANIMAL.**

The owner, tenant in possession and any other person having control of property on which a dead animal has been deposited or is remaining in violation of section 62.802 shall remove the dead animal from the property and dispose of it lawfully or dispose of the dead animal on the property lawfully.

**SEC. 62.806. ABATEMENT OF DEAD ANIMAL BY DIRECTOR OF ENVIRONMENTAL HEALTH.**

In the event a dead animal is deposited or allowed to remain upon property in violation of section 62.802 the Director of the Department of Environmental Health may abate the dead animal pursuant to sections 16.201 et seq. and recover the County's abatement costs as provided in those sections.

Section 8: Amend Title 6, Division 2, Chapter 9 of the San Diego County Code to read as follows:

**CHAPTER 9. BEES**

**SEC. 62.901. PURPOSE.**

The State Legislature found in Food and Agricultural Code section 29000 that a healthy and vibrant apiary industry is important to the economy and welfare of the people of the State of California and the protection of the industry is in the interest of the people of the State. Food and Agricultural Code sections 29000 et seq. establish regulations for apiaries that are enforced by the Director of the State Department of Agriculture and county commissioners. This chapter establishes regulations intended to supplement the State regulations and to assist the County Commissioner to ensure that apiaries are safely maintained to benefit the citizens of San Diego County.

**SEC. 62.902. DEFINITIONS.**

The following definitions shall apply to this chapter:



(a) "Apiary" has the same meaning as the term "apiary" in Food and Agricultural Code section 29002.

(b) "Bee smoker" means an appliance utilizing smoke or fire used to aid in manipulating or moving bees.

(c) "Bees" has the same meaning as the term "bees" in Food and Agricultural Code section 29004.

(d) "Colony" has the same meaning as the term "colony" in Food and Agricultural Code section 29006.

(e) "Commissioner" means the County Agricultural Commissioner and any person the Commissioner employs or appoints to implement or enforce this chapter.

#### **SEC. 62.903. IDENTIFICATION SIGNS.**

A person owning an apiary located on property other than where the person resides shall identify the apiary with a sign prominently displayed on the entrance side of the apiary stating in black letters not less than one inch high, on a background of contrasting color, the name of the owner or person in possession of the apiary, that person's address and telephone number or, if the person has no telephone, a statement to that effect.

#### **SEC. 62.904. DISTANCE OF APIARY FROM ROADS.**

No person shall establish or maintain an apiary or cause or allow another person to establish or maintain an apiary within 100 feet of the exterior boundary of the traveled portion of a roadway or so close to the traveled portion of a public road as to constitute a nuisance or hazard to a person using the road.

#### **SEC. 62.905. DISTANCE FROM BUILDINGS.**

No person shall establish or maintain an apiary or cause or allow another person to establish or maintain an apiary closer than 600 feet from a dwelling, other than the dwelling where the person lives.

#### **SEC. 62.906. WATER SUPPLY REQUIRED.**

The owner or operator of an apiary shall ensure that bees in the apiary have an adequate and convenient supply of fresh water available at all times, including at

the time bees are first introduced at a location. If the property on which the apiary is located does not contain sufficient natural water to provide water for bees in the apiary at all times the owner or operator shall provide one or more water containers with a sufficient quantity of water to supply the apiary. The containers shall be equipped with floats to prevent the bees from drowning. The owner or operator of an apiary shall not allow a water source to become stagnant or be a mosquito breeding site.

#### **SEC. 62.907. IMPROPERLY MANAGED BEES.**

No person shall own or operate an apiary that contains one or more colonies of bees that are improperly managed. A colony of bees shall be considered improperly managed when bees from the colony are off the apiary property and sting or attempt to sting humans or animals without provocation.

#### **SEC. 62.908. TRANSPORTATION OF BEES.**

No person shall transport a colony of bees between sunrise and sunset or cause bees to be transported during that time period unless the bees are transported in a vehicle with bee-tight screens or other devices that will prevent bees from escaping from the vehicle.

#### **SEC. 62.909. FIREBREAK.**

A person who owns or operates an apiary shall maintain a firebreak not less than 30 feet wide around the apiary that meets the following specifications:

(a) Subject to subsection (c), the 10-foot wide area closest to the apiary shall be cleared of all combustible material and in the adjoining 10-foot wide area of the firebreak all combustible vegetation shall be cut or trimmed to a height no greater than 6 inches above the ground.

(b) In the outer 10-foot wide area all flammable vegetation shall be trimmed to a height no greater than 12 inches above the ground.

(c) Subsections (a) and (b) shall not be construed to require the owner or operator to cut or remove live trees, unless the fire official having jurisdiction requires trees to be cut or removed.

### **SEC. 62.910. FIRE FIGHTING MATERIALS.**

A person who owns or operates an apiary shall at all times maintain the following fire fighting materials, in good working condition, sufficiently near the apiary so as to be immediately available in case of fire:

(a) A shovel.

(b) A fire extinguisher of either the two and one-half gallon water-under-pressure type or the five gallon back-pack pump type unless the owner or operator of the apiary obtains written approval from the fire official having jurisdiction to use some other equally effective fire extinguisher.

### **SEC. 62.911. BEE SMOKERS.**

A person using a bee smoker shall comply with the following regulations:

(a) The bee smoker shall be plugged with a metal or hardwood plug while being transported to or from an apiary.

(b) All burning or smoldering substances within a bee smoker shall be completely extinguished with water before transporting a bee smoker to or from an apiary or the bee smoker containing these substances shall be carried in a container which is securely fastened to the vehicle used for the transporting it. The container shall be metal and shall have a top or cover made of the same material as the container. The top or cover shall be securely fastened in the closed position whenever a bee smoker is being transported.

### **SEC. 62.912. TRANSPORT CERTIFICATE INSPECTION AND FEE.**

The Commissioner may inspect and certify an apiary when requested by the owner or shipper of an apiary, pursuant to Food and Agricultural Code sections 29140 et seq., who requires an exportation certificate to transport an apiary to another state or country. Before the inspection the person requesting the inspection shall pay the Commissioner the fee the Board of Supervisors establishes for the inspection and certification.

### **SEC. 62.913. VIOLATION.**

A person who violates section 62.908 shall be guilty of a misdemeanor. A person who violates any other section of this chapter shall be guilty of an infraction, except that a person who commits three or more similar violations in a twelve month period may be charged with a misdemeanor.

## **SEC. 62.914. NUISANCE ABATEMENT.**

In addition to the authority granted the Commissioner to abate an infested hive or bee colony under Food and Agricultural Code sections 29200 et seq. the Commissioner may abate a violation of this chapter pursuant to sections 16.201 et seq.

## **62.915. REMEDIES CUMULATIVE.**

The Commissioner may utilize any enforcement procedure authorized by this code or State law. If the Commissioner abates a nuisance under this chapter, the Commissioner may also institute a criminal prosecution against a person responsible for the public nuisance.

Section 9: Repeal Title 6, Division 3, Chapter 1 of the San Diego County Code.

Section 10: Amend Title 6, Division 3, Chapter 2 of the San Diego County Code to read as follows:

## **CHAPTER 2. PEST CONTROL**

### **SEC. 63.201. PURPOSE.**

One of the purposes of Food and Agricultural Code (F & A Code) sections 11501 et seq. is to provide for pest control by competent and responsible licensees under the control of the Director of the California Department of Pesticide Regulation and county agricultural commissioners. State law provides for pest control operators to register annually with the commissioner of the county in which they operate and for the commissioners to recover the cost of registration. This chapter establishes the procedures for the various types of pest control operators to register with the County Agricultural Commissioner (Commissioner).

