

Meeting Date: 12/11/2024 (08)

ORDINANCE NO. 10927 (NEW SERIES)  
Ordinance AMENDING title 6 of the San Diego County Code of Regulatory Ordinances  
pertaining to department of Environmental Health Programs

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

TITLE 6 HEALTH AND SANITATION\*

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\*Cross reference(s)--General provisions, Tit. 1; licenses, business regulations and business taxes, Tit. 2; public safety, morals and welfare, Tit. 3; public property, Tit. 4; regulation of buildings, mobilehome and special occupancy parks and trailer coaches, Tit. 5; highways and traffic, Tit. 7; zoning and land use regulations, Tit. 8; construction codes and fire code, Tit. 9.

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DIVISION 1. FOOD

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

\*Note—Repealed and new Chapter 1 added by Ord. No. 10036 (N.S.), effective 2-26-10.

SEC. 61.101. PURPOSE AND APPLICABILITY.

Part 7 of Division 104 of the California Health and Safety Code (HSC) (sections 113700 et seq.), also referred to as the California Retail Food Code (CRFC), provides 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 purposes of this Division are to clarify and explain the CRFC for local implementation where necessary, to adopt additional regulations for retail food facilities and their employees to protect the public health and safety in San Diego County, to codify and amend a long-standing County program to regulate caterers, and to appoint the Department of Environmental Health and Quality to enforce State and County regulations for retail food facilities and their employees.

Because they are not based on the CRFC, the food facility grading and food handler requirements in this Division (at sections 61.107, 61.108, 61.114 and 61.115) are directly applicable only in the unincorporated portions of San Diego County. However, parallel provisions have been enacted in all of the incorporated cities in the County. Because private event catering is not retail food service as defined in the CRFC, requirements applicable to caterers when preparing and serving food at private events (in Chapter 3 of this Division) are based on County general powers in the unincorporated area (California Constitution, article 11, section 7), and on parallel city ordinances and on State-law health officer powers in incorporated cities. The substantive content of those requirements is based on the CRFC.

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Because the Director is the environmental health officer in all incorporated cities in the County (as authorized by State law and by agreement with each city), parallel city ordinance provisions for food facility grading, food handlers and private event caterers are also administered and enforced by the Director. All other provisions of this Division, including all provisions applicable to direct-sales caterers, implement the CRFC and apply County-wide pursuant to the CRFC. All requirements in this Division are administered and enforced by the Director.

This Division does not override any local land use requirement or limitation, or any local regulation on where mobile food facilities may operate.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10218 (N.S.), effective 8-24-12; amended by Ord. No. 10452 (N.S.), effective 1-13-17; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10766 (N.S.), effective 2-25-22)

#### SEC. 61.102. DEFINITIONS.

The following definitions shall apply to this chapter and to Chapter 3 of this Title:

"CFO" means "Cottage Food Operation" as defined in HSC section 113758.

"**CMFO**" means "**Compact Mobile Food Operation,**" including the use of carts as defined in HSC section 113831(c).

"CRFC" means the California Retail Food Code, which is codified in the California Health and Safety Code.

"Department" means the County Department of Environmental Health and Quality.

"Director" means the Director of Environmental Health and any person appointed by the Director to enforce or administer this chapter.

"Equipment" has the same meaning as the term "equipment" in HSC section 113777.

"Expedited Plan Check Inspection" means plan check field inspection service that is provided within an accelerated time frame.

"Expedited Plan Review" means plan review service that is provided at an accelerated time frame.

"Food" has the same meaning as the term "food" in HSC section 113781.

"Food facility" has the same meaning as the term "food facility" in HSC section 113789, and also includes a "catering operation" or "catering facility" and a "catering host facility" as defined in Chapter 3 of this Title.

"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.

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"HSC" means the California Health and Safety Code.

"Imminent health hazard" has the same meaning as the term "imminent health hazard" in HSC section 113810.

"Limited beverage service" means for the purpose of section 65.107(a), a temporary food facility operation that only serves non-potentially hazardous beverages requiring no preparation other than dispensing from the approved container or draft, directly into the consumer's beverage container. Limited beverage service does not include any operation that requires the mixing of ingredients, addition of ice or garnishes to a beverage, or the addition of any potentially hazardous ingredients.

"Low-Risk Food Facility" means for purposes of section 65.107(a):

(a) A retail food facility that is operating as defined in HSC Section 113818 with the additional allowance of slicing of ready-to-eat potentially hazardous food for immediate service.

(b) A facility that only serves frozen milk products.

(c) A facility that holds an Alcoholic Beverage Control license type 42 or 48 facility, as long as the 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.

"MEHKO" means "Microenterprise Home Kitchen Operation" as defined in HSC Section 113825.

"Minor remodel" means the installation of new equipment to an existing facility, or the construction, building, repair, or alteration of existing areas of the facility that does not exceed 300 square feet and includes, but is not limited to, structural, plumbing, mechanical, or electrical work.

"Miscellaneous Food Facility" means a facility with 25 square feet or more of food display and storage area (including Candy Stores, Concession Stands, Host Facilities, and Prepackaged Non-Potentially Hazardous Foods), and 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).

"Multiple Kitchen Complex Operation" means any establishment used as a place of business for the purpose of leasing, renting, or otherwise providing individual commercial kitchen space to independent retail food facility operations, where that space is not used or shared by another operator. Common shared infrastructure such as restroom facilities, janitorial facilities, dry food storage, and refrigerated and/or frozen food storage is provided for each individual tenant to use.

"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.

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"Ready-to-eat food" has the same meaning as the term "ready-to-eat food" in HSC section 113881.

"Retail Food Processing" means for the purpose of section 65.107a, any food facility that has no on-site indoor or outdoor dining and processes and packages food for retail sales for delivery, pick-up, or take-out only, and does not have a prepackaged retail sales floor. Examples of this type of operation include but are not limited to the following:

(a) Facilities operating from shared permitted kitchens that produce pre-ordered individual retail sales (food/beverages) for delivery, pick-up, or take-out only.

(b) Facilities that process and package food for retail sales that may also have processed food registrations/licenses with the California Department of Public Health, California Department of Food and Agriculture, or the United States Department of Food and Agriculture.

(c) Facilities offering prepared food to-go that may require additional preparation or cooking.

(d) Sushi makers inside grocery stores.

(e) Tortilleria/Popsicle manufacturers.

(f) Commissary/Prep kitchens for delivery to the other locations (owned by same business).

"Revision" means any plan submittal required for corrections identified or minor changes to the initial submittal for any New, Major Remodel, or Minor Remodel project.

"School Auxiliary Facility" means an educational facility that is serviced by a School Food Processing Facility, or other permitted food facility, and conducts processes that include but are not limited to dispensing, reheating, and storage of potentially hazardous foods. Auxiliary Facilities may open prepackaged food as necessary to stock an onsite salad bar and rinse whole uncut produce. All other food preparation, including the slicing and processing of produce, must be conducted at a School Food Processing Facility.

"School Food Processing Facility" means an educational facility that conducts full processing including, but is not limited to, handling, preparing, assembling, cooking, cooling, and reheating of potentially hazardous foods; washing and slicing of produce. This site may be a stand-alone site, or a centralized location that services multiple auxiliary kitchens.

"Tableware" has the same meaning as the term "tableware" in HSC section 113926.

"Utensil" has the same meaning as the term "utensil" in HSC section 113934.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10218 (N.S.), effective 8-24-12; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10452 (N.S.), effective 1-13-17; amended by Ord. No. 10606 (N.S.), effective 7-1-19; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10733 (N.S.),

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effective 7-1-21; amended by Ord. No. 10766 (N.S.), effective 2-25-22; amended by Ord. No. 10786 (N.S.), effective 7-1-22; amended by Ord. No. 10848 (N.S.), effective 7-1-23)

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

The Department shall be the local enforcement agency for the CRFC and the regulations adopted in this Division, and for parallel food facility grading, food handler, and caterer requirements adopted by cities within the County.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10218 (N.S.), effective 8-24-12; amended by Ord. No. 10452 (N.S.), effective 1-13-17; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 61.104. PERMIT REQUIRED FROM DEPARTMENT.

(a) A person who is required to obtain a food facility permit pursuant to the CRFC shall submit an application for the permit to the Department on a form provided by the Department and pay all applicable permit fees. The permit shall be available on site for review upon request and shall not be defaced or marred. Restaurant operators with a food facility permit may cater private events without an additional permit. All other catering requires a catering permit. The application for a permit shall be accompanied by the annual permit fee, if any, required in Title 6, Division 5, Chapter 1. (See County Code section 65.107(a).) Where a plan check or plan consultation is required, the time-based fee specified in Title 6, Division 5, Chapter 1 must be paid before a permit or other approval to operate is issued. (See County Code section 65.107(m).)

