

ORDINANCE NO.: 10536 (N.S.)

AN ORDINANCE AMENDING TITLE 6 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES TO ADJUST DEPARTMENT OF ENVIRONMENTAL HEALTH REGULATORY PROGRAM FEES, TO RECOVER COMPLAINT RESPONSE COSTS DIRECTLY FROM VIOLATORS, AND TO IMPROVE THE RECOVERY OF EMERGENCY RESPONSE COSTS FROM RESPONSIBLE PARTIES

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

Section 1. Purpose

This ordinance enhances the ability of the Department of Environmental Health (DEH) to achieve full cost recovery for its regulatory programs in four ways. The first set of changes amends definitions to clarify that some DEH regulatory programs and related fees are applicable to the State of California, pursuant to State law.

Second, the ordinance adjusts DEH regulatory program permit fees and other fees to incorporate recent and anticipated changes in program costs, including increased labor costs.

The third change is to establish authority to directly recover, from responsible parties, the staff time costs of responding to complaints and referrals of suspected violations of regulatory programs administered by DEH. These new fees will apply only in cases where complaints or referrals are substantially validated. Some, but not all DEH programs already have such cost recovery fees. Enforcement costs recovered through these direct fees would no longer be part of the enforcement cost base for setting DEH permit fees.

The final change is to combine, amend and recodify existing County Code provisions for the recovery of costs and expenses for emergency response activities. These revisions close gaps by applying State law cost recovery authorizations to all types of emergency response situations encountered by DEH. The revisions also expressly provide for administrative and judicial appeals of invoices issued to recover emergency response costs. The revisions also provide for the County to collect unpaid amounts due by using methods authorized in State law, including civil actions and the imposition of liens on property owned by responsible parties.

Section 2. Section 64.104 of the County Code is revised to read as follows:

SEC. 64.104. ABATEMENT OF NUISANCES.

- (a) It shall be the duty of the Director or his or her authorized agent, when necessary to secure the public health, to enter upon the premises or in the house or other place of any person to discover or inspect any nuisance that may there exist, to inspect drains, vaults, cellars, cesspools, water closets, privies, or sewers, or the yards of such premises, to examine into their condition, and when satisfied that any such premises, house or place used for lodging or other purposes are improperly constructed or liable from overcrowding or filth to become dangerous to the public health, or to disseminate contagious or infectious disease, or are not provided with privies, water

closets or with sewers, drains or cesspools properly tapped, they or any of them shall serve a written Notice and Order to Abate upon the owner or other person in accordance with the Uniform Public Nuisance Abatement Procedure contained in Chapter 2, Division 6, Title 1 (commencing with Section 16.201) of this Code or any other procedure permitted by law.

- (b) For purposes of section 64.104 through 64.107 of this Code, "person" includes persons as defined in section 12.115 of this Code, and the State of California and any department or agency thereof to the extent permitted by law.

Section 3. Section 64.107 of the County Code is revised to read as follows:

SEC. 64.107. RECOVERY OF EMERGENCY RESPONSE EXPENSES.

Emergency response expenses and costs and the costs of emergency response services incurred by the Department of Environmental Health, or incurred in support of DEH by other County departments, or incurred by other agencies acting in conjunction with DEH as part of the Unified San Diego County Emergency Services Organization (USDCEISO), may be recovered by the Director as provided in Title 6, Division 8, Chapter 8 of this Code (commencing with Section 68.801). Recovery of these expense and costs as provided in that Chapter is authorized by Section 104.12 of the California Fire Code (as amended in this County by section 96.1.104.12 of this Code), by Sections 13009.6 and 25515 of the California Health and Safety Code, by Title 5, Division 2, Part 1, Chapter 1, Article 8 of the Government Code (commencing with Section 53150), and by Section 364.1 of the County Administrative Code, each as and when applicable.

Section 4. Section 64.202 of the County Code is revised to read as follows:

SEC. 64.202. DEFINITIONS.

The following definitions shall apply to this chapter:

- (a) "Abate" means to eliminate a public nuisance or to reduce the degree or intensity of a public nuisance.
- (b) "Director" means the Director of the Department of Environmental Health and any other person the Director employs or appoints to implement or enforce this chapter.
- (c) "Eye gnat" means a very small fly endemic to the San Diego area with the scientific name *Hippelates spp.* or *Liohippelates spp.* (formerly *Hippelates spp.*)
- (d) "Hearing officer" means a County hearing officer appointed pursuant to County Administrative Code sections 650 et seq.
- (e) "Property" has the same meaning as the term property in Health and Safety Code section 2002(h).
- (f) "Property owner" means the person, entity or agency claiming ownership, title or right to property. To the extent provided by section 2005 of the Health and Safety Code, "property owner" also includes any person, city, county, special district, school district, the state, or any agency or subdivision of the state, including the California State University and the University of California. Where land or water is leased or is made available for use by a person or agency

pursuant to a license, right of entry agreement, right of entry permit, or any other similar arrangement, "property owner" includes the lessee or other person or agency legally entitled to use the property or water.

Section 5. Section 65.107 of the County Code is amended to read as follows

SEC. 65.107. FEES.

The fee for each permit, plan review, license or registration issued or investigation performed pursuant to the provisions of this division is set forth herewith:

A. **FOOD FACILITY PERMIT FEES:** As required by Part 7 (Commencing with Section 113700) of Division 104 of the California Health and Safety Code, California Retail Food Code.

(1) For restaurants.

1 to 10 employees:	\$702
11 to 25 employees:	\$830
26 to 100 employees:	\$990
101 or more employees:	\$1,824

For each restaurant type food facility unit in excess of three (3) at the same location: \$557

Resort/entertainment complexes or food facilities with more than three (3) food preparation areas under one common permit: \$1,958

For each food facility unit in a resort/entertainment complex unit in excess of three (3) at the same location: \$557

Minimal Food Preparation: (defined in section 61.102(k) and Restricted Food Service Facilities (defined in the California Health and Safety Code section 113893): \$479

(2) For Miscellaneous Food Facilities with 25 square feet or more of food display area (including Candy Stores, Concession Stands, Host Facilities, and Pre-packaged Non-Potentially Hazardous Foods), and for Swap Meet Vendor without Temporary Event Organizer (defined in California Health and Safety Code section 114335(a)), Catering Equipment Rentals and Retail Food Delivery (delivery of food made at a retail food facility to another location by a person other than an employee of the retail food facility where the food was prepared): \$157

(3) For Prepackaged Retail Markets (may also include prepackaged retail markets that make ice and dispense non-potentially hazardous beverages):

1 to 10 employees:	\$201
11+ employees:	\$238

(4) For temporary food facilities that operate at a fixed location for the duration of a community event (as defined in California Health and Safety Code Section 113755).