### **SEC. 63.202. REGISTRATION AND FEES FOR PEST CONTROL OPERATORS.**

A person advertising, soliciting or operating as a pest control business in San Diego County required to register annually with the Commissioner pursuant to F & A Code section 11732, shall at the time of registration, pay the Commissioner the annual fee established by the Board of Supervisors (Board) to cover the County's costs for the registration, authorized by F & A Code section 11734.

**SEC. 63.203. REGISTRATION AND FEES FOR AGRICULTURAL PEST CONTROL ADVISERS.**

An agricultural pest control adviser, required to register annually with the Commissioner pursuant to F & A Code section 12031, shall at the time of registration, pay the Commissioner the annual fee established by the Board to cover the County's costs for the registration, authorized by F & A Code section 12034.

**SEC. 63.204. REGISTRATION AND FEES FOR MAINTENANCE GARDENERS PERFORMING INCIDENTAL PEST CONTROL.**

A person engaging in pest control incidental to a maintenance gardening business regulated under F & A Code section 11704 shall register annually with the Commissioner and at the time of registration, pay the Commissioner the annual fee in the maintenance gardener category, established by the Board to cover the County's costs for the registration authorized by F & A Code section 11734.

**SEC. 63.205. REGISTRATION OF AND FEES FOR PEST CONTROL PILOTS.**

A person acting as a pest control aircraft pilot required to register annually with the Commissioner pursuant to F & A Code sections 11920-11922 shall at the time of registration, pay the Commissioner the annual fee established by the Board to cover the County's costs for the registration authorized by F & A Code section 11923.

**SEC. 63.206. REGISTRATION AND FEES FOR BRANCH 2 AND 3 STRUCTURAL PEST CONTROL OPERATORS, QUALIFYING MANAGERS AND STRUCTURAL PEST CONTROL BOARD REGISTERED COMPANIES.**

A licensed structural pest control operator, qualifying manager or a Structural Pest Control Board (SPCB) registered company in the Branch 2 or Branch 3 license category, required to register for the calendar year with the Commissioner pursuant to F & A Code section 15204 shall at the time of registration, pay the Commissioner the annual fee established by the Board to cover the County's costs for the registration authorized by F & A Code section 15204.

**SEC. 63.207. REGISTRATION AND FEES FOR BRANCH 1  
STRUCTURAL PEST CONTROL LICENSEES AND COMPANIES.**

A Structural Pest Control licensee, including a structural pest control operator or field representative, or Structural Control Board Registered company in the Branch 1 license category, required to register for the calendar year with the Commissioner pursuant to F & A Code section 15204.5 shall at the time of registration, pay the Commissioner the annual fee established by the Board to cover the County's costs for the registration authorized by F & A Code section 15204.5.

**SEC. 63.208. STRUCTURAL PEST CONTROL BOARD EXAMINATION  
AND FEE.**

A person requesting to take a SPCB examination administered by the Commissioner shall pay the Commissioner a fee approved by the Board to cover the County's costs for administering the exam authorized by the Memorandum of Understanding between the State of California Department of Consumer Affairs Structural Pest Control Board and the Commissioner.

Section 11: Repeal Title 6, Division 3, Chapter 3 of the San Diego County Code.

Section 12: Amend Title 6, Division 3, Chapter 4 of the San Diego County Code to read as follows:

**CHAPTER 4. AGRICULTURAL ENTERPRISES AND NOTICE TO  
PROSPECTIVE HOMEOWNERS**

**SEC. 63.401. PURPOSE.**

California Civil Code section 3482.5 provides that no agricultural activity, operation, facility or appurtenances, conducted or maintained for commercial purposes in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural enterprises in the same locality, shall be or shall become a nuisance due to a changed condition in or about the locality, after the agricultural enterprise has operated for more than three years, if it was not a nuisance at the time it began. Similarly, California Civil Code sections 3482.6 provides that no agricultural processing activity, operation, facility or appurtenances conducted or maintained for commercial purposes in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural enterprises in the same locality, shall be or shall become a nuisance due to a changed condition in or about the locality, after the agricultural enterprise has operated for more than three years, if it was not a

nuisance at the time it began. Sections 3482.5 and 3482.6 allow a local public entity, however, to adopt an ordinance that allows notification to a prospective homeowner that a dwelling is in a close proximity to an agricultural enterprise. The commercial agricultural industry in the unincorporated area of the County is an important element of the County's economy and a valuable open space and greenbelt resource for County residents. Because conflicts may occur between agricultural enterprises and certain other land uses, this chapter requires the seller of property intended for residential use to notify a prospective purchaser of the property that there may be conflicts between an existing agricultural enterprise and residential use of the property.

#### **SEC. 63.402. NOTICE TO PROSPECTIVE PURCHASERS OF RESIDENTIAL PROPERTY.**

A property owner selling real property intended for residential use in the unincorporated area of the County shall provide a written disclosure to a prospective purchaser of the property that contains the following information, on a disclosure form that complies with Civil Code section 1102.6a:

"Commercial agricultural operations are located throughout the unincorporated area of San Diego County and are often conducted on relatively small parcels. Because the subject property is also located in the unincorporated area it is likely to be located near a commercial agricultural enterprise. Occupants of the property offered for sale may experience inconvenience, irritation or discomfort arising from the agricultural enterprise, including but not limited to noise, odors, fumes, dust, smoke, insects, rodents, the operation of machinery of any kind, including aircraft, during any 24 hour period, the storage and disposal of manure, and agricultural chemicals, such as pesticides and fertilizers, that may be applied by spraying or other means. If the inconvenience, irritation and discomfort is caused by a commercial agricultural enterprise that is being conducted or maintained in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural enterprises in the same locality, and the enterprise has been in operation for more than three years and was not a nuisance at the time the enterprise began, Civil Code sections 3482.5(a) and 3482.6(a) provide the enterprise shall not be considered a nuisance under the State or local law, either presently or in the future. Consequently, occupants of the property may be required to accept the inconvenience, irritation or discomfort, unless the agricultural enterprise constitutes a nuisance under Civil Code section 3482.5(b) or (c) or Civil Code section 3482.6(b) or (c). You should also be aware that an agricultural enterprise may be altered or expanded in the future."

Section 13: Repeal Title 6, Division 6, Chapter 8 of the San Diego County Code.

Section 14: Amend Title 6, Division 8, Chapter 5 of the San Diego County Code to read as follows:

## **CHAPTER 5. MANAGEMENT OF SOLID WASTE**

### **ARTICLE I. GENERAL PROVISIONS AND DEFINITIONS**

#### **SEC. 68.501. PURPOSE.**

(a) California Public Resources Code (PRC) section 40059 authorizes a local agency to determine all aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services within its jurisdiction. PRC section 40051 provides that a local agency, in implementing its responsibilities for solid waste management, shall, among other things, promote recycling. The purpose of this chapter is to provide for the orderly regulation of collecting, transporting, and disposing of solid waste, including recyclable materials, kept, accumulated or produced within the unincorporated area of the County.

(b) The Board of Supervisors (Board) finds that solid waste shall be regulated to the extent necessary to protect the health, safety and welfare of the public, to conserve disposal capacity, to meet State laws and to ensure cost effective public service. The Board determines that these goals may best be accomplished by a system of non-exclusive management agreements regulating solid waste collection and disposal and a comprehensive system for storage, collection, removal, transport and recovery of marketable and recyclable materials. This chapter shall be construed to achieve this purpose.

#### **SEC. 68.502. DEFINITIONS.**

The following definitions shall apply to this chapter:

(a) "Aluminum" means recoverable materials made from aluminum such as used aluminum food and beverage containers, aluminum foil, siding, screening and other item manufactured from aluminum.

(b) "Authorized enforcement officer" means the director of the County department who is authorized to enforce a portion of this chapter and any person that director appoints or hires to enforce a portion of this chapter.