(b) A person organizing a community event or swap meet at which any food vendor claims exclusion from "food facility" status pursuant to Health and Safety Code 113789(c)(4) (i.e., based on operation of the event for the benefit of a non-profit, and the absence of any monetary benefit to the for-profit food vendor other than that resulting from recognition from participating in the event) shall submit with the application for an organizer's permit for the event one of the following:

(i) A certification by an individual authorized to represent the organizer, sworn under penalty of perjury under the laws of the State of California, identifying each vendor claiming this exclusion, and stating that the signatory has confirmed after reasonable inquiry that the organizer has procedures in place to collect all revenues received by those vendors in excess of each vendor's direct costs of participating in the event, and has procedures in place to remit those excess revenues, less any contractual fee retained by the organizer, to the non-profit beneficiary of the event.

(ii) Certifications by individuals authorized to represent each vendor claiming this exclusion, sworn under penalty of perjury under the laws of the State of California, stating that the vendor had procedures in place to determine its event revenues in excess of its

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direct costs of participating in the event, and will remit those excess revenues if any either directly to the non-profit beneficiary of the event, or to the organizer for distribution to non-profit beneficiary.

(c) Pursuant to Health and Safety Code section 114390(b)(1), the Director may require any food vendor doing business at an event without a temporary food facility permit or a statement as set out in subsection (b) on file with the Department to provide documentation of receipts, expenses, and remittances to the non-profit beneficiary of that event sufficient to show eligibility for exclusion for that event under Health and Safety Code section 113789(c)(4).

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10218 (N.S.), effective 8-24-12; amended by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10452 (N.S.), effective 1-13-17; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10733 (N.S.), effective 7-1-21; amended by Ord. No. 10786 (N.S.), effective 7-1-22)

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

When the Department 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, the Department 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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10218 (N.S.), effective 8-24-12; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 61.106. PLAN REVIEW FEE.

A person required to submit written plans and specifications to the Department pursuant to Health and Safety Code section 114380 shall pay the plan review fee required in Title 6, Division 5 at the time the person submits plans and specifications. If more than one plan review is required, the applicant shall also pay the plan revision and plan check consultation fees specified in that Division.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10218 (N.S.), effective 8-24-12; amended by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

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

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(a) The Director may adopt regulations to grade permanent or mobile food facilities that prepare food (as defined in Section 113791 of the California Retail Food Code), using a letter grade system. The grading system may be used during any inspection the Department 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. The Department 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 the Department determines from the inspection, however, that the facility presents an imminent health hazard that warrants immediate closure the Department shall not issue the facility a grade card. Facilities operating as MEHKOs under Chapter 5 of this Code are exempt from grading system requirements under CRFC Section 114367.1(b)(23).

(b) The Department 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. The Department may also order a permit holder to correct a deficiency found during an inspection in less than 30 days. The permit holder shall pay the Department a re-grade fee at the time of each re-grade inspection, as specified in Title 6, Division 5, Section 65.107 (d). MEHKOs operating under Chapter 5 of this Code are exempt from grading system requirements.

(c) The Department 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. The Department may also use the information obtained during an inspection to modify, suspend or revoke the food facility's permit.

(d) If the Department determines that a food facility should be ordered to show cause at a hearing why its permit should not be suspended or revoked, the Department may require the facility to post a specified alternative notice instead of a grade card, until that hearing process is concluded and a decision concerning the permit is rendered.

(e) If the Department determines that the public should be informed of temporary conditions affecting a food facility, such as a boil water order or a closure order for only a portion of the facility, the Department may require the facility to post a specified notice, and may direct that such posting be maintained either instead of or in addition to posting a grade card.

(f) Violations of the requirements of this code related to food facility grading shall be subject to the penalties and procedures set out in Division 8 of Title 1 of this code.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10101 (N.S.), effective 1-7-11; amended by Ord. No. 10218 (N.S.), effective 8-24-12; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10733 (N.S.), effective 7-1-21; amended by Ord. No. 10766 (N.S.), effective 2-25-22)

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

(a) The permit holder of a permanent or mobile food facility that prepares ready-to-eat food shall post the alphabetical grade card the Department issues, or any alternative notice specified by the Department pursuant to Section 61.107, whenever the facility is open for business. The grade card or alternative notice shall be posted so that it is clearly visible to patrons of the facility so that statements on the card may be read. MEHKOs operating under Chapter 5 of this Code are exempt from grading system requirements.

(b) If the food facility is enclosed, the permit holder shall post the grade card or alternative notice: (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 the Department approves. If the food facility has a drive-through feature, the permit holder shall also post the grade card or alternative notice 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 or alternative notice in a location clearly visible to any patron of the facility. The Department may require the permit holder of an unenclosed facility to display the grade card or alternative notice in a specific location.

(d) The permit holder shall protect the alphabetical grade card or alternative notice from damage by weather conditions and shall not allow the card or alternative notice 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 or alternative notice from the Department within one business day of the grade card or alternative notice being damaged, marred, altered or lost.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10101 (N.S.), effective 1-7-11; amended by Ord. No. 10218 (N.S.), effective 8-24-12; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10766 (N.S.), effective 2-25-22)

**SEC. 61.109. HEARING REQUESTED BY PERMIT HOLDER OR DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY; APPEALS.**

(a) If a permit holder requests a hearing within 15 days after receiving notice that the Department proposes to suspend or revoke a food facility permit pursuant to the CRFC, or if the Department temporarily closes a food facility for an imminent health hazard, the Director shall schedule a hearing. The Director shall also schedule a hearing when the Department 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 Department employee, at the supervisor level or higher, who was not involved in the decision to propose to modify, suspend or revoke the permit or to temporarily close the facility.

(b) The permit holder may appeal the decision made at the hearing to the Appellate Hearing Board as provided in Chapter 1 of Division 6 of Title 1 of this Code. Filing an appeal



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shall stay the decision of the Department hearing officer, unless the Department hearing officer determined that an imminent health hazard required closure of the facility.

(c) The Clerk shall endeavor to schedule the appeal hearing on an expedited basis if the food facility must remain closed until that appeal is heard.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10101 (N.S.), effective 1-7-11; amended by Ord. No. 10218 (N.S.), effective 8-24-12; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 61.110. ADMINISTRATIVE PROBATION.

(a) A permit holder and the Department 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 the Department 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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10218 (N.S.), effective 8-24-12)

#### 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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10218 (N.S.), effective 8-24-12)

**SEC. 61.112. INSPECTIONS AND TRACKING MOBILE FOOD FACILITIES.**

(a) 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 the Department 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. The mobile food facility may also be inspected in the field as authorized by the Director.

(b) The Director may establish a program to ensure that Mobile Food Facilities can be efficiently located in the field for inspections and grading, and may implement that program through permitting conditions.

A current list of locations at which a mobile food permit holder will operate shall be submitted to the Department along with a current cell phone number. the Department shall be notified in a timely manner whenever a change is made.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10218 (N.S.), effective 8-24-12; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

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

(a) No person shall rent or lease equipment, tableware or utensils to a catering operation or to the public without a miscellaneous food facility permit issued by the Department for that operation.

(b) No person shall rent or lease equipment, tableware or utensils to a catering operation or to the public 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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10218 (N.S.), effective 8-24-12; amended by Ord. No. 10452 (N.S.), effective 1-13-17; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10786 (N.S.), effective 7-1-22)

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

(a) Except as provided in subsection (f) of this section 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 (c) of this section, or (2) is

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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) 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. The person seeking authorization from the Department to issue certificates shall pay the fee specified in section 65.107 of this code. 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 food 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 trained and able to obtain a score of 80% or higher on the proficiency test at renewal time. 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, after covering fundamental principles of food safety practices, may administer a food handler test that the Director prepares. 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.

(f) 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

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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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10218 (N.S.), effective 8-24-12; amended by Ord. No. 10350 (N.S.), effective 9-5-14; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### 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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10218 (N.S.), effective 8-24-12)

#### SEC. 61.116. OPERATIONAL REQUIREMENTS APPLICABLE TO COTTAGE FOOD OPERATORS.

(a) Cottage Food Operations (CFOs) whose potable water supply comes from a private well shall submit with their permit application sample results verifying the water supply meets at minimum a "Transient Non-Community Water System" standard, as defined in HSC Section 116275(o). Sample results shall include nitrate, nitrite, bicarbonate, carbonate and hydroxide alkalinity, calcium, iron, magnesium, manganese, pH, specific conductance, sodium, total hardness and bacteriological water quality.

(b) CFOs whose permits are initially approved shall submit annually with the CFO permit renewal, updated nitrate, nitrite and bacteriological water sample results that show the water supply continues to meet "Transient Non-Community Water System" potable water standards. CFOs served by a public water system with groundwater sources shall submit documentation that water supply meets at minimum Transient Non-Community water quality standards.

(c) Transactions at up to two CMFOs operated by a CFO shall not count toward the annual gross sales restrictions in HSC Section 113758 applicable to CFOs.