(Note: Non-profit operators of temporary food facilities and non-profit community event organizers are exempt from the fee at a community event for not more than two [2] events in a calendar year. This exemption does not apply to the late application submittal fees):

Prepackaged Foods - Event Permit: \$119

Prepackaged Foods - Annual Permit: \$315

Food Sampling/Demonstrator (portioning of food made at an approved permanent food facility) – Event Permit: \$119

Food Sampling/Demonstrator - Annual Permit: \$315

Unpackaged Foods - Event Permit: \$207

Unpackaged Foods (with approved commissary or other approved facility and food safety certification if handling potentially hazardous foods) – Annual Permit: \$612

Community Event Organizer - Event Permit: \$311

Community Event Organizer – Annual Permit (Identical Event held at same location): \$567

Late application submittal for all temporary food facilities and organizers of community events, and certified farmers markets. Supplemental fee paid in addition to required fee if less than 14 days prior to the event: \$147

(5) For Certified Farmers Markets

Certified Farmers Markets: \$405

Certified Farmers Market Events with adjacent Temporary Food Facilities (organizer in control of certified farmers market is same as organizer in control of temporary food facilities): \$676

(6) Retail markets with delicatessens and/or other food preparation areas on the same premises:

1 to 10 employees: \$821

11+ employees: \$1,068

For retail markets with delicatessens and/or other food preparation areas in excess of three (3) at the same location: \$473

(7) For food facility commissary or vending commissary (headquarters):

Vending machine or prepackaged food facility commissary: \$323

Unpackaged Mobile Food or Food Preparation Commissary: \$388

(8) For each mobile food facility or mobile support unit, other than mobile food facilities with full or limited food preparation, (defined in California Health & Safety Code Section 113818) under the same ownership and operating out of the same facility:

Packaged Lunch Truck (may include dispensing coffee made at an approved commissary): \$202

Mobile Support Unit: \$205

Carts and Vehicles: Prepackaged foods/ice cream/produce/tamale carts: \$183

(9) For Mobile Food Facilities with limited food preparation (defined in California Health & Safety Code Section 113818), under the same ownership and operating out of the same facility:

Limited Food Preparation (one limited food preparation cart and one auxiliary unit): \$432

Single Operating Site Mobile Food Facility [defined in California Health & Safety Code Section 113831 (b) and 114306] with up to two limited food preparation carts out of no more than four: \$516

Single Operating Site Mobile Food Facility [defined in California Health & Safety Code Section 113831 (b) and 114306] with three to four limited food preparation carts: \$636

(10) For each mobile food facility with full food preparation under the same ownership and operating out of the same facility: \$647

(11) For each vending machine dispensing milk, ice cream or milk products or other kinds of potentially hazardous foods or beverages, or dispensing unbottled or uncanned liquid foods or beverages, except vending machines which dispense unwrapped non-potentially hazardous, non-liquid food products:

Hourly rate as specified in subsection (m)(6). For every 10 units or any part thereof, ½ hour will be assessed.

(12) Boats: \$316

(13) Wholesale Food Warehouse:

Warehouse (1-19,999 square feet): \$510

Warehouse (20,000 square feet and greater): \$641

(14) For Retail Food Processing Facilities: \$657

(15) Catering:

For full service Catering Facilities and Direct Sales Catering: \$607

(16) For food facilities that are operated by non-profit organizations not including schools or licensed health care facilities: \$300

(17) School food facilities - Processing kitchen: \$372

(18) School food facilities - satellite kitchen location: \$267

(19) Licensed health care facilities: \$655

(20) Fisherman's market: \$970

(21) Cottage Food Operations:

Class A - Initial Registration and up to 10 food label reviews: \$185

Class A - Annual Registration Renewal: \$74

Class B - Initial Permit and up to 10 food label reviews: \$421

Class B - Annual Permit Renewal: \$290

Class A or B - Additional Label Review: Hourly rate as specified in subsection (m)(6).
Minimum 1/2 hour.

(22) Food facility complaint response. DEH costs to investigate a complaint of non-compliance at a food facility, and DEH costs to verify return to compliance not otherwise recovered through a reinspection fee, if but only if the complaint is substantially validated: payable by and invoiced to the facility operator: Hourly rate as specified in subsection (m)(6).

B. HOUSING PERMIT FEES--INSPECTION FEES FOR APARTMENT HOUSE OR HOTEL:

(1) For each apartment house or hotel containing three or more units, base fee: \$150

(2) For every 10 units or any part thereof, in addition to the base fee: \$19

"UNIT" shall mean each apartment in an apartment house and each sleeping room in a hotel, and each apartment and each hotel sleeping room in a building, containing both apartments and hotel sleeping rooms.

Separate apartment house buildings and separate hotel buildings, or combination thereof, located upon a single parcel of land or contiguous parcels of land or under the same ownership shall be treated as one apartment house or hotel for the purpose of computing the fee prescribed by this section.

(3) Non-profit housing: \$164

(4) Unscheduled reinspection or unpermitted housing complaint investigation with a confirmed violation fee: Hourly rate as specified in subsection (m)(6).

C. PUBLIC POOL PERMIT FEES:

(1) For one (1) pool: \$319

(2) For two (2) pools: \$397

(3) For three (3) pools: \$595

(4) For four (4) pools: \$655

(5) For five (5) pools: \$715

(6) For each pool in excess of five (5): \$126

(7) Dormant pool: \$102

(8) Public Bath House: \$902

(9) Non-profit operated pools where fees are not charged to the public and camp pools: \$271

(10) Activity Pool/Spray Grounds/Interactive Features (per feature/ pool): \$455

D. SPECIAL ENFORCEMENT/INVESTIGATION FEES: (Hourly rate as specified in subsection (m)(6)):

Unscheduled reinspection/regrade fee (per hour fee): Hourly rate as specified in subsection (m)(6).

Administrative office hearing: Four times the Hourly rate: Hourly rate as specified in subsection (m)(6).

Suspension or revocation hearing: six times the Hourly rate as specified in subsection (m)(6).

Sherman food investigation, with a confirmed violation: Hourly rate as specified in subsection (m)(6).

Foodborne illness, plan check and/or recall investigation for activities without a current food facility permit issued by the County of San Diego DEH: Hourly rate as specified in subsection (m)(6).

Fee for investigation of a health regulated business operating without a health permit will be 300% of the annual permit fee payable in addition to the permit fee.

E. PLAN CHECK FEES:

(1) Pool Plan Review, as provided for in Section 67.301.

(a) For one (1) pool: \$1,501

(b) For each pool in excess one (1): \$478

(c) Pool resurfacing or renovation: \$276

(d) Resurfacing or renovation each pool over one, with concurrent inspections: \$147

(e) Supplemental Fee for special purpose pools and perimeter overflow system pools (includes activity pools, spray grounds, pools > 3,000 square feet, and interactive water features): \$1,142

(f) Minor Plan Review and changes to suction outlets Pool: \$469

(g) Major Pool Renovation: \$876

(h) Plan check review and related consultations, when construction was initiated prior to the approval of plans by both DEH and the local agency with authority over building plans generally: Hourly rate as specified in subsection (m)(6).

(2) Food Facility Plan Review as provided for in Section 61.106:

- (a) 0-1,999 Square Feet (up to three preparation areas): \$1,147
- (b) 2,000-5,999 Square Feet (up to three preparation areas): \$1,496
- (c) 6,000- 9,999 Square Feet (up to three preparation areas): \$2,529
- (d) 10,000 Square Feet and over (one preparation area): \$2,755

For each additional food preparation area after three sites for 0-9,999 square feet, and after one site for sites 10,000 square feet or greater: \$527

(3) Food Facility, Pool Plan Revision, or Rechecks as provided for in Section 61.106 and 67.302.5: \$320

(4) Restamping, Pool as Built Plan, Pool Resurfacing Revision, Minor Pool Plan Revision, or Approval of Non-Health Regulated Building Plans as required by other governmental agencies: \$145

(5) Minor plan review - Food facility Plan review for:

(a) Equipment only for food facilities which are subject to regulation: \$476

(b) The reopening of a facility which has completed a plan check consultation and needs a plan review for equipment changes: \$476

(6) Pre-packaged food or wholesale food warehouse plan review: \$677

(7) Minor plan review - Miscellaneous facilities

(a) Body Art Plan Review as regulated under 66.305 (Body Art Facility): \$415

(b) Massage Plan Review as regulated under 66.513 (Massage Establishment): \$411

(c) Other Miscellaneous Facilities as regulated under Section 66.606 (Bathhouses) or for other miscellaneous establishments where a plan review is required. \$412

(8) Express plan review: Two times the plan check fee.

(9) After hours inspection: 1½ times the hourly rate specified in subsection (m)(6), minimum two hours.