(c) "Biohazardous waste" has the same meaning as the term "biohazardous waste" in Health and Safety Code section 117635.



(d) "Cardboard" means post-consumer waste paper grade, corrugated cardboard (#11), kraft (brown) paper bags or solid fiber boxes which have served their packaging purpose and are discarded and can later be reclaimed for collection and recovery for recycling.

(e) "Collection" means the act of taking possession of solid waste or recyclable materials at a residential, commercial, industrial or institutional site and transporting it to a facility for processing, composting, transfer, disposal or burning.

(f) "Collector" means any person who has a current valid Solid Waste Management Agreement with the County that is not suspended or revoked, to operate an enterprise to collect and subsequently transport or dispose of solid waste within the County.

(g) "Construction and demolition waste" means the nonhazardous waste building material, inert material, soil, packaging, green materials and rubble resulting from construction or demolition.

(h) "Designated recyclable materials" means materials identified in this chapter as materials that are required to be recycled and those additional materials the Director of Public Works identifies from time to time that shall be added to list of materials required to be recycled.

(i) "Disposal" means the management of solid waste through landfill disposal or transformation at a permitted solid waste facility.

(j) "Director" means the Director of Public Works and any person the Director appoints or hires to administer or enforce this chapter.

(k) "Glass bottles and jars" means food and beverage containers made from silica or sand, soda ash and limestone, the product being transparent or translucent and being used for packaging or bottling, including container glass designated redeemable under the California Beverage Container Recycling and Litter Reduction Law, Public Resources Code sections 14500 et seq., as well as glass bottles and jars without redeemable value ("scrap"), but excluding household, kitchen and other sources of noncontainer glass such as drinking glasses, ceramics, light bulbs, window pane glass and similar glass products.

(l) "Green waste" means leaves, grass, weeds, shrubs, tree branches, tree trunks and other wood materials from trees.

(m) "Hazardous waste" means any substance defined as acutely hazardous waste, extremely hazardous waste or hazardous waste in Health and Safety Code sections 25110.02, 25115, and 25117 respectively, any substance listed as hazardous waste in 42 USC Sec. 6901 et seq., and any substance identified or listed as hazardous waste by any State or Federal agency.

(n) "Hospitality facility" means an establishment that offers dining services or sells food or beverages to consume on or off the premises, such as a cafeteria, restaurant, café, sandwich shop, school, college, hospital, mini-mart, convenience store, tavern or bar, and a hotel, motel, inn or other transient occupancy facility that offers dining services or sells food or beverages on its premises.

(o) "Hospitality recyclable materials" means the following material when generated by a hospitality facility: aluminum, corrugated cardboard, glass bottles and jars, plastic bottles, tin and bi-metal cans, mixed paper and white goods generated by hospitality facilities.

(p) "Industrial recyclables" means loads consisting of 90% or more of any of the following materials: asphalt, concrete, dirt, land clearing vegetation, sand, gravel and rock.

(q) "Industrial Service" means collection of all types of solid wastes which result from construction and demolition activity, industrial processes and manufacturing operations, but does not include collection of hazardous waste.

(r) "Inert materials" mean materials such as concrete, soil, asphalt, ceramics and bricks.

(s) "Manure" means accumulated animal excrement and includes feces and urine which may be mixed with any animal bedding material, spilled feed or soil.

(t) "Medical waste" has the same meaning as the term "medical waste" as provided in Health and Safety Code (H & S Code) sections 117690, 117695 and 117700 and also includes "biohazardous waste" as defined by H& S Code section 117635. Medical waste also includes any waste that federal law or any other State law defines as medical waste. "Treated medical waste" means medical waste that has been treated pursuant to the California Medical Waste Management Act, H & S Code sections 118215 et seq. Medical waste that has not been treated pursuant to these requirements shall be referred to as untreated medical waste.

(u) "Mixed paper" means magazines, newspapers, telephone books, cereal boxes, mail, catalogs, copy paper, clean food boxes, paper bags and other similar material, but does not include paper towels, tissues, plasticized or waxed paper,

books with metal rings, folders with metal clips or dirty food boxes, such as pizza boxes.

(v) "Multi-family residential facility" means a residential property with four or more dwelling units. A multi-family residential facility does not include a hotel or motel or other transient occupancy facility.

(w) "Newspaper" means a publication such as a magazine, catalogue, circular, pamphlet, advertisement, telephone book, newspaper or other similar matter made of newsprint or other similar quality paper and also includes packing material made from newsprint.

(x) "Office paper" means waste paper grade paper of the type usually generated by an office such as paper used by a computer printer, fax machine, copier, adding machine or other piece of office equipment or ledger papers or other papers that are commonly accepted by office paper recycling services.

(y) "Office recyclable materials" means office paper, corrugated cardboard, newspaper and aluminum.

(z) "Plastic bottles, jugs and jars" means plastic containers marked ♻ or ♻, and all beverage containers labeled "CA redemption value" or "CA cash refund" including: (a) food and beverage containers for milk, soda, water, salad dressings, cooking oil, etc., (b) jars and canisters for peanut butter, mayonnaise, aspirin, 35 mm film, etc., (c) cleaning products such as detergents, bleach, soap, shampoo, drain cleaners, etc. and (d) automotive and yard products containers for motor oil, antifreeze, herbicide, plant food, etc.

(aa) "Processing" means the reduction, separation, recovery or conversion of solid waste.

(bb) "Putrescible waste" means a type of waste that is capable of being decomposed by microorganisms with sufficient rapidity as to cause a nuisance because of odors, gases or other offensive conditions and includes food waste, manure, dead animals and green waste.

(cc) "Radioactive waste" means any radioactive material, as defined in Health and Safety Code section 11470, that is discarded as unusable.

(dd) "Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating and reconfiguring materials that would otherwise become solid waste and returning them to the economic mainstream in the form of raw material for new, reused or reconstituted products which meet the quality standards

necessary to be used in the marketplace. Recycling does not include transformation.

(ee) "Removal" means the act of taking solid wastes or recoverable material from the place of generation by an approved collector, agent for the collector or by a person in control of the premises.

(ff) "Residential recyclable materials" means aluminum, glass bottles and jars, mixed paper, cardboard, plastic bottles, jugs and jars, tin and bi-metal cans, white goods and green waste, generated from residential properties.

(gg) "Residential service" means collection of all types of domestic solid waste or recyclables generated in single-family or multi-family residential dwellings.

(hh) "Residential solid waste" means solid waste generated in single-family or multi-family residential dwellings.

(ii) "Rubbish" means non-putrescible solid waste.

(jj) "Solid waste" means all putrescible and non-putrescible solid, semi-solid and liquid wastes, including rubbish, paper, ashes, industrial wastes, construction and demolition waste, abandoned vehicles, abandoned vehicle parts, discarded residential, commercial and industrial appliances, manure, vegetable or animal solid and semi-solid wastes and dewatered, treated or chemically fixed sewage sludge that is not hazardous waste. Solid waste, however, does not include hazardous waste, radioactive waste or medical waste.

(kk) "Solid waste facility" means a solid waste transfer station or a construction, demolition and inert debris processing/disposal facility, a compostable materials handling facility, a transformation facility, an incinerator or a disposal facility.

(ll) "Solid Waste Management Agreement" (SWMA) means a non-exclusive agreement entered into between the collector and the County where the collector agrees to store or transport solid waste or both.

(mm) "Storage" means the interim containment of solid waste or recyclable material.

(nn) "Street" means a street, highway, road, alley, road right of way or any other public or private thoroughfare.

(oo) "Tin and bi-metal can" means a steel food or beverage container with a tin or aluminum plating.

(pp) "Transfer station" means a facility that receives, handles, separates, converts or otherwise processes materials in solid waste or transfers solid waste directly from one container to another for transport or for storage.