(Added by Ord. No. 10786 (N.S.), effective 7-1-22)

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## CHAPTER 2. WHOLESALE FOOD WAREHOUSES

### SEC. 61.211. WHOLESALE FOOD WAREHOUSES.

Sections 61.211 through Section 61.256 are to be known as the Wholesale Food Warehouse Ordinance.

The Department of Environmental Health and Quality shall be and is hereby authorized and empowered to make inspections and issue permits to the owners and/or operators of wholesale food warehouses that hold or distribute food at wholesale.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

### SEC. 61.212. DEFINITIONS.

**Whenever in this article the following terms are used, they shall have the meanings respectively ascribed to them in this section:**

(a) **ADULTERATED.** Having been made impure by the addition of any poisonous or deleterious substance; or in the case of food, foodstuffs that have been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated or rendered unwholesome, diseased or injurious to health.

(b) **APPROVED.** Acceptable to the Director based upon a determination of conformity with applicable laws, or in the absence of applicable laws, with current public health principles, practices and generally recognized industry standards that protect the public health.

(c) **APPROVED SOURCE.** A producer, manufacturer, distributor, or food establishment that is acceptable to the Director based on the determination of conformity with applicable laws, or in the absence of applicable laws, with current health principles and practices, and generally recognized industry standards that protect public health.

(d) **DEPARTMENT.** For the purposes of this chapter, "Department" shall mean the Department of Environmental Health and Quality.

(e) **DIRECTOR.** For the purposes of this chapter, "Director" shall mean the Director of the Department of Environmental Health of San Diego County and his/her designees.

(f) **EMBARGO.** The legal control exercised by the Director over the use, sale, disposal or removal of any food.

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(g) **EMPLOYEE.** Any person working in a wholesale food warehouse, including managers and/or owners.

(h) **FOOD.** Any raw or processed substance, ice, beverage, including water, or ingredient intended to be used as food, drink, confection or condiment for human or animal consumption.

(i) **GOOD MANUFACTURING PRACTICES.** The practices for manufacturing, packing, or holding food described in Title 21 of the Code of Federal Regulations, Part 110.

(j) **IMMEDIATE DANGER TO THE PUBLIC HEALTH OR SAFETY.** For the purposes of this section, any condition, based upon inspection findings or other evidence, that can cause food infection, food intoxication, disease transmission; a hazardous condition, including, but not limited to, unsafe food temperature, sewage contamination, no potable water supply, and vermin infestation; or an employee who is a carrier of a communicable disease. Any food facility for which the permit is suspended shall close and remain closed until authorized to reopen by the Director or Health Officer.

(k) **IMPOUND.** The legal control exercised by the Director over the use, sale, disposal or removal of any equipment or utensil.

(l) **POTENTIALLY HAZARDOUS FOOD.** Any food that is capable of (1) supporting rapid and progressive growth of infectious or toxigenic microorganisms that may cause food infections or food intoxications or (2) supporting the growth or toxic production of Clostridium botulinum. "Potentially hazardous food" does not include foods that have a pH level of 4.6 or below; foods that have a water activity (aw) value of 0.85 or less under standard conditions; food products in hermetically sealed containers processed to prevent spoilage; or food that has been shown by appropriate microbial challenge studies, the results of which are approved by the Director, not to support the rapid and progressive growth of infectious, toxigenic microorganisms that may cause food infections or food intoxications, or the growth of Clostridium botulinum.

(m) **REMODEL.** For purposes of this chapter, remodel means any replacement, significant modification, or installation of walk-in refrigerators or freezers, toilet rooms, and sinks used for utensil washing.

(n) **WHOLESALE FOOD WAREHOUSE.** Any place, building, structure, room or portion thereof, where food is commercially distributed, stored, or held for transfer. "Wholesale Food Warehouse" does not include food processing establishments, retail food facilities, or warehouses where only packaged beverages or food in sealed cans or bottles is received, stored and shipped in the same package as received, without opening or modifying the original package.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**SEC. 61.213. VIOLATION OF ANY SECTION OF THIS CHAPTER IS A MISDEMEANOR.**

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Any person who violates this chapter is guilty of a misdemeanor. Each offense shall be punished by a fine not less than \$25 or more than \$1000 or by imprisonment in the county jail for a term not exceeding six months or by both such fine and imprisonment. Every day any violations of this chapter shall continue shall constitute a separate and distinct offense.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.214. NUISANCE-POWER OF DIRECTOR.

Every wholesale food warehouse kept, maintained or operated in violation of this chapter, and all food produced, prepared, manufactured, packed, stored, kept, sold, distributed or transported in violation of this chapter is declared a public nuisance. The Director is authorized and empowered to take such action as is necessary to abate the nuisance. In the event that immediate action is necessary to preserve or protect the public health or safety, the Director is authorized and empowered to summarily abate such nuisance by any reasonable means; otherwise, the Director shall inaugurate proceedings in accordance with Section 11.116, the Uniform Public Nuisance Abatement Procedure contained in Chapter 2, Division 6, Title 1 (commencing with Section 16.201) of this Code, or shall seek a court order abating the nuisance. Nothing contained in this Code shall be deemed to limit the right and duty of the Director to take immediate action in the interests of the public health, safety and welfare. The remedies authorized by this section are not exclusive, but are cumulative to other remedies provided by law.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.215. PERMIT REQUIREMENT.

A wholesale food warehouse shall not store, distribute, transport, ship, or otherwise handle food without all necessary permits, including a valid health permit. A wholesale food warehouse operating without the requisite permit may be subject to closure.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.216. PLAN REVIEW AND PERMITS.

Any person proposing to build or remodel a wholesale food warehouse shall submit complete construction plans, drawn to scale, and specifications to the Department for review and approval before starting construction or remodeling. Any construction shall be in accordance with applicable health and building codes. The Building Department shall not issue a building permit for a wholesale food warehouse until after it has received approval by the Department. Those facilities constructed prior to January 1, 2003 shall not be subject to plan review and construction upgrades unless the equipment, building or facilities are in disrepair, creating a public health nuisance, or undergoing remodeling.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

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**SEC. 61.217. POSTING OF PERMIT.**

A wholesale food warehouse shall post its health permit in a conspicuous place in the establishment, and the permit shall not be defaced or marred.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03; amended by Ord. No. 10786 (N.S.), effective 7-1-22)

**SEC. 61.218. RIGHT TO INSPECT.**

The Director may enter and inspect any wholesale food warehouse or any place suspected of being a wholesale food warehouse and may issue inspection reports, official notices, and secure any sample, photograph or other evidence for the purpose of enforcing this chapter.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

**SEC. 61.219. RESISTING OR DISOBEYING A DIRECTOR PROHIBITED.**

No person shall refuse, resist or attempt to resist the entry of the Director into any establishment, facility, railway car, stage, vehicle, building, room, lot, place, or portion thereof in the County in the performance of his or her duty. No person shall refuse to obey any lawful order of the Director, made in the performance of his or her duties, within the power conferred upon him or her by state law or by this chapter.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

**SEC. 61.220. INSPECTION REPORT AND HEARING.**

The Director shall prepare a written report of inspection and a copy shall be supplied or mailed to the permittee of the facility inspected. If the permittee fails to comply with the requests of the Director, the Director shall issue to the permittee a notice setting forth the acts or omissions with which the permittee is charged, and informing him or her of a right to a hearing, if requested, to show cause why the permit should not be suspended or revoked.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

**SEC. 61.221. PERMIT SUSPENSION.**



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A health permit may be immediately suspended for repeated violations of this chapter, interference with the Director in the performance of his or her duty, or the presence of an immediate danger to the public health or safety unless the danger is immediately corrected.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.222. PERMIT SUSPENSION NOTICE.

Whenever a permit is suspended for violating this chapter, the Director shall issue to the permittee a notice setting forth the acts or omissions with which the permittee is charged and informing the permittee of the right to a hearing.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.223. SUSPENDED PERMIT REINSTATEMENT.

A permit that has been suspended for violations of this chapter may be reinstated, if the Director determines that conditions which prompted the suspension no longer exist.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.224. PERMIT REVOCATION.