(10) Food plan check office consultation: \$141

(11) Food plan check field consultation: \$311

(12) Food plan check field consultation (supplemental inspection): \$338

(13) Pool plan check office consultation: \$153

(14) Pool plan check field consultation: \$306

(15) Pool plan check field consultation (supplemental inspection): \$306

(16) Mobile food facility plan check/mobile food support unit: \$334 \$357

(17) Body art plan check field consultation: \$282

(18) Body art plan check office consultation: \$141

(19) Massage plan check field consultation: \$282

(20) Massage plan check office consultation: \$141

(21) Investigation of work without a permit. Whenever a food facility or pool is built, modified or remodeled without first submitting an application for the required permit/plan review, a special investigation shall be made before a permit may be issued for such work. The fee for this investigation will be in addition to the permit fee. \$306

F. MISCELLANEOUS FOOD AND HOUSING FEES:

(1) Food Handler per Section 61.102.

(a) Duplicate Certificate: \$3

(b) (This service will be discontinued after December 31, 2017)

(c) Education Certificate Food Handler (each certificate): \$3

(d) Food Handler Training Booklets: \$0.40

(e) Food Manager Training Packet: \$2

(f) Exam Materials: \$.25

(2) Services to food handler training providers: hourly rate as stated in subsection (m) of this section, for time expended.

(3) Massage Establishments: \$183

(4) Body Art Facilities: \$339

(a) Body Art Practitioners (annual registration): \$115

(b) Body Art Temporary Event Organizer: \$556

(c) Body Art/Temporary Event Late or revised application fee (Less than 14 days prior to event.) \$190

(d) Body Art Temporary Event Vendor: \$65

(e) Body Art Reinspection Fee (assessed if repeated noncompliance makes reinspection necessary):

(f) Hourly rate as specified in subsection (m)(6).

(g) Notification fee for single-use-needle mechanical ear-piercing only facilities: \$45

(5) Organized Camps

(a) Seasonal: \$616

(b) Year-Round: \$1,157

G. LAND USE FEES:

Duration of fees:

With the exception of well permits, renewable permits and deposit accounts, permits are valid for one year from the date of approval. Well permit applications are valid for 120 days from the date of approval. Renewable permits expire one year from the date they are issued. The permit for sewage pumping vehicles shall expire on December 31 of each year; refer to Section 65.104 on the renewal of licenses, permits, or registrations for additional information. Deposit accounts will remain active until the project is completed and all billing has been paid. See subsection (m)(6) of this section for billing rates.

(1) Recycled Water Plan Check Fees, as provided for in Section 67.521(d): Hourly rate as specified in subsection (m)(6).

(2) Recycled Water Shutdown Test, as provided for in Section 67.523: Hourly rate as specified in subsection (m)(6).

(3) Well Permit Application, as provided for in Section 67.441.B

Domestic Well: \$627

Additional Domestic Well/per well over one on same parcel: \$209

Public Water Supply Well: \$1,316

Well Destruction: \$334

Well Water Permit Time Extension: \$51

(4) Collected Water Sample from Private Well: \$333

(5) Layouts/Percolation Test, as provided for in Section 68.361:

New Construction: \$1,118

Additions/Pools: \$942

Layout/Percolation Test Time Extension: \$475

Layout over the counter, no field investigation: \$123

(6) Onsite Wastewater System permit, as provided for in Section 68.326:

Conventional Onsite Wastewater System Inspection: \$469

Conventional Onsite Wastewater System Re-Inspection: \$186

Conventional Onsite Wastewater System Repair Inspection: \$462

Treated Onsite Wastewater System Installation Inspection: \$1,033

Treated Onsite Wastewater System Major Repair Inspection: \$1,033

Treated Onsite Wastewater System Minor Repair Inspection: \$769

Treated Onsite Wastewater System Annual Operating Permit, as provided for in Section 68.334: \$380

Onsite Wastewater System Enforcement Fee, as provided for in Section 68.336: Minimum charge, two hours at the hourly rate as specified in subsection (m)(6).

(7) Lot Line Adjustment/Certificate of Compliance/Conditional Certificate of Compliance, up to two lots as provided for in Sections 81.901 et seq./81.1103/81.1104, field investigation needed:

Up to two lots: \$740

Three lots: \$1,095

Four lots: \$1,721

(8) Lot Line Adjustment/Certificate of Compliance/Conditional Certificate of Compliance over the counter, no field investigation: \$182

(9) Graywater System Permits

Plan Review - over the counter, as provided for in Section 68.361: \$125

Plan Review - with field check, as provided for in Section 68.361: \$516

Installation Inspections, as provided for in Section 68.361: \$448

Re-Inspection fee, as provided for in Section 68.361: \$202

(10) Complaint response. DEH costs to investigate a complaint and to verify return to compliance not otherwise recovered through a reinspection fee, if but only if the complaint is substantially validated: Hourly rate as specified in subsection (m)(6).

(11) Septic Cleaner Examination Fee, as provided for in Section 68.602: \$92

(12) Septic Cleaner Base Permit Fee, as provided for in Section 68.604(a): \$183

(13) Sewage Pumping Vehicle, as provided for in Section 68.604(b): \$135

(14) Sewage Pumping Vehicle complaint response. DEH costs to investigate a complaint of non-compliance by a sewage pumping vehicle, and DEH costs to verify return to compliance not otherwise recovered through a reinspection fee, if but only if the complaint is substantially validated: Hourly rate as specified in subsection (m)(6).

(15) Grading Plan, Major, as provided for in Section 87.204: \$417

(16) Deposit for a Special Projects Application review as provided for in Section 68.361. (Initial deposit, additional funds may be required for full cost recovery): \$1,224

(17) Deposit for a Tentative Map as provided for in Section 81.201 et seq. (Initial deposit, additional funds may be required for full cost recovery): \$3,170

(18) Deposit for Tentative Parcel Map on septic or sewer as provided for in Section 81.201 et seq. (Initial deposit, additional funds may be required for full cost recovery): \$1,685

(19) Deposit for Major Use Permits, Standard Application review as provided for in Section 68.361 (Initial deposit, additional funds may be required for full cost recovery): \$1,434

- (20) Major Use Permit Modification/Minor Deviation as provided for in Section 68.361. \$732
- (21) Discretionary Project Review as provided for in Section 68.361: \$611
- (22) Administrative Permit Standard Application as provided for in Section 68.361. \$778
- (23) Major Project Pre-application Conference as provided for in Section 68.361. \$784
- (24) Pre-application Conference as provided for in Section 68.361. \$266
- (25) Site Plan Application as provided for in Section 68.361. \$572

H. MONITORING WELLS FEES:

- (1) Monitoring Wells/Soil Boring (permits)
 - Borings:
 - Initial Soil Boring: \$235
 - Each Additional Soil Boring at a single site: \$62
 - (2) Monitoring Wells (Ground Water/Vadose Wells/Cathodic Protection Wells)
 - Initial Monitoring Well: \$351
 - Each Additional Monitoring Well at a single site: \$224
 - (3) Monitoring Well Destruction
 - Initial Monitoring Well Destruction: \$235
 - Each Additional Monitoring Well Destruction at a single site: \$143
 - (4) Monitoring Well Re-inspection Fee (per site). \$246
 - (5) Extension of Permit: \$51
 - (6) Soil Vapor Survey (per site): \$388
 - (7) Investigative Fee. For work done without a permit for which a permit is required or work done that is not in compliance with an approved permit: 100% of the permit cost.
 - (8) Tank Monitoring Well Fee (per site). Borings installed in UST and piping backfill with casing installed for purpose of monitoring tank system for leaks: \$368
 - (9) Miscellaneous Monitoring Well Program Fee. Includes the processing of refunds and other Monitoring Well Program activities where no fee is specifically indicated. Charge is at the hourly rate as specified in subsections (m)(5) and (m)(6).
 - (10) Deposit for a preliminary risk assessment where no fee is specifically indicated. (Includes oversight and investigation of contaminated ground water/soil and other technical assistance): Minimum charge, ten hours at the hourly rate as specified in subsection (m)(6). Initial deposit, additional funds may be required for full cost recovery.