(qq) "Transformation" has the same meaning as the term "transformation" in Public Resources Code section 40201.

(rr) "Vector" means an animal capable of transmitting the causative agent of human disease.

(ss) "White goods" means major kitchen appliances or other large appliances.

(tt) "Wood waste" means lumber and wood products but does not include painted wood, wood treated with chemicals and pressure treated wood.

#### **SEC. 68.503. UNLAWFUL TO DEPOSIT SOLID WASTE IN PUBLIC OR PRIVATE PLACES.**

(a) It shall be unlawful and is a public nuisance for a person to place, deposit or bury or employ another person to place, deposit or bury, any solid waste as defined in section 68.502(jj), on the right of way of any street or highway, any park or campgrounds or on any public or private property, unless the property is a solid waste facility regulated under the California Public Resources Code, or the property contains a receptacle for temporarily depositing solid waste and the solid waste is properly deposited in the receptacle. It shall also be unlawful and a public nuisance for the owner or occupier of private property who knows that solid waste has been unlawfully placed, deposited or buried on property they own or occupy to allow the solid waste to remain on that property.

(b) The Directors of the Departments of Public Works, Planning and Land Use, Environmental Health, Parks and Recreation and Agriculture, Weights and Measures shall have enforcement authority to enforce this section, within their areas of responsibility.

#### **SEC. 68.504. UNLAWFUL TO PLACE DANGEROUS MATERIALS IN SOLID WASTE RECEPTACLES.**

(a) No person shall place or deposit the following in any receptacle used for collection of solid waste: any waste classified as hazardous, biohazardous, radioactive, or any narcotics or controlled substances, operable hypodermic

needles, poisons, liquid or dry caustics or acids, flammable or explosive materials, pesticides or similar substances dangerous to waste collection and disposal personnel.

(b) The Director of the Department of Environmental Health shall have enforcement authority for this section.

#### **SEC. 68.505. HAZARDOUS AND MEDICAL WASTES.**

(a) No person shall transport or collect hazardous wastes or medical wastes without complying with all applicable State laws.

(b) No person shall deposit, dump, spill, place or otherwise allow to be disposed of in or on a solid waste facility not designated as a hazardous waste disposal facility, any waste classified as hazardous pursuant to State, federal or County law.

(c) No person shall deposit, dump, spill, place or otherwise allow untreated medical waste to be disposed of in or on a solid waste facility.

(d) The Director of the Department of Environmental Health shall have enforcement authority for this section.

#### **SEC. 68.506. TRANSPORTATION OF SOLID WASTE.**

(a) No person shall convey or transport solid waste on or along any public highway in the County unless the solid waste is contained and covered to prevent it from leaving the vehicle in which it is being conveyed or transported. A person engaged in the collection of solid waste, however, may allow a vehicle transporting solid waste to be uncovered while picking up solid waste where the stops are separated by less than one mile. When traveling between pick-up stops and a disposal area, all loads of solid waste shall be completely covered. All vehicles and equipment used in the transport of any form of solid waste shall be kept clean. No person shall drain the liquid from any vehicle that transports any form of solid waste on any road or highway or on any other land in a manner as to create an unsanitary condition. Persons hauling solid waste on the public highways shall completely empty the solid wastes from all vehicles and containers at disposal sites in order to prevent the residue from scattering on the return trip.

**SEC. 68.507. UNLAWFUL TO REMOVE RECYCLABLE OR OTHER SALVAGEABLE MATERIAL WITHOUT AUTHORITY.**

(a) Where recyclable or other salvageable material has been separated for collection purposes or other recovery in the unincorporated area of the County it shall be unlawful for:

(1) A person to take or remove any separated recyclable or other salvageable material from any curb, street, designated pick-up location, storage area or container, a solid waste facility or any other public or private property unless the person has authority from the County, the property owner or other occupant who generated the material, or when the material is at a solid waste facility, from the operator of the facility.

(2) A person to disturb, tamper with or remove from its location, a receptacle containing recyclable or other salvageable material or the contents of the receptacle without authorization from the owner of the receptacle.

(b) The Director shall have enforcement authority for this section.

**ARTICLE II. CONSTRUCTION AND DEMOLITION MATERIALS DIVERSION PROGRAM**

**SEC. 68.511. PURPOSE.**

The purpose of this article is to establish the Construction and Demolition Materials Diversion Program in the unincorporated area of the County. This program is intended to increase diversion of construction and demolition materials from landfills, conserve landfill capacity, extend the useful life of local landfills and avoid potential consequences to the County if it fails to comply with State waste diversion requirements.

**SEC. 68.512. DEFINITIONS.**

For the purposes of this article, the following definitions shall apply:

(a) "Applicant" means a person who applies to the County of San Diego for a permit for an applicable project.

(b) "Applicable project" means a construction or demolition project subject to a threshold in section 68.513(a).

(c) "Chipping and grinding operation" means an operation or facility that does not produce compost or that mechanically reduces the size of or otherwise engages in the handling of compostable material.

(d) "Construction" means the act of building, making, erecting, remodeling, repairing, renovating or improving a "structure," as that term is defined in the California Building Code and includes any project for which the County requires a building permit.

(e) "Construction and demolition debris" means nonhazardous waste building material, inert material, soil, packaging, green material and rubble resulting from construction or demolition.

(f) "Conversion rate" means the rate in the standardized conversion rate table approved by the County pursuant to this article for use in estimating the volume or weight of materials identified in a debris management plan (DMP).

(g) "Debris management plan (DMP)" means a plan for diverting construction or demolition debris required by this article.

(h) "Demolition" means the act of removing, razing or tearing down a structure or any portion of a structure.

(i) "DMP compliance official" means a person responsible for implementing this article.

(j) "DMP permittee" means a person who is required to divert construction or demolition waste under this article and who has an approved DMP.

(l) "Divert" means to reuse or recycle construction or demolition debris.

(m) "Diversion requirement" means the requirement in this article to divert a percentage of construction and demolition debris generated by an applicable project.

(n) "DPW" means the Department of Public Works.

(o) "Green material" means any material related to land development such as yard trimmings, trees, brush and construction and demolition wood waste. Green material does not include food material, bio-solids, wood containing lead-based paint or wood preservatives, mixed construction debris or mixed demolition debris.



(p) "Green material processing operations" means a facility or center that processes green material through composting, chipping or grinding operations.

(q) "Inert debris" has the same definition as the term "inert debris" in California Code of Regulations Title 14, section 17381(k) and means materials such as concrete, soil, asphalt, ceramics or masonry.

(r) "Permitted construction and demolition and inert recycling center" or "CDI center" means a facility or center for which the Local Enforcement Agency has issued an oversight permit to allow the facility or center to receive or process construction, demolition or inert debris.

(s) "Project" means any construction or demolition, which requires a building or demolition permit or any similar permit.

(t) "Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

(u) "Reuse" means further or repeated use of construction and demolition debris.

(v) "Salvage" means the controlled removal of construction and demolition debris from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

#### **SEC. 68.513. THRESHOLD FOR APPLICABLE PROJECTS.**

(a) An applicable project shall be one in which the total square footage of demolition and construction is equal to or greater than 40,000 square feet. In measuring the square footage of a project, each floor of a building shall be counted, not just the building's footprint. Projects shall also include paved areas, walkways, driveways, parking areas, decks, patios or any other landscape areas that are demolished, constructed, excavated or graded. For the purpose of determining whether a project meets the foregoing thresholds, all phases of a project and all related demolition, construction, excavation or grading occurring on the same or other parcels, as determined by a DMP compliance official, shall be deemed a single project.

(b) All construction and/or demolition projects conducted by the County shall be subject to the thresholds established by this article. The applicant or the

applicant's contractor shall submit a DMP to the DMP compliance official prior to beginning any activities.