The Director may, after providing opportunity for a hearing as provided in Section 61.109 of this code, revoke a permit for serious or repeated violations of any of the requirements of this chapter, interference in the performance of the duty of the Director, or an immediate danger to the public health or safety. Any wholesale food warehouse for which the permit has been revoked shall close and remain closed until a new permit has been issued.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03; amended by Ord. No. 9858 (N.S.), effective 5-25-07)

#### SEC. 61.225. APPEAL OF WHOLESALE FOOD WAREHOUSE PERMIT DENIALS, SUSPENSIONS AND REVOCATIONS.

A person denied a wholesale food warehouse permit, or a permittee whose permit has been suspended or revoked may appeal the denial, suspension or revocation in the manner set forth in Section 61.109 of this code.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03; amended by Ord. No. 9858 (N.S.), effective 5-25-07)

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**SEC. 61.226. RIGHT TO IMPOUND.**

The Director may impound any equipment or utensil in a wholesale food warehouse, which is unapproved, found to be insanitary, or in such disrepair that it may cause food to become contaminated or adulterated. The Director may place a tag on impounded equipment or utensils that shall be removed only by the Director.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

**SEC. 61.227. RIGHT TO EMBARGO.**

The Director may embargo any food suspected of being adulterated, contaminated, or otherwise unfit for human consumption. The embargoed food shall be identified with a tag, detained, released or discarded.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03; amended by Ord. No. 9662 (N.S.), effective 8-14-04)

**SEC. 61.228. RELEASE FROM IMPOUND OR EMBARGO.**

The Director shall commence proceedings for the release of any food, equipment, or utensil that has been embargoed or impounded, or to seek administrative or legal remedy for its disposition, within 30 days of such action. It is unlawful for any person to make any disposition of embargoed food or impounded equipment or utensils other than that ordered by the Director.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

**SEC. 61.229. RESPONSIBILITY FOR VIOLATIONS.**

The owner, manager or operator of any wholesale food warehouse is responsible for any violation of this chapter by his or her employee.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

**SEC. 61.230. ENFORCEMENT HEARING PROCEDURES OTHER THAN FOR PERMIT SUSPENSIONS OR REVOCATIONS.**

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Hearings regarding non-compliance with this chapter that the Director does not propose be resolved through a permit suspension or revocation shall be held in the following manner:

(a) Director requirement. The Director may require the owner, operator or manager of a wholesale food warehouse to attend an administrative hearing before a departmental hearing officer pursuant to Section 61.109 of this code, to discuss violations of this chapter, disposition of embargoed or impounded items, risks and risk reduction at the facility or other significant issue related to food facilities.

(b) Request of facility owner, operator or manager. The owner, operator or manager of a wholesale food warehouse may request an administrative hearing before a departmental hearing officer pursuant to Section 61.109 of this code to discuss events related to the enforcement of this chapter at his or her food facility. Such events include notices to comply, notices of violation, risk management plan provisions, and disposition of embargoed or impounded items. The owner, operator or manager must submit a request for a hearing within 15 days after the event. A failure to request a hearing within 15 days of the event shall be deemed a waiver of the right to a hearing. The hearing shall be held within 15 days of the receipt of the request for a hearing. When circumstances warrant, the departmental hearing officer may order a hearing at a reasonable time within this 15-day period to expedite the permit suspension or revocation process.

(c) Hearing rules and procedures and appeals are pursuant to Section 61.109 of this code.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03; amended by Ord. No. 9858 (N.S.), effective 5-25-07)

#### SEC. 61.231. FOOD HANDLING.

All food shall be manufactured, produced, prepared, compounded, packed, stored, transported, and kept for sale so as to be pure, free from contamination, adulteration, and spoilage; shall have been obtained from approved sources; shall otherwise be fully fit for human consumption; and shall conform to the applicable federal and state laws and regulations including: Good Manufacturing Practices; the Food Sanitation Act; Sherman Food, Drug and Cosmetic Law; the California Business and Professions Code; and applicable sections of Title 17 of the California Code of Regulations. Preparation of food at wholesale shall only take place within a facility approved by and under the jurisdiction of the appropriate state or federal agency. Preparation of food includes the wholesale packaging or processing of unpackaged food, but does not include the trimming of or packaging of whole uncut produce.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.232. TEMPERATURE REQUIREMENTS.

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Potentially hazardous foods shall be maintained at a temperature at or below 41 degrees Fahrenheit or at or above 135 degrees Fahrenheit, except for the following:

(a) Unshucked live molluscan shellfish shall not be stored or displayed at a temperature above 45 degrees Fahrenheit.

(b) Frozen foods shall be maintained in a frozen state.

(c) Pasteurized milk and pasteurized milk products in original, sealed containers shall not be held at a temperature above 45 degrees Fahrenheit.

(d) Raw shell eggs shall not be stored or displayed at an ambient temperature above 45 degrees Fahrenheit.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03; amended by Ord. No. 9662 (N.S.), effective 8-14-04)

#### SEC. 61.233. ICE.

When ice is used in contact with food, it shall be made from water that is safe and of adequate sanitary quality and shall be used only if it has been manufactured in accordance with Good Manufacturing Practices.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.234. EMPLOYEE SANITARY PRACTICES.

No employee shall commit any act that may result in contamination or adulteration of any food, food contact surface, food packing material, utensil, or equipment.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.235. GENERAL SANITATION REQUIREMENTS.

All wholesale food warehouses including all equipment, utensils, facilities, and exterior grounds shall be kept clean, free from vermin, fully operative, and in good repair.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.236. ANIMALS OR FOWL PROHIBITED.

No live animal or fowl shall be kept or allowed in any wholesale food warehouse where food is prepared, manufactured, kept, stored, distributed, offered for sale, or sold. This section does not apply to dogs used by the blind, signal dogs, service dogs, such dogs in training under proper supervision, dogs under the control of uniformed law enforcement officers, or dogs under the control of uniformed employees of a private patrol service who

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are licensed pursuant to Chapter 11.5 (commencing with section 7580) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment as private patrolmen.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.237. PLUMBING.

Plumbing shall be installed according to the Uniform Plumbing Code and shall be protected from backflow, kept clean, fully operative, and in good repair. An adequate, protected, pressurized, potable water supply shall be provided. The water supply shall be from a water system approved by the Director or the state department.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.238. SEWAGE DISPOSAL.

Sewage disposal shall be made into an approved sewerage system. Wastewater disposal shall comply with National Pollutant Discharge Elimination System (NPDES) and local wastewater treatment district standards.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.239. SANITARY SUPPLIES AND SIGNS.

(a) Toilet tissue shall be made available in permanently mounted dispensers at each toilet.

(b) Each hand-washing sink shall be provided with a permanently mounted dispenser supplied with single service soap, and a permanently mounted single service towel dispenser or other approved hand-drying device.

(c) Signs shall be posted directing employees to properly wash their hands after using the toilet.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.240. RUBBISH, OFFAL, GARBAGE, AND PUTRESCIBLE MATTER.

(a) Rubbish and any offal shall be so conveyed, stored, and disposed of as to minimize development of odor, minimize the potential for the waste becoming an attractant, harborage, or breeding place for vermin; protect against contamination of food, food contact surfaces, water supplies, and ground surfaces; and prevent the creation of any other nuisance.

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(b) Any garbage and putrescible matter shall be maintained in leakproof receptacles with close fitting lids. Such receptacles shall be thoroughly cleaned each time their contents are removed.

(c) Adequate means shall be provided to prevent overflows of the refuse bin containers. Refuse pick up service shall be regular (not to exceed seven days). The size and/or number of refuse bin containers shall be adequate to prevent the creation of a nuisance.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.241. RETURNED OR DAMAGED FOODS.

All returned or damaged food and food products shall be safe and wholesome before return to inventory storage for distribution or sale.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.242. CONSTRUCTION AND EQUIPMENT.

It is unlawful to operate a wholesale food warehouse unless such operation is within buildings capable of being fully enclosed with floors, walls and overhead structure in compliance with this chapter. All buildings shall be of sound construction in accordance with all applicable codes; designed and maintained so as to provide proper drainage, plumbing, lighting, and ventilation.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.243. FLOORS.

The floor surfaces in walk-in refrigerators and freezers, food storage areas, utensil washing areas, refuse or garbage storage areas, and toilet rooms shall be of such construction and material so as to be smooth; impervious to water, grease and corrosives; and easily cleanable. A minimum four inch (4") high approved coved base with a minimum three-eighths inch (3/8") radius shall be provided at the juncture of the wall and floor, except in refuse or garbage storage and warehouse areas.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.244. WALLS.

Walk-in refrigerators and freezers, utensil-washing areas and toilet rooms shall have walls which are smooth, nonabsorbent, and have a washable finish.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

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SEC. 61.245. CEILINGS.

The ceilings in walk-in refrigerators, walk-in freezers, utensils washing areas and toilet rooms shall be smooth, nonabsorbent and have a washable finish.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

SEC. 61.246. VENTILATION.

(a) Approved ventilation shall be provided throughout the establishment to keep all areas reasonably free from excessive heat, steam, condensation, smoke, and vapor, and to provide reasonable comfort for all employees.

(b) Toilet rooms and janitorial rooms shall be provided with an openable screened window, mechanical ventilation, or other approved ventilation system.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

SEC. 61.247. VERMIN PROOFING.

Wholesale food warehouses shall at all times be so constructed, equipped, maintained and operated as to prevent the entrance and harborage of animals, birds, and vermin, including, but not limited to, rodents and insects.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

SEC. 61.248. SANITARY FACILITIES.

(a) Employee handwash lavatories shall be provided within or adjacent to toilet rooms. Warm running water under pressure of at least 100 degrees Fahrenheit shall be provided through a mixing valve or combination faucet. Spring operated faucets are not permitted.