I. SMALL WATER SYSTEM FEES:

(1) Small Water Systems New Permit Application Fee: as provided for in California Health and Safety Code, Sections 101325, 116340, 116570, 116595. Initial deposit, additional funds may be required for full cost recovery. \$1,080

(2) Public Water System Change of Ownership/Permit Amendment/ Exemption/Plan Review/Variance/Waiver Processing Fee, as provided for in California Health and Safety Code, Sections 101325, 116570, 116580, 116595. Initial deposit, additional funds may be required for full cost recovery. \$540

(3) Public Water System Annual Drinking Water Operating Fee: as provided for in California Health and Safety Code, Sections 101325, 116565, 116595.

Treated Community Water System: \$3,489

Community Water System: \$2,968

Treated Transient, Non-Community Water System: \$2,632

Transient, Non-Community Water System: \$2,068

Treated Non-Transient, Non-Community Water System: \$3,114

Non-Transient, Non-Community Water System: \$2,663

(4) State Small Water System

Annual Drinking Water Operating Fee, as provided in California Health and Safety Code, Sections 101325, 116340.

Treated State Small Water System: \$1,851

State Small Water System: \$1,331

(5) Enforcement fee, as provided for in California Health and Safety Code, Section 116577:

Charged using the hourly rate specified in subsection (m)(6), for any of the following:

(a) Preparing, issuing, and monitoring compliance with, an order or a citation.

(b) Preparing and issuing public notification.

(c) Conducting a hearing pursuant to Section 116625.

J. SOLID WASTE FEES: Solid Waste fees as provided in Sections 43213, 43508 and 44006, Division 30, of the Public Resources Code.

(1) Municipal Solid Waste Landfills (active):

Large - Permitted to receive more than 500 tons per day \$46,273

Small - Permitted to receive 500 tons or less per day \$23,615

(2) Transfer/Processing Facilities and Operations:

(a) Extra Major Large - Sites that require twelve inspections per year: \$18,828

Large Volume Transfer/Processing Facility (permitted to receive/process more than 3,000 tons per day)

(b) Major Large - Sites that require twelve inspections per year: \$14,999

Large Volume Transfer/Process Facility (permitted to receive/process more than 1,000 tons per day)

(c) Minor Large - Sites that require twelve inspections per year: \$11,010

Large Volume Transfer/Process Facility (permitted to receive/process more than 100 and up to 1,000 tons per day)

(d) Inert Debris Processing Facility (more than 1,500 tons per day)

(e) Medium - Sites that require twelve inspections per year: \$7,180

Medium Volume Transfer/Processing Facility (permitted to receive/process equal to or more than 15 tons (or 60 cubic yards, whichever is greater) but less than 100 tons per day)

Medium Volume CDI Debris Processing Facility

Medium Volume C&D Wood Debris Chipping and Grinding Facility

Inert Debris Processing Facility

Large Volume C&D Wood Debris Chipping and Grinding Facility

(f) Limited/Small - Sites that require four inspections per year: \$2,393

Limited Volume Transfer/Processing Operation (less than 15 tons or 60 cubic yards (whichever is greater))

Small Volume CDI Debris Processing Operation

Small Volume C&D Wood Debris Chipping and Grinding Operation

Inert Debris Type A Only Processing Operation

(g) Limited/Small - Sites that require two inspections per year: \$1,649

Limited Volume Transfer/Processing Operation (less than 15 tons or 60 cubic yards (whichever is greater))

(h) Sealed Container Transfer Operations - Sites that require one inspection per year: \$691

Operation where solid wastes remain at all times within unopened containers on-site and are not stored for more than 96 hours

(i) Recycling Center - Sites that require one inspection per year: \$691

CDI Recycling Center

Inert Debris Recycling Center

(3) Large Volume CDI Waste Disposal Facility - Sites that require twelve inspections per year: \$11,010

(4) Inert Debris Type A Disposal Facility - Sites that require twelve inspections per year: \$7,180

(5) Inert Debris Engineered Fill Operation - Sites that require four inspections per year: \$2,393

(6) Compostable Materials Handling Facilities and Operations:

(a) Full Permit - Sites that require twelve inspections per year: \$9,084

(b) Registration Permit Tier or Enforcement Agency Notification -- Sites that require twelve inspections per year: \$8,935

(c) Registration Permit Tier or Enforcement Agency Notification -- Sites that require four inspections per year: \$3,005

(d) Enforcement Agency Notification - Sites that require two inspections per year: \$1,649

(e) Registration Permit Tier or Enforcement Agency Notification -- Sites that require one inspection per year: \$691

(7) Closed Sites:

(a) Monthly - Sites that require twelve (12) inspections per year: \$24,067

(b) Quarterly Large Landfills - Sites that require four (4) inspections per year: \$7,287

(c) Quarterly Burnsites/Small Landfills - Sites that require four (4) inspections per year: \$3,883

(d) Annual - Sites that require one inspection per year: \$904

(8) Solid waste handling fees - All solid waste handlers within the jurisdiction of the County of San Diego LEA shall remit \$0.14 per ton of solid waste handled.

(a) Exclusion: The fee shall not be assessed to solid waste handlers if it can be demonstrated to the satisfaction of the County of San Diego Local Enforcement Agency (LEA) that the waste was recycled and/or diverted from the solid waste stream. Additionally, this fee will not be assessed to solid waste handlers for each ton of waste for which it can be demonstrated to the satisfaction of the LEA that the fee was collected at a disposal site within the jurisdiction of County of San Diego LEA.

(b) All solid waste handlers within the jurisdiction of the County of San Diego LEA that receive revenue or income or charge fees for handling the solid waste shall maintain records and report waste handling information to the LEA in a manner or on a form provided by the LEA quarterly on or before May 1, August 1, November 1, and February 1 respectively and the records used to prepare these reports shall be maintained for a minimum of three (3) years. These records shall be made available for inspection by the LEA upon request during normal business hours.

(c) For purposes of this section, "solid waste handlers" means any person, agency or business that collects, transports, stores, transfers, disposes, or processes solid waste within the jurisdiction of the County of San Diego LEA.

(9) Solid Waste Facility Report or Application Filing Fee

Any solid waste related activity requiring review and / or decision by the LEA shall be accompanied by a filing fee by the applicant or responsible party to reflect the cost of processing the application and to recover costs incurred in meeting requirements of Division 30 of the California Public Resources Code. This fee is in addition to the fees authorized by Chapter 2 and Article 1 (commencing with Section 43200) of Part 4 of the California Public Resources Code. This fee shall be set at the hourly rate as specified in subsection (m)(6).

(10) Solid waste facility complaint response.

DEH costs to investigate a complaint of non-compliance at a facility required to have solid waste facility permit, and DEH costs to verify return to compliance not otherwise recovered through a reinspection fee, if but only if the complaint is substantially validated: Hourly rate as specified in subsection (m)(6).

K. UNIFIED PROGRAM FEES:

(1) Unified Program Facility Permit Base Fee (Required for all Operating Permits except as noted): \$342

Reinspection Fee: \$342

Additional Processing Fee where facility information and other program elements that are subject to electronic reporting in CERS are not submitted, repeatedly not accepted, or not up to date: Hourly rate in subsection (m)(5) or (m)(6) as applicable in each case.

(2) Hazardous and Medical Waste Generator Operating Permit

(Note: Hazardous wastes stored in permitted underground storage tanks are not subject to the fees in this subsection (k)(2).)

(a) Per hazardous waste and/or medical waste: \$78

(b) Per universal waste at or above hazardous materials business plan inventory threshold: \$78

(3) Onsite Hazardous Waste Treatment (Tiered Permitting) Facility Fees

(a) Conditional Exemption per unit: \$224

(b) Conditional Authorization per unit: \$379

(c) Permit by Rule per unit: \$499

(4) Hazardous Material Response Plans and Inventory Operating Permit

(a) Per hazardous material: \$78

(b) Maximum fee for hazardous materials: \$3,120

(Note: Hazardous materials stored in permitted underground tanks are not subject to the fees in this subsection (k)(4).)