(c) All applicable projects shall comply with this article.

#### **SEC. 68.514. SUBMISSION OF DEBRIS MANAGEMENT PLAN.**

(a) An applicant for a project subject to a threshold in section 68.513 shall submit a completed DMP with an application for a building permit or demolition permit to DPW. The DMP shall provide all the following information:

(1) The type of project.

(2) The total square footage of the project.

(3) The estimated volume or weight of project construction and demolition debris, by material type, that the project will generate.

(4) The maximum volume or weight of construction and demolition debris that can feasibly be diverted via reuse or recycling.

(5) The estimated volume or weight of construction and demolition debris that will be disposed of in a landfill.

(6) The name and address of any person or recycling facility the applicant proposes to use to collect, process or receive construction and demolition debris the project will generate.

(b) The County shall prepare a list of recyclers who accept construction and demolition materials in the unincorporated and incorporated areas of the County. The County shall make the list available to any person upon request.

(c) The County shall prepare conversion rates tables that shall be used by an applicant to calculate the volume and weight of construction and demolition debris.

#### **SEC. 68.515. PERFORMANCE GUARANTEE.**

(a) The applicant for any applicable project shall submit a performance guarantee to DPW as a condition of a building permit.

(b) A performance guarantee may be in the form of any combination of the following: cash deposit, irrevocable letter of credit or other recognized form of security the County determines is acceptable.

(c) Cash deposits for a performance guarantee shall be deposited in an interest bearing account and returned with interest to the DMP permittee upon the County's determination of full compliance or prorated based on the degree of compliance. Any forfeited performance guarantee, including interest on a cash deposit, shall be used first to recover the County's administrative costs related to processing the DMP. Remaining funds shall be used only for programs to develop or improve the infrastructure for construction and demolition debris.

(d) The amount of a performance guarantee required shall be determined by the following schedule:

Performance Guarantee Values

Building Segment	Guarantee per Sq. Ft.	Maximum Sq. Ft. Subject to Guarantee
Residential	\$0.20	125,000 detached
		100,000 attached
Non-residential	\$0.20	40,000 commercial
		75,000 industrial

**SEC. 68.516. DEBRIS MANAGEMENT PLAN.**

(a) An applicable project shall recycle 90% of inert debris and 70% or all other construction and demolition debris.

(b) Notwithstanding any other provision of this code, no building permit shall be issued for any applicable project unless a DMP compliance official has approved the DMP. Approval shall not be required, however, when emergency demolition is required to protect public health or safety. A DMP compliance official shall approve a DMP if the official determines that all of the following conditions have been met:

(1) The DMP provides all of the information required by Section 68.511(a).

(2) The DMP complies with subsection (a) above.

## **SEC. 68.517. INFEASIBILITY EXEMPTION.**

(a) If it is infeasible for an applicant for an applicable project to comply with all of the requirements of section 68.516(a), the applicant may apply for an exemption. For the purposes of this section, "infeasible" means that there is no recycling, salvage or construction demolition inert processing (CDI) center or onsite reuse options for all or part of the construction or demolition debris a project will generate, within a 50 mile radius of the project area, any location from which the applicant regularly operates its business, or stores its construction or demolition equipment. The applicant shall apply for the exemption on a form provided by the County at that same time as the applicant submits the DMP required by section 68.514(a).

(b) If a DMP compliance official grants the applicant's request for an exemption, the official shall determine what percentage of construction and demolition debris the applicant is required to recycle. In reaching this determination, the official may consult with any State or local official and the applicant. The official shall issue a determination in writing and serve it under section 11.112 of this code.

(c) Within 15 days from the date the official serves the notice, the applicant shall submit a revised DMP or file an appeal under Section 68.520.

## **SEC. 68.518. COMPLIANCE WITH DEBRIS MANAGEMENT PLAN.**

(a) For each construction or demolition site for which the DMP permit is issued, the DMP permittee shall maintain a daily log of all construction or demolition debris that leaves the site and all receipts from each CDI center, recycling center, vendor, green materials operation or disposal or transfer station facility that accepted debris from the DMP permittee. The log shall identify the project location, and each log entry shall contain the date a load was transported, the type of debris, the weight of the debris or its approximate tonnage, the name of the receiving facility and whether the material was disposed of in a landfill or recycled. Each log entry shall correspond with a receipt issued by the facility that accepted the debris. The log and all receipts shall be made available to any County inspector or DMP compliance official responsible to insure compliance with this article. The permittee's failure to have the receipts from the receiving facility that accepted the debris or the log containing all the information required by this subsection available for inspection constitutes grounds for suspension of the building permit.

(b) After construction or demolition begins, a DMP permittee shall maintain evidence that the permittee is complying with the approved DMP and make that evidence available to the DMP compliance officer demonstrating that the permittee is complying with the approved DMP. Within 180 days after the County issues a certificate of occupancy or, for a project with multiple phases, the last certificate of occupancy for the project, the DMP permittee shall submit a final report that includes proof of compliance with the DMP.

(c) In addition to the requirements under subsection (a) above, the permittee shall comply with all of the following:

(1) If a receipt from a recycling center or other facility in subsection (a) does not contain a statement of the weight of the debris, the DMP permittee shall provide a printout or other verifiable statement of the weight of the debris, produced by a weighing device with a current registration certificate from the County Sealer.

(2) If it is impracticable to weigh the construction or demolition debris, the DMP permittee shall measure the debris and submit a statement of its volume along with the calculation of the weight of the debris, using the County's conversion rate table referenced in section 68.514(c).

(3) If the debris was reused onsite or collected by a third party for salvage, the DMP permittee shall provide a receipt or other proof of diversion including photos or any additional information relevant to determining compliance with the DMP.

(4) A statement from an authorized representative of the DMP permittee signed under penalty of perjury verifying that the information submitted to the County in compliance with subsections (1)-(3) above is accurate.

(d) If a DMP compliance official determines the DMP permittee has complied with the DMP, the compliance official shall direct that the permittee's performance guarantee be released within 30 days of final DMP submittal. If the compliance officer determines the DMP permittee has not complied with the DMP, the compliance officer shall calculate the percent of the permittee's failure to comply and issue a forfeiture notice to the DMP permittee based upon a sliding scale. The compliance officer shall serve the permittee, pursuant to section 11.112 of this code, with a statement of compliance or a notice of forfeiture. The permittee shall have 15 days from the date a notice of forfeiture is served to file an appeal of the forfeiture under section 68.520.

## **SEC. 68.519. COUNTY'S RIGHT TO MONITOR, INSPECT AND ENFORCE.**

(a) As an additional condition of approval of a DMP under section 68.516, a DMP permittee shall consent to allowing the County the right to inspect any construction or demolition site during normal business hours without notice. The DMP permittee shall have the receipts and log that the permittee is required to maintain under section 68.518(a) available for the inspector.

(b) If a permittee or any of the permittee's agents or employees refuse to allow a County inspector to inspect the site or the permittee's log and receipts the County shall have the right to suspend the permittee's building permit. The County shall also have the right to obtain an inspection warrant under Code of Civil Procedure sections 1822.50 et seq. The County shall also have the right to suspend the permit: (1) if the permittee fails to maintain or have available the log or receipts required by this article, (2) if the permittee violates any other provision of this article or (3) if the permittee commits any other act which would be grounds for suspension of a building permit.

(c) If the County decides to suspend the permit under this section, the County shall issue a notice of suspension and serve the permittee under section 11.112 of this code. The suspension shall be effective 15 days from the date the County serves the notice of suspension, unless the permittee appeals the notice of suspension under section 68.520, which stays the effective date of the suspension until the appeal is decided. If the County determines that any construction or demolition site is unsafe or that the permittee has knowingly failed to comply with section 68.518, the County may suspend the permit immediately and advise the permittee in the notice of suspension that the permit is suspended immediately and state the reasons for the immediate suspension. A notice of immediate suspension is also appealable under section 68.520, but an appeal does not stay the immediate suspension of the permit.