(b) Separate toilet facilities for each sex are required if there are five or more employees per shift. Urinals may be substituted for toilets in toilet rooms for males but shall not exceed one-third (1/3) of the required number of toilets. Required number of toilets and hand washing sinks are dependent upon the number of employees in accordance with the Uniform Plumbing Code. Toilet rooms shall be separated from other portions of the wholesale food warehouse by well-fitting, properly labeled, self-closing doors.

(c) All utensils used for handling unpackaged food or the trimming of produce shall be washed, rinsed, and sanitized in an approved three-compartment utensil-washing sink. A two-compartment sink may be used when alternative approved sanitation methods are used. Utensil-washing sinks shall be equipped with a supply of hot (minimum 120 degrees Fahrenheit) and cold running water under pressure through a mixing valve or combination faucet.

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(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

**SEC. 61.249. FOOD STORAGE.**

Adequate warehousing/storage facilities shall be provided for the storage or distribution of food. All food shall be properly stored a minimum of six inches (6") above the floor on shelving. Pallets may be used in lieu of shelving if equipment is available on demand to move the pallets. All storage racks and equipment for the storage of food or food products shall be constructed, and all sacks, boxes and other food containers shall be so arranged as to permit and facilitate the flushing with water, other cleaning and inspection of storage room floors and walls. At least twelve inches (12") of unobstructed space from the wall shall be provided in warehouse storage areas.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

**SEC. 61.250. JANITORIAL FACILITIES.**

The following janitorial facilities are required at a wholesale food warehouse:

(a) A room, area, or cabinet, separated from any food or utensil-washing area, shall be provided for the storage of cleaning equipment and supplies such as mops, buckets, brooms, and cleaners.

(b) At least one of the following, provided with hot (at least 120 degrees Fahrenheit) and cold water under pressure through a mixing valve, to be used for general cleaning purposes and for the disposal of mop bucket waste and other liquid wastes:

(1) A one-compartment, non-porous janitorial sink/mop sink (stainless steel, porcelain or fiberglass).

(2) A slab, basin, or floor constructed of concrete or equivalent material, curbed and sloped to a drain, connected to approved sewerage.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

**SEC. 61.251. REFRIGERATORS AND FREEZERS.**

(a) Each wholesale food warehouse where potentially hazardous food is packaged, stored, distributed, or held for transfer must have adequate approved refrigeration.

(b) Each refrigeration unit shall be equipped with accurate, readable thermometers.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

**SEC. 61.252. ICE MACHINES.**



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All icemakers shall be located within the approved wholesale food warehouse. Condensate and ice melt shall be drained to an approved floor sink by means of an indirect connection.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.253. FLOOR SINKS.

Floor sinks shall be properly plumbed and installed with the sink top flush with the floor surface. All condensate and similar liquid waste shall be drained by means of a rigid indirectly connected waste lines into open floor sinks, or as approved by the Director. Horizontal runs of drain lines shall be at least six inches (6") off the floor, sloped toward floor sinks at a rate of one quarter inch (1/4") per foot, and shall terminate at least one inch (1") above the overflow rim of the floor sink. Floor sinks shall be located so that they are readily accessible for inspection, cleaning, and repairs, and not located in a walkway. Waste lines shall not cross any aisle, traffic area, or door opening. Floor sinks are not permitted inside walk-in units unless they are indirectly connected to the sewer system through a legal air gap.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.254. AISLES AND WORK SPACE.

Aisles or working spaces between equipment or between equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties in accordance with local building and fire codes.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.255. FLOOR DRAINS.

Adequate floor drains shall be provided in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on to the floor. (Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### SEC. 61.256. TRANSPORTATION OF FOOD.

No person shall carry, transport, or convey any food for commercial purposes unless such food is protected from contamination. All potentially hazardous foods shall also be kept at a temperature pursuant to Section 61.232 (Temperature Requirements). All vehicle food compartments shall be maintained clean, sanitary, and in good repair.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

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### CHAPTER 3. CATERING\*

\*Note--Former Chapter 3, Destruction of Spoiled Food, repealed by Ord. No. 10036 (N.S.), effective 2-26-10. New Chapter 3, Catering, added by Ord. No. 10452 (N.S.), effective 1-13-17.

#### SEC. 61.301. PURPOSE AND APPLICABILITY.

(a) This chapter implements the California Retail Food Code as it applies to direct-sales caterers and catering operations, and reenacts with minor modifications prior County Code requirements for private event catering. The requirements of this chapter are applicable County-wide. Catering operations are also subject to the requirements of Chapter 1 of this division, and to the applicable requirements of the CRFC. In case of any inconsistency between a provision of this chapter and an applicable provision of the CRFC, the CRFC provision takes precedence.

(b) This chapter does not apply to the following food facility operations, which are regulated under the CRFC:

- (1) Food service by a permitted temporary food facility at a community event or swap meet
- (2) Food service by a mobile food facility directly from that facility
- (3) Satellite food service by a permanent food facility
- (4) Cottage food operation

(c) This chapter does not apply to any operation that is expressly excluded within the definition of "food facility" in subsection (c) of section 113789 of the HSC; or to the preparation of food by a cook-for-hire in a private home; or to the preparation of delivery of food that has been ordered by an individual consumer to that consumer at any location for his or her direct consumption.

#### SEC. 61.302. DEFINITIONS.

(a) "Approved food preparation" means food preparation approved by the Department pursuant to subsections (b) and (c) of section 61.303, as part of a caterer's standard operating procedures for additional food preparation at an event site or host facility.

(b) "Caterer" means a catering facility operator or restaurant operator, when catering.

(c) "Catering" means the preparation of food in a permitted kitchen at one location combined with the delivery, additional approved food preparation, and service of that food at a separate location. "Catering" does not include the activities excluded in section 61.301 of this chapter.

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(d) "Catering facility" and "catering operation" mean all of the facilities, equipment, utensils and activities directly used by a caterer to store, prepare, transport, finish and serve catered food or used by the caterer to store or clean catering-related utensils or equipment. Facilities and equipment rented to a caterer are part of the catering operation while in the possession of the caterer. A catering facility or catering operation is a "food facility" subject to the CRFC and this chapter when operated for direct-sales catering, and is a food facility subject to this chapter when operated for food service at a private event.

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(e) "Catering host facility" means a fixed facility established and regularly operated for purposes other than food service, that meets the requirements of section 61.307 and obtains the permit required by section 61.303. Direct-sales catering food service may only occur at a permitted catering host facility that meets the requirements of section 61.307 at the time the catered food is served.

(f) "Catering vehicle" means a "transporter" as defined in HSC section 113932, when used to transport food, beverages and related food preparation and food serving equipment and utensils to or from a catered function.

(g) "Department" means the Department of Environmental Health and Quality.

(h) "Director" means the Director of Environmental Health and their designees.

(i) "Direct-sales catering" means any catering where food is sold or served to individual consumers as members of the public, i.e., all catering other than private event catering. Direct-sales catering is only allowed at a permitted catering host facility that meets the requirements of section 61.306 at the time the catered food is served.

(j) "Private event catering" means catering where food is served to a predetermined number of guests invited to an event by a sponsor or organizer. Provided that the requirements in subsection (a) of section 61.305 are met, "private event catering" also includes catering at a "social function" or "sponsored commercial function."

(k) "Social function" means a sponsored pre-arranged gathering of people, who come together based on a common interest other than the food to be served at the social function, during which catered food is served to a pre-determined maximum number of people. An example would be a catered affinity club meeting, or a catered charity benefit event. A "community event" as defined in HSC section 113755 is not a "social function." (Food service at a "community event" is regulated as provided in the CRFC.)

(l) "Sponsored commercial function" means a function other than normal daily business operations at a commercial establishment or at beer or wine tasting premises (even if locally zoned as "industrial" or "agricultural"), during which catered food is served to a predetermined maximum number of people. An example would be a special event with food service to introduce a new vehicle to potential customers at a car dealership, or a monthly meeting of a winery's "wine club" at that winery. A "community event" as defined in HSC section 113755 is not a "sponsored commercial function." (Food service at a "community event" is regulated as provided in the CRFC.)

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(Amended by Ord. No. 10709 (N.S.), effective 1-15-21)

### SEC. 61.303. CATERING PERMIT AND HOST FACILITY PERMIT REQUIREMENTS.

(a) All catering permits issued by the Department prior to the effective date of this ordinance, and all catering permits not designated by the Department as direct sales catering permits, are private event catering permits. No person shall engage in private event catering without a valid restaurant permit, private event catering permit, or direct sales catering permit. No person shall engage in direct-sales catering without a direct-sales catering permit. No person shall allow direct-sales catering at their facility without a valid catering host facility permit. Applications for private event catering permits, direct-sales catering permits and host facility permits must be made on a form or forms provided by the Department, and the applicable permit fees (if any) set out in section 65.107 of this code must be paid. The permit shall not be defaced or marred.