(5) Underground Hazardous Materials Storage Operating Permit, Per Tank (includes storage of Hazardous Wastes and Hazardous Materials): \$467

(6) Underground Hazardous Materials Storage Tank Special Permits

(a) New Underground Storage Tank Installation/Repair/Upgrade (Interior lining, bladder installation)

Base Fee [includes one (1) tank]: \$2,336

Each Additional Tank: \$539

Plan Re-Review and Plan Extension: \$157

(b) Closure/Removal

Base Fee [includes one (1) tank]: \$1,088

Each Additional Tank: \$386

(c) Plan Re-Review and Plan Extension: \$157

(d) Underground Storage Tank modification/ upgrade including pipe repair/ replacement that involves two inspections

Base Fee (includes entire facility): \$1,202

Plan Re-Review and Plan Extension: \$157

(e) Underground Storage Tank modification that involves one inspection

Base Fee (includes entire facility): \$773

Reduced Rate Fee (applies to simple projects): \$587

Plan Re-Review and Plan Extension: \$157

(f) Underground Storage Tank re-inspection fee: \$372

(g) Underground Storage Tank Additional Plan Check Inspection: \$401

(h) Underground Storage Tank Consultation Fee: Hourly rate as specified in subsection (m)(6).

(7) Business establishments generating less than 200 pounds per month of medical waste (Operating Permit Base Fee not required): \$168

(8) Business establishments that generate 200 or more pounds of medical waste in any month of a 12-month period: \$674

(9) Hazardous Materials Management Business Plan (HMBP) Review for sites amending their HMBP as part of the Building Permit process (fee per site): \$399

(10) Hazardous Materials Management Business Plan (HMBP) Review for sites evaluated as part of the Building Permit process (Exempted Sites; fee per site): \$72

(11) Preliminary workscope assessment where no fee is specifically indicated. (Includes Risk Management Plans and other technical assistance.) Minimum charge, two hours at the hourly rate as specified in subsection (m)(6).

(12) California Accidental Release Program (CalARP) and Risk Management Plans (RMPs)

(a) Program Level 1 annual fee for triennial inspection: \$178

(b) Program Levels II & III annual fee for triennial inspection: \$252

(c) RMP review work and additional inspection/ audit costs that exceed the annual fee: hourly rate specified in subsection (m)(6).

(13) Day Care Questionnaire Review for City of San Diego (fee per site): \$258

(14) Notification Only Fee for Low Risk Unified Program Facilities designated by the Director of Environmental Health as notification only (Operating Permit Base Fee not required):

(a) Photographic Imaging Waste: \$73

(b) Unstaffed, Remote Location (one-time fee per facility): \$1,090

(15) Established businesses that operate a facility subject to the Unified Program without first submitting a permit application or notification to the Department must pay the following one-time non-notification fee. \$342

(16) Biotechnology facilities and research and development laboratories subject to the Unified Program Facility Permit base fee, the hazardous waste fees or the hazardous materials fees may have these fees reduced by 25% if the facility meets performance standards as defined by the Department.

(17) University of California at San Diego (UCSD) sites limited to contiguous UCSD owned property on and around Gilman Drive in the City of San Diego subject to the Unified Program Facility Permit Base Fee, the Hazardous Waste Generator Fees, the Medical Waste Generator Fees, the Hazardous Materials Fees or the Underground Storage Tank Operating Permit Fees shall pay an annual flat fee in lieu of the fees listed in this section. UCSD shall be subject to all other fees not specifically covered in this Section. The flat fee applies only to UCSD Main Campus and the Scripps Institution of Oceanography. \$23,772

(18) Aboveground Petroleum Storage Act (APSA) annual fee is based on the total aggregate shell capacity of petroleum stored in Aboveground Storage Tank(s) (AST) (maximum quantity):

Program Tier I (1,320 - 9,999 gal): \$222

Program Tier II (10,000 - 100,000 gal): \$287

Program Tier III (100,001 - 1,000,000 gal): \$337

Program Tier IV (1,000,001 - 10,000,000 gal): \$1,391

Program Tier V (10,000,001 - 100,000,000 gal): \$1,764

(19) Corrective Action Oversight. The responsible party or the person requesting the County's oversight of corrective action shall pay the County for its oversight costs. Funds to pay for Department of Environmental Health's (DEH) oversight of corrective action pursuant to section 68.915 of this code shall be advanced to and retained by the County as specified herein.

An initial deposit as specified in section (k)(19)(a) below shall be made by the responsible party or the person requesting oversight. Actual time expended by DEH in oversight shall be charged to this deposit account at the current labor rate.

Additional deposits shall be made to the deposit account by the responsible party or person requesting oversight as specified by the County, to maintain a positive balance sufficient to cover anticipated oversight costs in that case for two to three months. Upon completion of work and closure of the case, any funds not expended shall be returned to the responsible party or person seeking oversight.

(a) Corrective Action Initial Deposit: \$3,692

(20) Regulated facility complaint response: DEH costs to investigate a complaint or an agency referral regarding non-compliance at a facility required to have a Unified Program Facility Permit, including DEH costs to verify return to compliance. Applicable if but only if the complaint is substantially validated:

DEH labor, including travel time, at the hourly rate specified in subsection (m)(6), payable by and invoiced to the facility operator as a regulatory program fee.

Note: If an emergency response is undertaken, Chapter 8 of Division 8 of this Title is also applicable. If removal and disposal of abandoned hazardous waste or hazardous material is undertaken on a non-emergency basis, subsection (k)(22) of this Section is also applicable.

(21) Other complaint response: DEH costs to investigate a complaint or an agency referral regarding improper management of hazardous wastes or hazardous materials at any place not otherwise required to have a Unified Program Facility Permit. This include DEH costs to verify proper on-site management, or the removal and proper subsequent disposition of those materials or wastes. Applicable if but only if the complaint is substantially validated:

DEH labor, including travel time, at the hourly rate specified in subsection (m)(6), payable by and invoiced to the person who owns or controls the hazardous waste or material, as a regulatory program fee.

Note: If an emergency response is undertaken, Chapter 8 of Division 8 of this Title is also applicable. If removal and disposal of abandoned hazardous waste or hazardous material is undertaken on a non-emergency basis, subsection (k)(22) of this Section is also applicable

(22) Hazardous waste and hazardous material abatement. DEH costs to remove and manage, or to arrange for the removal and proper management of, hazardous wastes or hazardous materials that have been abandoned, where there is no immediate need for an emergency response:

DEH labor, including travel time, at the hourly rate specified in subsection (m)(6), plus all other costs incurred, including but not limited to costs, costs of equipment usage, the

cost of supplies, contract service costs, administrative and overhead costs, and the cost of legal services incurred. Payable by and invoiced to the responsible party if identified.
Payable by the property owner or lessee if the responsible party cannot be identified.

The appeal and lien provisions of Chapter 8 of Division 8 of this Title are applicable to invoices issued under this subsection (k)(22).

This subsection does not limit the County's ability to instead order the abatement of, or to abate or summarily abate, a public nuisance and pursue cost recovery as provided in Chapter 2 of Division 6 of Title 1 of this code.

L. RADIATION SHIELDING PLAN CHECK

- (1) Radiation Shielding Plan Check Fee (base fee includes two rooms): \$108
- (2) Fees for additional rooms in same facility (3-6 rooms): \$52

For more complex plan checks, sites are billed at the hourly rate specified in subsection (m)(6) for additional plan check and inspection costs that exceed the hours covered by the fee calculated above.