(d) It shall be unlawful for any permittee to continue to operate under a DMP in violation of subsection (c) above.

(e) It shall also be unlawful for an applicant or a DMP permittee to knowingly provide false information to the County under this article.

## **SEC. 68.520. APPEALS.**

The following appeals may be made to the Director: (a) denial of an infeasibility exemption under section 68.517, (b) forfeiture of performance guarantee under section 68.518 or (c) suspension of the DMP permit under Section

68.519. No other appeal shall be allowed under this article. A notice of appeal shall be in writing and filed with or mailed to the Director within 15 days from the date the County served any appealable notice. The postmark on any mailed notice of appeal shall be deemed to be the date appellant filed a notice of appeal by mail. The Director shall appoint an independent hearing officer to hear the appeal under procedures established by the Director. The decision of the hearing officer shall be final.

### **ARTICLE III. STORAGE OF SOLID WASTE AND DESIGNATED RECYCLABLES STORAGE AND NUISANCE ABATEMENT**

#### **SEC. 68.521. COLLECTOR'S OBLIGATIONS FOR STORAGE CONTAINERS.**

(a) In addition to complying with solid waste storage regulations in 14 CCR sections 17301 et seq., a collector furnishing solid waste storage containers shall comply with the following requirements:

(1) Containers shall be designed for safe handling. They shall be non-absorbent, watertight, vector-resistant, durable, easily cleanable, and provided with tight-fitting lids or covers which can be readily removed.

(2) Waste containers which are used for mechanized collection, including stationary compactors and are used for putrescibles or similar waste matter shall be equipped with close-fitting lids.

(b) A collector operating pursuant to an SWMA with the County shall furnish containers for collection for designated recyclables to each of their customers. The containers shall effectively segregate the designated recyclables for pick-up.

#### **SEC. 68.522. STORAGE.**

Property owners and tenants, in addition to complying with 14 CCR section 17315, shall be responsible for safe and sanitary storage of all solid waste and designated recyclables that accumulate on the property. Property owners and tenants shall store designated recyclables separately from solid waste.

#### **SEC. 58.523. DIRECTOR DEPARTMENT OF PUBLIC WORKS TO ENFORCE ARTICLE.**

The Director shall have enforcement authority for this article.

## **ARTICLE IV. SOLID WASTE MANAGEMENT AGREEMENT REQUIRED**

### **SEC. 68.530. SOLID WASTE MANAGEMENT AGREEMENT REQUIRED TO COLLECT SOLID WASTES.**

Except as specifically exempted in section 68.531, it is unlawful for a person to engage in the business of collection of solid waste kept, accumulated or produced in the unincorporated area of the County, unless the person has entered into an SWMA pursuant to this chapter that is in full force and effect. The total number of collectors shall be limited to 29 unless the Board finds that it is in the public health, safety or welfare of the citizens of the unincorporated area of the County to increase or decrease the maximum number of collectors.

### **SEC. 68.531. EXEMPTIONS.**

The following persons shall be exempt from section 68.530 and from the decal requirements of this chapter:

(a) A municipal corporation and other governmental agency engaged in the collection or transportation of solid waste in the unincorporated area of the County.

(b) A person removing solid waste from the person's place of residence, provided the person is transporting solid waste from the residence directly to an approved solid waste disposal facility.

(c) A person who is part of a group of single family residential owners or tenants, not to exceed 10 residences, whose residences lie within a single boundary served internally only by private access, where the person is removing solid waste from any of the residences of the group.

(d) A person who is a corporation or the owner, principal or partner of a business and who only removes or transports solid waste generated by the business to an approved solid waste disposal facility and complies with the following:

(1) The person removing or transporting the solid waste is an employee or the owner, principal or partner of the business.

(2) The vehicle used to remove or transport the solid waste is owned or leased by the business.



(3) The solid waste being removed or transported was stored on the private property where the business is being operated.

(4) The solid waste being removed or transported was collected from the property where the business is being operated.

(e) A person removing or transporting any of the following:

(1) Containers delivered for recycling under the California Beverage Container Recycling and Litter Reduction Act, California Public Resources Code sections 14500, et seq.

(2) Any other recyclable materials not included in subsection (1) above.

(3) Green waste a property owner or tenant removes or that a gardening, landscaping or tree trimming contractor removes from property as an incidental part of a total service that contractor offers and not while the contractor is acting as a hauling service.

(4) A load containing 90% or more construction and demolition waste or debris.

(5) Hazardous waste or medical waste regardless of its source.

(6) By-products of sewage treatment, including sludge, sludge ash, ash, grit and screenings.

(7) Residual material from a solid waste management facility, including material recovery, composting or transformation facilities.

(8) Animal waste and remains for use as tallow.

(9) Solid waste collected in the course of community clean-up campaign.

#### **SEC. 68.532. NON-EXCLUSIVE AGREEMENTS.**

The right to collect solid waste in the County pursuant to an SWMA granted pursuant to this chapter shall be non-exclusive.

## **SEC. 68.533. APPLICATION FOR A SOLID WASTE MANAGEMENT AGREEMENT.**

(a) A person applying to enter into an SWMA with the County shall file an application on a form provided by the Director. As part of the application process the applicant shall submit to a background investigation conducted by the Sheriff's department. The Director shall review the completed application and may request other County departments as the Director deems necessary to review and comment on the application. The application shall not be considered complete until the applicant provides all information the Director requests.

(b) The application shall specify the areas where the applicant is applying to provide service and which types of service the applicant is seeking to provide for each area, such as residential, commercial/industrial roll-off or commercial/industrial bins or any combination of these types of service.

(c) All collector applications shall include:

(1) The applicant's name and address.

(2) If the applicant is not an individual, the name and address of each partner, owner, officer and trustee of the entity, whichever is applicable, and each person's percentage of ownership or interest. Publicly held corporations shall supply proof of corporate entity, the names of each local officer and each location where the corporation maintains an office in San Diego County.

(3) A description of each truck and piece of equipment, including the model, year, license plate number and vehicle identification number, that the applicant owns or is under the applicant's control for the collection or transportation of solid waste that the applicant will use to provide service. The applicant shall also provide with the description of the trucks and equipment, a statement under penalty of perjury as to the mechanical condition of each truck and piece of equipment and whether at the time of the application the truck or piece of equipment meets the standards required by 14 CCR sections 17341 to 17345 and this chapter.

(4) Facts demonstrating that: (A) the applicant owns or has access to suitable facilities for keeping vehicles and equipment clean and in good repair, (B) the applicant's storage yard and maintenance facilities will be located in an area zoned for the use and close enough to adequately serve the area where the applicant proposes to collect solid waste and (C) the applicant owns or has access to adequate office and billing facilities.

(5) A statement of the applicant's qualifications and experience in collecting or transporting solid waste.

(6) Proof that the applicant has adequate insurance that complies with the minimum requirement of the County SWMA.

(7) Any additional information the Director determines is necessary to completely evaluate and process the application.

#### **SEC. 68.534. DIRECTOR TO APPROVE OR REJECT APPLICATION.**

(a) The Director may negotiate and execute an SWMA with an applicant if the Director finds that the applicant meets the requirements of this chapter and that it is in the public interest to approve the application. The Director may approve the application in whole or in part.

(b) The SWMA shall be in a form approved by the Board.

(c) If the Director rejects an application, in whole or in part, the applicant may appeal the Director's decision to the Board as provided in section 68.550.