(b) The Director may deny a catering facility permit to any applicant if the catering equipment or the standard operating procedures for food preparation and service at the kinds of catered functions described by the applicant in the permit application do not **comply with this Chapter or are insufficient to ensure food safety.**

(c) Catering may not be conducted under a temporary food facility permit. The sale or distribution of food under a temporary food facility permit (aka "temporary event permit" or "annual temporary event permit") is limited to community events and swap meets. (A temporary food facility is subject to different standards than a caterer, as set out in the CRFC.)

(d) A private event catering permit or restaurant permit may only be used to prepare and serve food at private events, including social functions and sponsored commercial functions that qualify as private events.

(e) A direct-sales catering permit may be used to prepare and serve food at private events (including qualifying social functions and sponsored commercial functions), and to prepare, serve, and sell food at permitted catering host facilities.

(g) A catering host facility permit does not allow direct sales catering at the host facility by private event caterers or by restaurants that do not have a direct-sales catering permit, except at a private event.

(g) Catering permits and catering host facility permits may be modified, suspended, or revoked as provided in the CRFC for all food facility permits.

(Amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10786 (N.S.), effective 7-1-22)

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**SEC. 61.304. OPERATIONAL REQUIREMENTS AND PROHIBITIONS APPLICABLE TO ALL CATERERS.**

(a) A catering facility operator may not directly or indirectly sponsor a private event, social function or sponsored commercial function at which that caterer prepares or serves food, and may not have a substantial ownership interest in a host facility at which that caterer sells food.

(b) In addition to meeting the requirements set out in this chapter, caterers when catering must consistently use the equipment and implement and maintain the operating procedures approved (or modified and then approved) by the Director.

(c) Prior to any catered function and prior to any catered food service at a catering host facility, all food shall be prepared at the permitted food facility identified in the caterer's permit application and approved by the Department for use by that caterer. (HSC Sections 113980 and 113984).

(d) All food to be catered shall be stored at the permitted food facility or approved commissary identified in the caterer's permit application and approved by the Department for use by that caterer.

(e) Prior to any catered function, all utensils and equipment shall be washed and stored at the caterer's permitted food facility, or at a food equipment rental establishment that meets the requirements of the CRFC and section 61.103 of this chapter. Prior to transportation, all utensils shall be sanitized as specified in the CRFC. (HSC 114095 - 114109.)

(f) Utensils and equipment shall be protected from contamination.

(g) Utensils that become contaminated during food preparation or service may not be reused unless cleaned and sanitized using sinks and procedures that meet the requirements of HSC sections 114099 and 114099.2.

(h) At all times that the caterer has control over the food, including periods of receiving, storage, preparation, transportation and service, all food shall be adequately protected so as to be maintained pure and free of contamination, adulteration, and spoilage.

(i) The caterer shall not provide home-prepared food at a catered function.

(j) All food handlers shall wash their hands and arms with cleanser and warm water before commencing work, immediately after using the toilet facilities, and as frequently as necessary to prevent contamination of food. Hands shall be washed in properly supplied and stocked hand wash sinks. (HSC 113952 - 113963.)

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(k) The caterer shall have at least one food handler who shall have passed an ANSI accredited Food Protection Manager Certification exam and possess a valid certificate or card. (HSC 113947.1(a) and (f) through (i).)

(l) All food handlers must possess a valid County Food Handler Card. (HSC 113948 and County Code section 61.114.)

(m) The caterer must post signs or provide business cards at the event premises stating their business name and address, and caterer's permit number. (HSC 114337.)

(n) When requested by the Department (in order to allow an annual inspection or a reinspection at a function where food is served), the caterer shall provide the Department a list of the events and (if applicable) host facilities at which the caterer will serve food over the following two weeks, including the food service locations and dates and times of service at each location.

(o) Caterers shall maintain a written record of their food service at a private event or host facility for 90 days after each event or day of service. These records shall be provided to the Department upon request to facilitate investigation of a food-borne illness outbreak. The records shall include the event menu, the ingredients used in each food item sold or served, the sources of all ingredients, and the name of and contact information for the event organizer.

(Amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 61.305. ADDITIONAL OPERATIONAL REQUIREMENTS AND PROHIBITIONS APPLICABLE TO PRIVATE EVENT CATERERS.

(a) Private event catering must be arranged in advance of a private event (including a qualifying social function or sponsored commercial function), between the caterer and the sponsor. The arrangements must set a start time and end time for food service at the event, and must provide for a set quantity of food to be prepared, delivered and served based on the predetermined maximum number of people expected to participate in the event.

(b) In any agreement between a caterer and a private event organizer for catered food to be left at an event site by the caterer to be served by the event organizer, the caterer shall specify the equipment that must be present on-site to meet hot and cold holding requirements for potentially hazardous foods, and the caterer and organizer shall agree on whether the caterer or the organizer will provide that equipment. The caterer shall verify that adequate equipment is on-site when food is delivered.

(c) Any caterer who leaves food at a private event site to be served by the organizer shall provide written instructions on safe food handling and event duration to the organizer, including instructions to discard uneaten items that are or may contain potentially hazardous foods at the end of the safe duration for the event.

(d) A caterer may not serve or allow catered food to be served to anyone at a private event (including a qualifying social function), other than guests of the sponsor, or to be

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served to more people at a sponsored commercial function than the predetermined maximum number of participants.

(e) Caterers when engaged in private event catering must hold potentially hazardous foods at or below 41 degrees Fahrenheit or at or above 135 degrees Fahrenheit, except during preparation or cooking or transportation for a period of less than 30 minutes. (HSC section 113996.) If included and approved as a standard operating procedure a caterer may rely on time as a public health control at functions where food service ends not more than four hours after food is removed from temperature control at the function site.

(f) All potentially hazardous foods not consumed by the guests or by the predetermined number of participants at a private event (including a qualifying social function or sponsored commercial event) must be removed by the caterer for disposal at the agreed time for catered food service to end.

(g) Overhead protection must be provided for the food preparation area, except where prohibited by a local building or fire code. (HSC 114328(j)(2)).

(Amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 61.306. ADDITIONAL OPERATIONAL REQUIREMENTS AND PROHIBITIONS FOR CATERERS WHEN ENGAGED IN DIRECT- SALES CATERING.

(a) Caterers when engaged in direct sales catering must hold potentially hazardous foods at or below 41 degrees Fahrenheit or at or above 135 degrees Fahrenheit, except during preparation or cooking or transportation for a period of less than 30 minutes. (HSC section 113996(a).)

(b) Caterers when engaged in direct-sales catering must use portable mechanical refrigeration equipment as defined in HSC 113885 at the food service site, to maintain required cold-holding temperatures for potentially hazardous foods. Reliance on ice, portable cooling blocks, or ice chests or coolers to hold potentially hazardous foods is prohibited.

(c) All potentially hazardous foods that were not cold-held at or below 41 degrees Fahrenheit during the entire time the caterer was at the host facility must be discarded by the caterer when food service ends for that day.

#### SEC. 61.307. CATERING HOST FACILITY REQUIREMENTS.

(a) Clean toilet rooms that meet local building and plumbing codes shall be in place at the host facility, located not more than 200 feet from the area where the caterer prepares

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food, and must be accessible to the caterer's food handlers. The toilet rooms can be the same rooms used by the host facility. (HSC section 114250 and 114250.1.)

(b) Warewashing sinks meeting the requirements in HSC section 114099 must be in place at the host facility, accessible to the caterer, and near the area where the caterer prepares food. These sinks can be the same sinks used by the host facility. The host facility shall provide the caterer access to the sinks while food preparation and service by the caterer is ongoing. The host facility does not need to provide access to the sinks to facilitate washing of the caterer's utensils and equipment after food service ends.

(c) A curbed cleaning facility (aka "mop sink") that meets the requirements of HSC section 114279(a) shall be present in the host facility and accessible to the caterer's food handlers at all times.

(d) Handwashing facilities that meet the requirements in HSC sections 113953 through 113953.2 and section 113953.5 shall be present in the host facility and accessible to the caterer's food handlers at all times.

(e) The host facility shall provide sufficient electrical power to operate the caterer's mechanical refrigeration equipment.

(f) The host facility shall provide potable hot and cold water for use by the caterer that meets the requirements in HSC sections 114192 and 114195.

#### SEC. 61.308. COOK FOR HIRE.

A cook-for-hire may not store, prepare or otherwise handle food that will be cooked for hire at the cook-for-hire's home; instead all storage, preparation, handling and cooking must be done at the private residence of the hiring party. A cook-for-hire may not sell the food to be cooked to his or her client, but may be reimbursed for the actual cost of food brought to the client's private residence to be prepared or cooked. Provided these conditions are met no health permit is required, because only cooking services, not food, are donated or offered for sale.

#### SEC. 61.309. INSPECTIONS.

The Director is authorized to inspect caterers' kitchens and commissaries at any time during normal business hours, and to inspect caterers' food service operations in the field wherever and whenever they occur. The Director shall endeavor to inspect each caterer's fixed facilities and a representative food service operation by that caterer at a food service site at least once per year.