M. MISCELLANEOUS DEPARTMENT FEES:

- (1) For each duplicate permit, license, grade card, registration, or other required document under any DEH program: \$18
- (2) Health regulated business name change: \$30
- (3) Copies of Documents per page: \$.20
- (4) Vector Control Technician hourly rate for which no fee is specifically indicated (minimum charge one hour, each additional ½ hour will be charged one half of the hourly rate): \$142
- (5) Environmental Health Technician hourly rate for which no fee is specifically indicated (minimum charge one hour, each additional ½ hour will be charged one half of the hourly rate): \$85
- (6) Environmental Health Specialist hourly rate for which no fee is specifically indicated (minimum charge one hour, each additional ½ hour will be charged one half of the hourly rate): \$153
- (7) Expedited services will be provided at the request of the customer when possible. These services will be provided by staff working paid overtime. Costs will be recovered by charging one and a half times the hourly rate specified in subsection (m)(6).
- (8) Cost for services provided for which a deposit is required will be at the hourly rate specified in subsection (m)(6). Costs for expedited services provided for which a deposit is required will be at one and a half times the hourly rate specified in subsection (m)(6).
- (9) Payment for medical waste onsite treatment permit application review and processing:
 - (a) Initial Application: Hourly rate as specified in subsection (m)(6). Two hour minimum.

(b) Review or Revised Application(s): Hourly rate as specified in subsection (m)(6). Two hour minimum.

(10) FEE WAIVER FOR STRUCTURES DAMAGED OR DESTROYED BY NATURAL DISASTER. Notwithstanding the fees otherwise specified in Section 65.107, said fees may be waived for an applicant who is rebuilding legally built structures which have been damaged or destroyed by a wildfire or other natural disaster and which are located within the boundaries of a geographic area which has been declared by resolution of the Board of Supervisors to be eligible for this fee waiver. The fee waiver shall not apply to any portion of a new structure which exceeds the square footage of the structure which is being replaced.

(11) Fees for sample collection, laboratory costs, and project oversight shall be assessed at the approved hourly rate as specified in subsection (m) and for all laboratory costs associated with sampling and analysis.

(12) The following fees shall be paid to the Department of Environmental Health for Vector Laboratory services:

Special Projects include, but are not limited to, preparation for and speaking at public workshops, engagements, meetings, preparation of reports, review of reports or documents, and/or research. Fees for special projects shall be calculated and will be charged using the standard hourly billing rates set forth below.

Laboratory tests: \$35

Save body: \$20

(13) Vector Laboratory Special Projects:

CLASS	CLASS TITLE	HOURLY RATE
2120	County Veterinarian	\$328
5426	Agricultural Scientist	\$201
4317	Disease Research Scientist	\$140

Section 6. Section 67.402 of the County Code is amended to read as follows:

SEC. 67.402. DEFINITIONS AS USED IN THIS CHAPTER.

The following words shall have the meaning provided in this chapter:

ABANDONED AND ABANDONMENT. The terms "abandoned" or "abandonment" shall apply to a well which has not been used for a period of one year, unless the owner declares in writing, to the Director his intention to use the well again for supplying water or other associated purpose (such as a monitoring well or injection well) and receives approval of such declaration from the Director. All such declarations shall be renewed annually and at such time be resubmitted to the Director for approval. Test holes and exploratory holes shall be considered

abandoned twenty-four hours after construction work has been completed, unless otherwise approved by the Director.

ABATEMENT. The construction, reconstruction, repair or destruction of a well so as to eliminate a nuisance caused by a well polluting or contaminating ground water, or otherwise jeopardizing the health or safety of the public.

AGRICULTURAL WELL. A water well used to supply water for irrigation or other agriculture purposes, including so-called stock wells.

CATHODIC PROTECTION WELL. Any artificial excavation in excess of 20 feet constructed by any method for the purpose of installing equipment or facilities for the protection, electrically, of metallic equipment in contact with ground. (See definitions of deep anode bed and shallow anode bed.)

COMMERCIAL WELL. A water well used to supply a single commercial establishment.

COMMUNITY WATER SUPPLY WELL. A water well used to supply water for domestic purposes in systems subject to Chapter 7 of Part 1 of Division 5 of the California Health and Safety Code.

CONSTRUCT, RECONSTRUCT (CONSTRUCTION, RECONSTRUCTION). To dig, drive, bore, drill or deepen a well, or to re-perforate, remove, replace, or extend a well casing.

CONTAMINATION. Any action that causes impairment to the quality of water or creates a risk to public health through the use of the water.

DEEP ANODE BED. Any cathodic protection well more than 50 feet deep.

DESTRUCTION. The proper filling and sealing of a well that is no longer useful so as to assure that the ground water is protected and to eliminate a potential physical hazard.

DIRECTOR. The Director of the Department of Environmental Health of San Diego County or his/her designee.

ELECTRICAL GROUNDING WELL. Any artificial excavation in excess of 20 feet constructed by any method for the purpose of establishing an electrical ground.

GEOHERMAL HEAT EXCHANGE WELL. Any uncased artificial excavation, by any method, that uses the heat exchange capacity of the earth for heating and cooling, in which excavation the ambient ground temperature is 30 degrees Celsius (86 degrees Fahrenheit) or less, and which excavation uses a closed loop fluid system to prevent the discharge or escape of its fluid into surrounding aquifers or other geologic formations. Geothermal heat exchange wells include ground source heat pump wells. Such wells or boreholes are not intended to produce water or steam.

INDIVIDUAL DOMESTIC WELL. A water well used to supply water for domestic needs of an individual residence or systems having four or less service connections.

INDUSTRIAL WELL. A water well used to supply an industry on an individual basis.

MODIFICATION, REPAIR OR RECONSTRUCTION. The deepening of a well or the reperforation or replacement of a well casing and all well repairs and modifications that can affect the ground water quality.

MONITORING WELL. A well used for monitoring or sampling the conditions of soil or water-bearing aquifer, such as water pressure, depth, movement, concentration of contaminants or quality.

NUISANCE. The term "nuisance," when applied to a well, shall mean any well which threatens to impair the quality of ground water or otherwise jeopardize the health or safety of the public. All such nuisances are violations of this chapter and are public nuisances for purposes of the Public Nuisance Abatement Procedure, set out in Chapter 2 of Division 1 of Title 6 of this code.

ORDER OF ABATEMENT. Both mandatory and prohibitory orders requiring or prohibiting one or more acts; said term shall also include those orders effective for a limited as well as an indefinite period of time, and shall include modifications or restatements of any order.

PERMIT. A written permit issued by the Director permitting the construction, reconstruction, destruction, or abandonment of a well.

PERSON. Any person as defined in Section 12.115 of this code, and the State of California and any department or agency thereof to the extent permitted by law.

POLLUTION. An alteration of the quality of water to a degree which unreasonably affects (1) such waters for beneficial uses, or (2) facilities which serve such beneficial uses. Pollution may include contamination.

RESPONSIBLE PARTY. Any person who has, or who has contracted or otherwise caused to have, a monitoring well constructed, repaired, reconstructed or destroyed.

SALT WATER (HYDRAULIC) BARRIER WELL. A well used for extracting water from or injecting water into the underground as a means of preventing the intrusion of salt water into a fresh water-bearing aquifer.

SHALLOW ANODE BED. Any cathodic protection well more than 20 feet deep but less than 50 feet deep.

TEST OR EXPLORATORY HOLE. An excavation used for determining the nature of underground geological or hydrological conditions, whether by seismic investigation, direct observation or any other means.

WELL. Any artificial excavation constructed by any method for the purpose of extracting water from or injecting water into the underground, for providing cathodic protection or electrical grounding of equipment, for making tests or observations of underground conditions, for using the heat exchange capacity of the earth for heating and cooling, or for any other similar purpose. Wells shall include, but shall not be limited to, community water supply wells, individual domestic wells, commercial wells, industrial wells, agricultural wells, test and exploratory holes, monitoring wells and salt water (hydraulic) barrier wells, as defined herein, geothermal heat exchange wells and other wells whose regulation is necessary to accomplish the purposes of this chapter.