(d) On appeal the Board may sustain the Director's decision or overrule the decision and direct the Director to enter into an SWMA with the applicant. The Board may also require that the SWMA be subject to specific conditions.

#### **SEC. 68.535. DIRECTOR TO ENFORCE THIS ARTICLE.**

The Director shall have enforcement authority for this article.

### **ARTICLE V. SOLID WASTE MANAGEMENT AGREEMENT CONDITIONS**

#### **SEC. 68.541. GENERAL CONDITIONS.**

A collector operating under an SWMA shall comply with the following conditions:

(a) A collector shall produce all vehicles or other equipment used to collect or transport solid waste for inspection at a time and place the Director designates. If a vehicle passes inspection the Director shall issue the collector a durable decal for the vehicle. The collector shall securely affix the decal to the vehicle and maintain the vehicle so that the decal shall be clearly visible at all times. The Director may revoke the decal of any vehicle that fails to pass inspection or meet any

requirements of this chapter. The Director may allow a collector to use a vehicle temporarily without a decal. It shall be unlawful for a collector to use a vehicle to collect or transport solid waste if the decal has been revoked or if the collector has never been issued a decal for the vehicle unless the Director has granted the collector permission to use the vehicle temporarily without the decal.

(b) A collector shall obtain and keep in effect the insurance coverage and limits required by its SWMA and by Board resolution. A collector shall file with the Director a copy of each insurance policy or certificate of insurance evidencing a policy prior to the Director approving an SWMA. Each policy shall contain provisions naming the County of San Diego as an additional insured and require that the insurance carrier give the Director at least 30 days notice in writing by registered mail prior to the cancellation, modification or reduction of the limits of the policy.

(c) The Director may suspend or revoke an SWMA when the Director determines the collector has violated any provision of the agreement, this chapter any State or federal law or any rule or regulation promulgated by the Board or the Director relating to the collection or transportation of solid waste.

(d) If the Director determines that a collector's conduct warrants suspension or revocation of an SWMA, as provided in subsection (c) above, the Director shall serve a written notice on the collector personally or by certified or registered mail at the last address provided by the collector. When the Director serves notice by certified or regular mail, the notice shall be deemed received on the date the United States Postal Service first attempts to deliver the notice at the last address provided by the collector, whether or not the collector actually receives the notice on the attempted delivery date. The collector shall cease operations within 10 days after the collector receives the notice unless the Director has reinstated the agreement or the collector has requested a hearing before the Board. In the case of an appeal, the collector may continue to operate until the Board renders a decision.

(e) A request for a hearing to contest the suspension, or revocation of an SWMA shall be made in writing to the Clerk of the Board within 10 days after the collector receives the notice described in subsection (d). If possible, subject to whether the Board has a meeting scheduled and there is time to give sufficient notice required by law, the hearing shall be held within 14 days following the receipt of the written request. If it is not possible to hold the hearing within 14 days, the hearing shall be scheduled at the next earliest date. The Clerk of the Board shall give written notice of the time, date and place of the hearing to the collector and the Director. The Board Supervisors shall render its decision within 15 days after the close of the hearing and its decision shall be final.

#### **SEC. 68.541. AGREEMENT TERM.**

An SWMA shall be issued for an initial term of 10 years. The agreement shall be extended for an additional year on the anniversary date of the agreement, subject to the Director determining that the collector is substantially complying with the agreement.

#### **SEC. 68.542. SOLID WASTE MANAGEMENT AGREEMENT FEE.**

(a) A collector granted a SWMA pursuant to this chapter shall pay a fee to the County during the term of the agreement. The fee shall be assessed from the date on which the SWMA becomes effective or the effective date identified in the resolution establishing the agreement fee, whichever is later. The SWMA fee shall be in the amounts and in the manner provided by the Board by resolution. The Board may modify the fee at any time during the term of the SWMA. Fees the County collects pursuant to this section shall be expended for solid waste services and activities in the unincorporated area of the County only and shall not be used for County-wide services or activities. Any fees due by a collector pursuant to this section shall be in addition to any license fee or business tax prescribed the County for the same period.

(b) The County may bring an action against a collector in any court of competent jurisdiction for a collector's failure to pay fees due the County under this section.

#### **SEC. 68.543. RATE REGULATION.**

The Board may direct a collector operating under an SWMA to reduce the rates a collector is charging customers for handling solid waste if the Board finds that a collector is charging unreasonable or excessive rates.

#### **SEC. 68.544. TRANSFER OF AGREEMENTS AND OWNERSHIP CHANGES.**

(a) A SWMA is transferable if approved by the Director, which approval shall not be unreasonably withheld.

(b) Whenever there is a change in ownership of any collector, who has entered in a SWMA, that exceeds 10 percent of the stock of the collector, 10 percent of the collector's assets or an increase or decrease of 10 percent or more in any partner's interest in a collector, the collector shall report the change in writing to the Director within 30 days of the change.

#### **SEC. 68.545. INDEMNIFICATION OF COUNTY.**

A collector shall indemnify and hold the County harmless from and against any and all loss, damages, liability, claims, suits, costs and expenses, fines, charges or penalties whatsoever, including reasonable attorney's fees, regardless of the merit or outcome of any such claim or suit, arising from or in any manner related to the services provided or business conducted under this chapter or under a SWMA granted pursuant to this chapter.

#### **SEC. 68.546. SOLID WASTE PLANNING FEES.**

(a) Pursuant to Public Resources Code section 41901 this section establishes a fee to pay the County's costs in preparing, adopting and implementing a Countywide integrated waste management plan, to fulfill the State mandated reporting requirements for each county, including countywide disposal reporting. To cover these costs, all solid waste handlers collecting or transporting solid waste generated in the unincorporated area of the County shall pay the County \$0.02 per ton of any solid waste handled. This fee shall be collected at all solid waste disposal sites in San Diego County. Except as provided in subsection (b) below, if a \$0.02 per ton fee is not collected at a solid waste disposal site in San Diego County, the solid waste hauler shall remit the amount due to the Director.

(b) The fee required by this section shall not be assessed against a solid waste handler if the hauler is able to demonstrate to the satisfaction of the Local Enforcement Agency (LEA) that the waste was recycled or diverted from the solid waste stream or if the fee was collected at a disposal site within San Diego County.

#### **SEC. 68.547. SERVICE AREA AND TYPE OF SERVICE.**

(a) A collector shall provide solid waste collection and disposal service in the area(s) approved in the collector's application and shall provide the type of service approved in the application.

(b) A collector may modify the area(s) where the collector provides service or modify the type of service the collector provides, by making a written request to the Director.

#### **SEC. 68.548. RIGHT TO REFUSE SERVICE.**

(a) A collector may refuse service to a customer who fails to pay a valid bill within 60 days or for a substantial refusal to comply with the requirements of this

code related to the collection of solid waste, after giving the customer a reasonable opportunity to comply.

(b) A collector may refuse to provide service to a customer where topography, geographical isolation or inadequate access constitutes an unreasonable hardship on the collector if the Director agrees the condition constitutes an unreasonable hardship.

#### **SEC. 68.549. ADDITIONAL TERMS AND CONDITIONS.**

In approving the terms of any SWMA the Board may prescribe any additional terms, conditions, rules, regulations, restrictions and limitations, not specifically mentioned in this chapter that the Board determines are in the public interest.

### **ARTICLE VI. REGULATIONS FOR COLLECTORS AND CUSTOMERS**

#### **SEC. 68.560. EQUIPMENT AND VEHICLE STANDARDS.**

All equipment and vehicles used to transport or collect solid waste in the unincorporated area of the County shall comply with the requirements of 14 CCR sections 17341 through 17345. Each vehicle used to collect or transport solid waste shall carry a shovel, broom and fire extinguisher and shall be maintained in a clean condition and neatly painted. The name and address and telephone number of the collector shall be painted in letters at least three inches high on each side and across the back of each vehicle. All equipment and vehicles used to collect and transport solid waste shall also be equipped with both of the following:

(a) An audible automatic back-up or other acceptable warning devices prescribed by Vehicle Code section 27000.