#### CHAPTER 4. ALCOHOLIC BEVERAGE WARNING SIGNS\*

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\*Note--Chapter 4, Alcoholic Beverage Warning Signs, added by Ord. No. 7272 (N.S.), effective 5-10-87; Secs. 61.401 - 61.405 repealed by Ord. No. 9881 (N.S.), effective 10-19-07.

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SEC. 61.401. [RESERVED.]

(Repealed by Ord. No. 9881 (N.S.), effective 10-19-07)

SEC. 61.402. [RESERVED.]

(Amended by Ord. No. 7578 (N.S.), effective 2-23-89; amended by Ord. No. 7822 (N.S.), effective 11-15-90; repealed by Ord. No. 9881 (N.S.), effective 10-19-07)

SEC. 61.403. [RESERVED.]

(Amended by Ord. No. 7578 (N.S.), effective 2-23-89; repealed by Ord. No. 9881 (N.S.), effective 10-19-07)

SEC. 61.404. [RESERVED.]

(Amended by Ord. No. 7822 (N.S.), effective 11-15-90; repealed by Ord. No. 9881 (N.S.), effective 10-19-07)

SEC. 61.405. [RESERVED.]

(Amended by Ord. No. 7578 (N.S.), effective 2-23-89; amended by Ord. No. 7822 (N.S.), effective 11-15-90; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9525 (N.S.), effective 1-10-03; repealed by Ord. No. 9881 (N.S.), effective 10-19-07)

## CHAPTER 5. MICROENTERPRISE HOME KITCHEN OPERATIONS

SEC. 61.501. PURPOSE AND APPLICABILITY.

(a) This chapter implements, and incorporates by reference, the California Retail Food Code (CRFC) as it applies to Microenterprise Home Kitchen Operations (MEHKOs) codified as California HSC Sections 113789, 113825, 114367, 114367.1 - 114367.6 & 114390. The requirements of this chapter are applicable County-wide. MEHKOs are also subject to the requirements of Chapter 1 of this division, and to the applicable requirements of the CRFC,

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unless specifically exempted under State law. In case of any inconsistency between a provision of this chapter and an applicable provision of the CRFC, the CRFC provision takes precedence.

(b) This chapter does not apply to the following food facility operations which are regulated under the CRFC:

(1) Food service by a permitted temporary food facility at a community event or swap meet

(2) Food service by a mobile food facility directly from that facility

(3) Satellite food service by a permanent food facility

(4) Cottage food operation

(5) Catering operation

(c) This chapter does not apply to any operation that is expressly excluded within the definition of "food facility" in subsection (c) of Section 113789 of the HSC; or to the preparation of food by a cook-for-hire in a private home; or to the preparation of delivery of food that has been ordered by an individual consumer to that consumer at any location for his or her direct consumption.

(Added by Ord. No. 10766 (N.S.), effective 2-25-22)

#### SEC. 61.502. DEFINITIONS.

"CRFC" means the California Retail Food Code, which is codified in the California Health and Safety Code.

"Department" means the County Department of Environmental Health and Quality.

"Director" means the Director of Environmental Health and any person appointed by the Director to enforce or administer this chapter.

"Enforcement Officer" means the Director of Environmental Health and their duly authorized designees and any person appointed by the Director to enforce or administer this chapter.

"HSC" means the California Health and Safety Code.

"MEHKO" means "Microenterprise Home Kitchen Operation" as defined in HSC Section 113825.

"MEHKO Operator" means the resident of the private home who holds the permit for the MEHKO and is responsible for the operation.

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"Potable Water" means water that complies with the standards for transient noncommunity water systems pursuant to the California Safe Drinking Water Act, commencing with HSC 116270 to the extent permitted by federal law.

"Resident of a Private Home" means an individual who resides in the private home when not elsewhere for labor or other special and temporary purposes.

(Added by Ord. No. 10766 (N.S.), effective 2-25-22)

#### SEC. 61.503. MEHKO FACILITY PERMIT REQUIREMENTS.

(a) No person shall operate without a valid MEHKO permit issued by the Department. Application for permit must be made on a form or forms provided by the Department, and the applicable permit fees (if any) set out in section 65.107 of this code must be paid. A MEHKO permit shall be valid for one year, may be renewed annually, and is not transferable.

(b) The permit application for any MEHKO permit shall, at a minimum, include a listing of the equipment and standard operating procedures the MEHKO Operator proposes to use in compliance with HSC Section 114367.2(c).

(c) MEHKO permits may be modified, suspended, or revoked as provided in the CRFC.

(Added by Ord. No. 10766 (N.S.), effective 2-25-22)

#### SEC. 61.504. OPERATIONAL REQUIREMENTS AND PROHIBITIONS APPLICABLE TO MEHKO OPERATORS.

Consistent with, and in addition to, the operational requirements and exemptions set forth in California HSC Section 114367, et seq., a MEHKO shall comply with all of the following:

(a) The MEHKO Operator shall successfully pass an approved and accredited Food Safety Certification Examination, in compliance with HSC Section 113947.1, and submit proof of certification with the permit application for a MEHKO operation.

(b) Any person(s) participating in the MEHKO shall obtain a San Diego County Food Handler Certification issued by the Department within thirty (30) days of such participation as specified in Health & Safety Code Section 113948.

(c) All food storage within the permitted area shall comply with Chapter 4, Article 5 of the CRFC. Any other detached rooms on the premises, including accessory buildings and garages, may be used to store food items only if all food is stored inside of an approved refrigerator and/or freezer with a closable door/lid. Sleeping quarters or second units are not included as a permitted area.

(d) Only one MEHKO may operate per residence.

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(e) MEHKO Operators whose potable water supply comes from a private well shall submit with their permit application sample results verifying the water supply meets at minimum a "Transient Non-Community Water System" standard, as defined in HSC Section 116275(o). Sample results shall include nitrate, nitrite, bicarbonate, carbonate and hydroxide alkalinity, calcium, iron, magnesium, manganese, pH, specific conductance, sodium, total hardness and bacteriological water quality.

(f) MEHKO Operators whose permits are initially approved, shall submit annually with the MEHKO permit renewal, updated nitrate, nitrite and bacteriological water sample results that show the water supply continues to meet "Transient Non-Community Water System" potable water standards. MEHKOs served by a public water system with groundwater sources shall submit documentation that water supply meets at minimum Transient Non-Community water quality standards.

(g) Food prepared in a MEHKO may be served from a compact mobile food operation (CMFO) operated by a MEHKO permit holder pursuant to HSC Section 114368.3(a)(5). A CMFO shall not sell food other than non-potentially hazardous prepackaged food or whole produce, or conduct any food preparation, unless it meets the applicable operational requirements of the HSC Chapter 11.7.

(i) The meal and gross annual sales limitations in paragraph (7) of subdivision (a) of HSC Section 113825 do not apply to the sale of non-potentially hazardous food or produce for up to two CMFOs operated by the MEHKO pursuant to HSC Section 114368.3(a)(6).

(h) A permitted MEHKO may serve as a commissary or mobile support unit for up to two compact mobile food operations (CMFOs) if the MEHKO permit includes an endorsement from the Department that the MEHKO is capable of supporting the preparation and storage of the food being sold from the CMFO and the storage and cleaning of the CMFO pursuant to HSC Section 114368.3(a)(1).

(i) The meal and gross annual sales limitations in subparagraph (7) of HSC Section 114368(a) do not apply to the sale of non-potentially hazardous food or produce for up to two CMFOs operated by the MEHKO pursuant to HSC Section 114368.3(a)(6).

(i) Food preparation for a permitted MEHKO operating in conjunction with a CMFO is limited to no more than 80 individual meals per day and no more than 200 individual meals per week.

(j) A permitted MEHKO operating in conjunction with a CMFO shall not have more than \$150,000 in verifiable gross annual sales, as adjusted annually for inflation based on the California Consumer Price Index.

(Added by Ord. No. 10766 (N.S.), effective 2-25-22)

## SEC. 61.505. INSPECTIONS.

(a) Pursuant to the Health and Safety Code, the Department shall have the right to enter, inspect, issue administrative citations to, and secure any sample, photographs, or other

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evidence from any MEHKO, or any facility suspected of being a MEHKO, or a vehicle transporting food to or from a MEHKO, at any reasonable time. Unless the Department fails to provide proper identification, refusing an inspection may result in the health permit being suspended or revoked, and/or the owner or operator shall be guilty of an infraction or misdemeanor offense.

(b) The Department shall inspect MEHKO upon the initial application, as well as on an annual basis, or due to a consumer complaint, if there is reason to suspect that unsafe food has been produced, or there is another violation of this Ordinance. An inspection form provided by the Department shall be used for all inspections. An inspection will be conducted after advanced notice is given to the Resident of a Private Home and will include Permitted Areas and vehicles used for transporting food to or from a MEHKO. The Department may seek cost recovery, based on the hourly rate established in section 65.107 of this code if additional inspections or complaint investigations are required to ensure compliance with this chapter.