Wells shall not include: (a) oil and gas wells, geothermal wells or other wells constructed under the jurisdiction of the State Department of Conservation, except those wells converted to use as water wells; (b) wells used for the purpose of dewatering excavations during construction, or stabilizing hillsides or earthy embankments; or (c) other wells whose regulation is not necessary to fulfill the purpose of this chapter as determined by the Director.

Section 7. Chapter 8 of Division 8 of Title 6 of this Code is revised to read as follows:

CHAPTER 8. HAZARDOUS INCIDENT RESPONSE

SEC. 68.801. PURPOSE.

It is the intent of the Board of Supervisors that the County, through its Office of Emergency Services (OES) and the Department of Environmental Health, should continue to participate in regional arrangements to ensure prompt and effective responses to hazardous materials release incidents (including suspected and threatened releases) within the County. Such participation helps to protect public health and safety and the environment. To the extent allowed by state law, responsible persons should pay for release responses. Where costs cannot be attributed and recovered, coordinated regional efforts should be funded regionally through the Unified San Diego County Emergency Services Organization (USDCESO), a joint powers agency established for these purposes. It is the further intent of the Board of Supervisors that DEH should respond to releases in the unincorporated area that do not fall within the ambit of USDCESO to the extent necessary to protect human health, safety and the environment. Finally, it is the intent of the Board of Supervisors that specialized capabilities developed within DEH to better protect the County be made available for deployment outside of the County at the direction of the Federal Emergency Management Agency, on a full cost recovery basis, where such arrangements will not degrade response capabilities within the County.

For releases in the unincorporated portions of the County, recovery of emergency response costs and expenses is authorized by Section 104.12 of the California Fire Code (as amended in this County by section 96.1.104.12 of this Code) where a release that requires a response is a result of negligence, and by Section 364.1 of the County Administrative Code when recovery is authorized by State law. Several provisions of State law authorize the County, in particular circumstances, to recover emergency response costs incurred anywhere in the County when acting in an authorized capacity. These provisions include Sections 53150 through 53159 of the Government Code (releases caused by persons under the influence of alcohol or drugs), Section 13009.6 of the Health and Safety Code (releases that pose an imminent threat to health and safety and require an evacuation or that result in the spread of a hazardous substance beyond its origin), and Section 25515 of the Health and Safety Code (releases caused by or made worse by certain violations of State law). The chaptered enactments for these State laws clarify that they are not preemptive of other County powers to respond to releases and to recover costs. Finally, when acting under the auspices of USDCESO, a joint powers authority under State law, the above State law authorities and city and county authorities to take action and to recover costs, are applicable to allow USDCESO to recover response costs incurred by any USDCESO contractor.

SEC 68.801.5 DEFINITIONS

The meaning of all terms in this section, not otherwise defined, shall be as set forth in the California Health and Safety Code.

"Controlled substance" means any substance defined as a "controlled substance" in section 11007 of the California Health and Safety Code."

"Hazardous substance" means any hazardous substance listed in section 25316 of the California Health and Safety Code or in section 6382 of the California Labor Code.

"Hazardous material" means any hazardous material as defined in section 25501 of the California Health and Safety Code.

"Hazardous waste" means any waste, or combination of wastes that would constitute a hazardous waste pursuant to section 25117 of the California Health and Safety Code, including an "extremely hazardous waste" as defined in section 25115 of the Health and Safety Code.

"Flammable material" means any material which constitutes a flammable material pursuant to the California Fire Code (2017 Edition), which has been adopted by reference, with certain exceptions, by the County of San Diego (San Diego County Code, section 96.1.001).

"Release" and "threatened release" are defined as set out in section 25501 of the California Health and Safety Code.

SEC. 68.802. HAZARDOUS INCIDENT RESPONSE CAPABILITIES.

To the extent feasible using available resources, the Director may establish, equip, train and maintain a Hazardous Incident Response Team (HIRT) that can safely and effectively respond to hazardous materials releases (including suspected or threatened releases) throughout the County.

SEC. 68.803. HAZARDOUS INCIDENT RESPONSE.

(a) The Director as local Health Officer may respond to releases (including suspected or threatened releases) of hazardous materials anywhere in the County, when necessary to protect public health and safety and the environment. Planning for, funding, and execution of release responses outside of the unincorporated areas of the County shall be coordinated with the Unified San Diego County Emergency Services Organization (USDCEISO) and its member agencies. Responses to releases within the unincorporated area can be conducted through USDCEISO or independently by DEH, as USDCEISO and the Director find appropriate.

(b) When responding to a release or threatened release, the Director as local Health Officer may order that areas or premises be evacuated, and may determine when evacuated areas or premises may be reoccupied.

(c) When responding to a release or threatened release, the Director may order, supervise or undertake all measures necessary to protect public health and safety and the environment, including but not limited to measures to prevent or stop a release; measures to limit or stop the

spread of hazardous substances; measures to suppress or extinguish fire; measures to contain, recover, remove, transport, store or dispose of hazardous substances or waste or contaminated environmental media; measures to mitigate the impacts of a release or fire; site safety, exposure control and monitoring and decontamination activities; and all activities reasonably related to the foregoing activities, including testing, sampling and staff work necessary to assess, evaluate and characterize the emergency condition, to formulate appropriate plans for corrective actions, and to prepare records for related reporting, cost recovery, and enforcement.

- (d) When responding to a release or threatened release, the Director shall determine:
- (1) Whether evacuation from the building, structure, property, or public right-of-way where the incident originated was necessary to prevent loss of life or injury.
 - (2) Whether the incident resulted in the spread of a hazardous substance or substances, or fire, that posed a danger making a response necessary.
 - (3) Whether the spread of a hazardous substance posed a real and imminent threat to public health and safety beyond the building, structure, property, or public right-of-way where the incident originated.
 - (4) Whether negligence caused or contributed to the incident, and if so the person whose negligence caused or contributed to the incident.
 - (5) Whether a violation of Sections 25504 to 25508.2, inclusive, or Section 25511 of the Health and Safety Code resulted in or significantly contributed to the emergency, including a fire, and if so the business, facility or handler that was in violation.
 - (6) Whether any other violation of law by an individual resulted in or significantly contributed to the emergency, and if so the identity of that individual and his or her employer.
 - (7) Whether, for an incident involving a motor vehicle, the operation of that motor vehicle caused the incident requiring an emergency response.

(e) The Director shall record her findings pursuant to subsection (d) of this section in a report or memorandum prepared close in time to the incident that required an emergency response. The report or memorandum shall include a short summary of the facts supporting those findings.

SEC 68.804. LIABILITY FOR AND PAYMENT OF COSTS FOR RESPONSES TO RELEASES OR THREATENED RELEASES OF HAZARDOUS SUBSTANCES.

(a) Those expenses of an emergency response necessary to protect public health and safety or the environment, incurred by the County of San Diego to confine, prevent or mitigate the release, escape or burning of any hazardous substance, or hazardous waste, are a charge against any person whose negligence causes the emergency conditions. Liability may be based

on section 25515 or section 13009.6 of the California Health and Safety Code, sections 53150 to 53152 of the California Government Code, section 96.1.104.12 of this Code, or section 364.1 of the County Administrative Code, or a combination of these sections.

(b) Those expenses of an emergency response necessary to protect public health and safety and the environment, incurred by the County of San Diego to confine, prevent or mitigate the release or escape of any hazardous substance, hazardous waste, or flammable material are a charge against any person who causes such emergency conditions by violating or being in violation of any law relating to the generation, transportation, treatment, storage, recycling, disposal, abandonment or handling of such hazardous substance, hazardous waste or flammable material, including, but not limited to the provisions of Chapters 6.5, 6.7 and 6.95 of Division 20 of the California Health and Safety Code, any County ordinance, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to State law or a County ordinance, or by illegally manufacturing, storing, selling, transporting or disposing a controlled substance or the precursor hazardous materials, hazardous substances, or flammable materials used, or the waste products of such manufacture, are a charge against any person whose violation causes the emergency conditions. Liability may be based on section 25515 or section 13009.6 of the California Health and Safety Code, sections 53150 to 53152 of the California Government Code, section 96.1.104.12 of this Code, or section 364.1 of the County Administrative Code, or a combination of these sections.