(b) A mechanical cover or other device that is adequate to cover and contain solid waste within the vehicle or piece of equipment. If solid waste falls from, drops from or for any other reason unintentionally comes out of a vehicle or piece of equipment after solid waste was placed in or on the vehicle or equipment, it shall be prima facie evidence that the cover was inadequate.

#### **SEC. 68.561. REGULATIONS APPLICABLE TO COLLECTORS.**

A collector providing service pursuant to an SWMA shall comply with all of the following requirements:

(a) A collector operating a residential collection route shall provide regular collection at least once a week to all customers.

(b) A collector providing commercial or industrial service shall provide collection on an as needed basis to be agreed on by the customer.

(c) A collector providing service within a specific area shall provide that service to any customer who requests the service and agrees to pay the collector's rates.

(d) At the time a collector begins providing service to a customer and every six months thereafter, a collector shall notify its customers about the regulations governing disposal of designated recyclables, solid waste, hazardous waste and toxic waste. The notice shall mention regulations that have changed since the last notice. When a collector begins providing service under an SWMA the collector shall file a copy of the notice it uses with the Director and whenever it changes the notice it shall provide the Director with a copy of the revised notice.

(e) At least once every two weeks a collector shall collect designated recyclables from customers and transport the recyclables to an appropriate recycling facility.

(f) A collector shall submit quarterly reports to the Director on or before May 1, August 1, November 1 and February 1 for the first through fourth quarters of each year, respectively. The reports shall identify the weight in tons of:

(1) All designated recyclables materials, broken down by whether the source of the material is a commercial, industrial, single-family residential or multi-family residential facility.

(2) The type of recyclable material, such as newspaper, mixed paper, corrugated cardboard, steel, tin and bi-metal cans, aluminum, white goods, glass jars and bottles, plastic containers, green waste, concrete, asphalt or other material required to be recycled.

(3) All disposable solid waste collected.

(g) A collector shall also provide the Director with quarterly export reports, as required by 14 CCR sections 18800 through 18813, on the same quarterly reporting schedule as required in subsection (f) above.



## **SEC. 68.562. REGULATIONS APPLICABLE TO CUSTOMERS.**

A person receiving any type of residential, commercial or industrial collection service in the unincorporated areas of the County shall comply with the following regulations:

- (a) A person using reusable containers for collection service that are not furnished by the collector shall use containers of adequate size and in sufficient numbers to contain without overflowing all the solid waste that the person's household or establishment generates within the designated removal period. The containers shall be equipped with tight-fitting lids or other closure devices.
- (b) A person using plastic or paper bags as containers for collection service shall tie, seal or otherwise securely fasten all bags set out for collection.
- (c) A person receiving collection service shall not place containers in a manner that impedes access to neighboring driveways, mailboxes or easements.
- (d) No person shall place, deposit or allow any solid waste or solid waste containers to remain on a street, curb, sidewalk or any other place in a public or private right of way before 6:00 p.m. of the day prior to the regular day for collection by a collector, or after 12:00 p.m. on the day following collection day.
- (e) A violation of this section shall be charged as an infraction, except that a person convicted of two or more violations of this section in a one year period may, at the discretion of the prosecutor, be charged with a misdemeanor.

## **SEC. 68.563. USE OF CONTAINERS.**

No person shall tamper with, modify, remove from or deposit solid wastes into any container without the permission of the person to whom a collector furnished the container or the owner of the container.

## **SEC. 68.564. DIRECTOR DEPARTMENT OF PUBLIC WORKS TO ENFORCE THIS ARTICLE.**

The Director shall have enforcement authority for this article.

## **ARTICLE VII. RECYCLING REQUIRED**

## **SEC. 68.570. DESIGNATED RECYCLABLE MATERIALS.**

The following materials are designated recyclable materials:

(a) Designated residential recyclable materials for the purpose of section 68.571(a) are the same as "residential recyclable materials" defined in section 68.502(a).

(b) Designated commercial recyclable materials for the purpose of section 68.571(b) are:

(1) "Office recyclable materials," as that term is defined in section 68.502(b), when generated from an office building with greater than 20,000 gross square feet, when the building is used for a commercial, governmental or educational purposes.

(2) "Hospitality recyclable materials," as that term is defined in section 68.502(b).

(c) Designated industrial recyclable materials for the purpose of section 68.571(c) are industrial loads consisting of 90% or more of any of the following: asphalt, concrete, dirt, land clearing vegetation, sand, gravel or rock.

#### **SEC. 68.571 RECYCLING REQUIREMENTS.**

(a) The owner or occupant of a residential property shall only deposit designated residential recyclable material in a container that is intended to receive designated residential recyclable materials for collection or at a recycling center. If a bottle, jar, jug or can made of residential recyclable material has previously contained oil, antifreeze, household cleaner or other similar material, no person shall deposit the bottle, jar, jug or can in a container intended for residential recyclable materials until the bottle, jar, jug or can has been emptied.

(b) The owner, occupant or operator of a commercial facility shall only deposit designated commercial recyclable materials in a container that is intended to receive designated commercial recyclable materials for collection or at a recycling center.

(c) The owner, occupant or operator of an industrial facility or a construction site, shall only deposit designated industrial recyclable materials in a container that is intended to receive designated industrial recyclable materials for collection or at a recycling center.

(d) As an alternative to depositing recyclable material as provided in subsections (a), (b) and (c) above, a person may transfer any recyclable material to a person or facility that intends to reuse the material.

(e) No collector shall deliver for disposal any designated recyclables mixed with materials that are not recyclable.

**68.572. DIRECTOR DEPARTMENT OF PUBLIC WORKS TO ENFORCE RECYCLING REGULATIONS.**

The Director shall have enforcement authority for this article.

**ARTICLE VIII. ENFORCEMENT**

**SEC. 68.581. CITATION AUTHORITY.**

(a) Pursuant to Penal Code section 836.5(a), the authorized enforcement officer may arrest a person without a warrant when the officer has reasonable cause to believe that the person has committed an infraction or misdemeanor in their presence that is in violation of this chapter.

(b) Pursuant to Penal Code section 836.5(c), in any case in which a person arrested does not demand to be taken before a magistrate, the officer making the arrest shall prepare a written notice to appear and release the person on the person's promise to appear as prescribed by law.

(c) A violation of these regulations shall be prosecuted in the same manner as other violations of the County Code. The authorized enforcement officer may, however, attempt to obtain voluntary compliance by issuing a warning, notice of violation or other means, rather than issuing a criminal citation.

(d) No authorized enforcement officer may exercise the power to issue a criminal citation unless the officer shall have first completed a course of training which meets the minimum standards prescribed by the Commission on Peace Officer Standards and Training in Penal Code section 832(a).

(e) An authorized enforcement officer shall only have authority to make an arrest for a violation of this chapter and only when the officer is performing duties expressly assigned by a director of a County department. At all other times the officer shall have no enforcement power or authority.

**SEC. 68.582. RIGHT OF ENTRY.**

An authorized enforcement Officer may enter upon privately owned land in accordance with the Constitution of the United States and the State of California when the officer has probable cause to believe that a violation of this chapter

exists. If the owner or occupant of the property refuses to allow the officer to enter the officer may obtain an inspection warrant pursuant to Code of Civil Procedure section 1822.50.

Section 15: This ordinance shall take effect and be in force thirty days after its passage and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the San Diego Commerce a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 27<sup>th</sup> day of January, 2010.