(c) Persons who may be liable pursuant to this Chapter shall include, but are not limited to, present or prior owners, lessees, or operators of the property where the hazardous substance, hazardous waste, or flammable material is located and producers, transporters or disposers of such hazardous substance, hazardous waste, flammable material or controlled substance.

(d) Whenever emergency response expenses have been incurred by the County for the purposes specified in this Chapter, the Director shall calculate the amount of expenses incurred, identify the person or persons liable for reimbursement, and promptly prepare and serve an invoice and accompanying documentation as specified in subsection (k) of this section to all responsible parties. Where the emergency response is undertaken pursuant to a contract with USDCOES, the Director may arrange for OES to prepare and serve these invoices.

(e) Expenses reimbursable to the County pursuant to this section are a debt of the person or persons liable therefor, and shall be collectible in the same manner as in the case of an obligation under contract, express or implied, and shall also be collectible as provided in section 68.805 of this Code.

(f) Persons liable for the expenses of an emergency response pursuant to this Chapter shall pay the costs of that response when and as invoiced by the Director or by the County Office of Emergency Services (OES).

(g) For purposes of this Chapter, the negligence or wrongful conduct of an employee acting within the scope and course of employment shall be attributed to both the employee and his or her employer.

(h) Unless an appeal is filed, costs and expenses payable under this Chapter shall be paid as invoiced.

(bi) For responses undertaken pursuant to a contract with USDCECO, funds recovered by the Director in excess of the County's collection costs shall be reimbursed to USDCECO.

(j) For responses undertaken jointly with another agency but not pursuant to a contract with USDCECO, funds recovered for the costs of other participating agencies shall be reimbursed to those agencies.

(k) Invoices for costs and expenses payable under this chapter shall be served as provided in section 11.112 of this Code. The invoice or an included statement shall set out the provisions of law or ordinance on which the invoice is based, a brief summary of the facts establishing liability, an itemization of costs and expenses by category, and procedures for appealing the invoice.

(l) The costs and expenses of emergency response recoverable under this Chapter include the following:

(1) Time expended by County staff for any activity described in subsection (c) of Section 68.803 of his Code. Environmental Health Specialist time shall be charged at the hourly rate in subsection (m)(6) of Section 65.107 of this Code. All other County staff, management, and legal services time shall be charged at the rates otherwise approved by the Auditor and Controller. Time expended includes time for travel, time at the release site, and time for documentation, follow-up reporting, enforcement, appeals and collections processes.

(2) The costs of equipment usage, the cost of supplies, laboratory costs and charges, and all other contract service costs including any legal services costs.

(3) Administrative and overhead costs.

(4) Recoverable costs incurred by other agencies participating in the emergency response, as reported to the County by those agencies.

(5) Where the liability of a business or facility for an emergency response are based at least in part on Section 25515 of the Health and Safety Code, costs and expenses that can be invoiced pursuant to this Chapter also include the costs of cleaning up and disposing of released hazardous wastes and materials, whether incurred as part of an emergency response or after that emergency has been contained.

Section 8. Section 68.805 is added to the County Code to read as follows:

68.805. APPEALS, COLLECTIONS, AND LIENS FOR THE COSTS OF RESPONSES TO RELEASES OF HAZARDOUS SUBSTANCES

(a) An invoice issued pursuant to this Chapter can be contested as provided in Title 1, Division 8 Chapter 2 of this Code, in the same manner as an administrative citation.

(b) A person may obtain judicial review of the decision of a hearing officer on a contested invoice by filing a petition for writ of mandate with the San Diego County Superior Court in accordance with the timelines and procedures set forth in California Code of Civil Procedure Section 1094.5.

(c) The County may initiate a civil action to collect as a debt any amount invoiced pursuant to this Chapter that is not paid within 30 days of the due date specified in that invoice. If said charges are not paid within thirty (30) days from the date of the invoice, said matter may be referred to the County Counsel, or Revenue and Recovery, who shall be authorized to take all appropriate action, including bringing suit, for collection of the charges.

(d) Alternatively, if an invoice is not contested, or is contested and is upheld in an administrative hearing and if applicable in the Superior Court, a lien as authorized by section 101345 of the California Health and Safety Code, may be recorded upon all real property in the County owned or later acquired by any person whose intentional or negligent action caused the incident.

Section 9. Section 68.806 is added to the County Code to read as follows:

68.806. ALTERNATIVE COUNTY RESPONSES TO RELEASES OF HAZARDOUS SUBSTANCES

Nothing in this chapter restricts the authority of the County to address a release of hazardous substances or wastes wholly or in part under other provisions of law or ordinance, including but not limited to the enforcement of County Code requirements, or the enforcement of State laws or regulations the County is authorized to enforce, or through a civil action seeking injunctive relief, or through a nuisance abatement proceeding pursuant to Title 1 of this Chapter or the California Civil Code, or by referral to another agency or a prosecuting authority.

Section 10. Section 68.904.5 of the County Code is amended to read as follows:

SEC. 68.904.5. DEFINITIONS.

The relevant definitions in Chapters 6.5, 6.67, 6.7, 6.11 and 6.95 of Division 20 and in Part 14 of Division 104 of the California Health and Safety Code shall apply where the context makes those definitions applicable. In addition, the following definitions apply to Chapters 9, 10, 11, and 12 of this Division.

(a) "Accepted" in reference to CERS, or "Accepted in CERS" means the CUPA has reviewed the submitted program elements and finds that the data /documents provided appear to meet the State and local reporting requirements. Accepted status does not imply that data has been validated by a field inspection or that the accuracy of the submission has been verified.

(b) "CERS" and "California Environmental Reporting System" have the same meaning as "statewide information management system" as defined in the California Health and Safety Code, Section 25501.

(c) "Certified Uniform Program Agency" or "CUPA" means the agency certified by the Secretary of the California Environmental Protection Agency to implement the unified program in the County of San Diego.

(d) "Chapter 6.95" means Chapter 6.95 (commencing with Section 25500) of Division 20 of the California Health and Safety Code.

(e) "Person" means "person" as defined in section 25118 of the California Health and Safety Code.

(f) "Program elements" means the unified program elements specified in Health and Safety Code Section 25404(c), the administration of which have been consolidated under California State Law as the unified program. "Program element" refers to any of the program elements.

(g) "Unified program facility" or "UPF" means all contiguous land and structures, other appurtenances and improvements on the land, which are subject to the requirements listed in Health and Safety Code Section 25404(c).

(h) "Unified program facility permit" or "UPFP" means the permit issued by the Department of Environmental Health pursuant to Chapters 9, 10, 11, and 12 of this Division. These permits implement unified program elements for hazardous materials and hazardous wastes, and also implement the State program to regulate facilities that generate, handle, store, or treat medical wastes. Permits excluded from the definition of "Unified Program Facility Permit" at Section 25404(a)(6) of the California Health and Safety Code (e.g., Fire Code and Building Code permits) are not unified program facility permits.

Section 11. Effective date


This ordinance shall be effective on July 1, 2018.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY

Rodney Lorang, Senior Deputy

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 25th day of April, 2018.



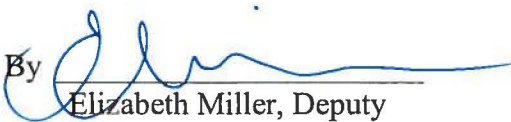
KRISTIN GASPAR
Chairwoman, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Gaspar, Horn
ABSENT: Roberts

ATTEST my hand and the seal of the Board of Supervisors this 25th day of April, 2018.

DAVID HALL
Clerk of the Board of Supervisors

By 

Elizabeth Miller, Deputy



Ordinance No.: 10536 (N.S.)

04/25/18 (1)