(c) If the applicant refuses to allow an inspection, or is otherwise unable to allow an inspection within a reasonable time, permits may be denied, revoked, or placed on hold.

(Added by Ord. No. 10766 (N.S.), effective 2-25-22)

#### SEC. 61.506. INITIAL SUNSET REVIEW.

This chapter shall sunset or otherwise expire two (2) years from the date of its adoption unless extended by the Board of Supervisors prior to that date.

(Added by Ord. No. 10766 (N.S.), effective 2-25-22)

### DIVISION 2. ANIMALS AND POULTRY

#### CHAPTER 1. LIVESTOCK

### ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS

#### SEC. 62.101. DEFINITIONS.

Whenever in this chapter the following terms are used they shall have the meaning ascribed to them in this article.

(Amended by Ord. No. 10098 (N.S.), effective 1-7-11)

#### SEC. 62.102. [RESERVED.]

(Repealed by Ord. No. 10098 (N.S.), effective 1-7-11)

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**SEC. 62.103. [INFECTIOUS DISEASE.]**

"INFECTIOUS DISEASE" shall include any infectious, contagious or communicable disease considered by the County Veterinarian to be sufficiently dangerous to the welfare of the County and to the health of the livestock therein to warrant putting into effect the provisions of this chapter and their rules and regulations.

(Amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

**SEC. 62.104. [LIVESTOCK.]**

"LIVESTOCK" shall mean any horses, mules, asses, cattle, sheep, goats, hogs, poultry, rabbits, pet birds, or dogs and cats, and fish, or any animal or animals ordinarily considered as wild animals which are kept in captivity or under control or ownership of any person for any purpose.

(Amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

**SEC. 62.105. [RESERVED.]**

(Repealed by Ord. No. 10098 (N.S.), effective 1-7-11)

**SEC. 62.106. [RESERVED.]**

(Amended by Ord. No. 5726 (N.S.), effective 5-8-80; repealed by Ord. No. 10098 (N.S.), effective 1-7-11)

**SEC. 62.107. PROVISIONS SUPPLEMENT LAWS.**

This chapter shall in all respects be construed to supplement and harmonize with the provisions of the laws of the State of California pertaining to animal industry.

(Amended by Ord. No. 10098 (N.S.), effective 1-7-11)

**SEC. 62.108. [RESERVED.]**

(Repealed by Ord. No. 5726 (N.S.), effective 5-8-80)

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**SEC. 62.109. COUNTY VETERINARIAN RESPONSE TO DISEASE OUTBREAKS IN LIVESTOCK.**

(a) In response to any outbreak of infectious disease in livestock that could threaten human health, the County Veterinarian, acting under the supervision of the State Veterinarian and in cooperation with the California Department of Food and Agriculture, Animal Health Branch and the County Health Officer when appropriate, may enforce all laws of the State of California and all orders and ordinances of the Board of Supervisors pertaining to that outbreak and for that purpose is hereby empowered and authorized by and with the approval of the Board of Supervisors to establish, maintain and enforce such quarantine, sanitary, testing and immunizing measures or to promulgate such rules and regulations as may be deemed proper and necessary. The County Veterinarian may also supervise examination and testing of animals or premises for the presence of contagious, infectious, or communicable disease.

(b) In the case of any outbreak of infectious disease in livestock that does not threaten human health, the County Veterinarian may request assistance for the County from the State Veterinarian, shall defer to that State official to enforce state laws, and to the extent feasible shall assist that State official. If the State Veterinarian is unable to respond, then the County Veterinarian may require examination and testing of animals or premises for the presence of contagious, infectious, or communicable disease and also investigate, make diagnosis of, and institute control measures for any suspicious case of rabies of animals reported by the Health Officer or any other person or agency. A report of such investigation shall be furnished to the Health Officer.

(Amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 8358 (N.S.), effective 3-17-94; amended by Ord. No. 9663 (N.S.), effective 8-14-04; amended by Ord. No. 10098 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

**SEC. 62.110. COUNTY VETERINARIAN MAY ENTER PREMISES.**

The County Veterinarian is hereby empowered to enter any premises where livestock is kept, or on which there is reason to believe that livestock is kept, in order to carry into effect the provisions of this chapter.

(Amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 10098 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

**SEC. 62.111. INTERFERENCE WITH COUNTY VETERINARIAN.**

It shall be unlawful for any person to interfere with the official actions of the County Veterinarian.

(Amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

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**SEC. 62.112. ILLEGALLY IMPORTED LIVESTOCK SUBJECT TO EXAMINATION AT OWNER'S EXPENSE.**

All livestock brought into the County in violation of any of the provisions of this chapter shall be subject to quarantine, examination and test at the expense of the owner by the County Veterinarian, who may dispose of such livestock to comport with the welfare of the County and the protection of the health of the domestic livestock therein.

(Amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

**SEC. 62.113. DUTY TO ASSIST COUNTY VETERINARIAN.**

It is hereby made the duty of any person suspecting or having knowledge of the presence of any infectious disease in livestock to report same to the County Veterinarian. It shall be the duty of any person owning or having control of livestock to assist the County Veterinarian to enforce the provisions of this chapter, to obey all orders of the County Veterinarian made for the control and eradication of infectious disease, the sanitation of premises, the destruction of livestock and the disposal of carcasses, manure, offal, refuse, condemned meat and meat products.

(Amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

**SEC. 62.114. [RESERVED.]**

(Repealed by Ord. No. 10098 (N.S.), effective 1-7-11)

**SEC. 62.115. [RESERVED.]**

(Repealed by Ord. No. 10098 (N.S.), effective 1-7-11)

**SEC. 62.116. [RESERVED.]**

(Amended by Ord. No. 2046 (N.S.), effective 6-16-60; amended by Ord. No. 4188 (N.S.), effective 11-29-73; repealed by Ord. No. 10098 (N.S.), effective 1-7-11)

**SEC. 62.117. TESTS FOR LIVESTOCK DISEASES -- FEE.**

At such times and places within the County as determined by the County Veterinarian, in accordance with their authority and duties prescribed by law, may require such tests as may be required to make proper diagnosis of various conditions and diseases in livestock



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as may be authorized from time to time by the Board of Supervisors. The County Veterinarian may issue health certificates based on their findings resulting from required tests or from such livestock examinations as may be authorized by law. The fees for health certificates shall be collected in advance by the County Veterinarian and shall be as specified by the Board of Supervisors.

(Amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 6715 (N.S.), effective 2-17-84; amended by Ord. No. 10098 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

SEC. 62.118. [RESERVED.]

(Amended by Ord. No. 5726 (N.S.), effective 5-8-80; repealed by Ord. No. 10098 (N.S.), effective 1-7-11)

ARTICLE 2. REMOVAL OF LIVESTOCK\*

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\*Note--Article 2, titled REMOVAL OF LIVESTOCK, consisting of Sections 62.120--62.122, repealed by Ord. No. 5726 (N.S.), effective 5-8-80.

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ARTICLE 3. [RESERVED.]\*

\*Note--Article 3, titled IMPORTATION OF LIVESTOCK, consisting of Sections 62.123—62.128, repealed by Ord. No. 10098 (N.S.), effective 1-7-11.

ARTICLE 4. QUARANTINES

SEC. 62.130. QUARANTINE OF IMPORTATIONS FROM OTHER COUNTIES.

When the County Veterinarian shall have determined that an infectious disease exists among livestock in any other county or area of the State of California and the importation of livestock from such county or area might spread such disease among livestock within the County of San Diego, the County Veterinarian may notify the State Veterinarian and request assistance in implementing an appropriate quarantine to eliminate any danger of the livestock within the County of San Diego being exposed to infection from such disease.

(Amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

**SEC. 62.131. QUARANTINE WITHIN COUNTY.**

Upon information received by the County Veterinarian of any infectious disease affecting livestock within the County of San Diego, the County Veterinarian may investigate the same. Upon discovery of any infectious disease affecting livestock in the County of San Diego, the County Veterinarian may establish such quarantine, sanitary testing, immunizing, and police regulations as may be necessary to control or eradicate such disease and prevent the spread thereof to other livestock. The County Veterinarian may quarantine any livestock which may have been exposed to infection from such diseased livestock or which may have been located upon the land or premises where such diseased livestock has been kept, and thereafter it shall be unlawful for any person to break such quarantine or to move or allow to be moved any such livestock from within the premises thus quarantined, or across the quarantine line so established without first obtaining from the County Veterinarian a permit to do so. If the County Veterinarian shall deem it proper to issue such a permit after inspection the County Veterinarian may cause such livestock, premises, vehicles of transportation, and any infected materials equipment or effects to be properly cleaned and disinfected.

(Amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

**SEC. 62.132. REMOVAL OR QUARANTINE NOTICES PROHIBITED.**

It shall be unlawful for any person during the existence of such quarantine to remove, tear, deface, mutilate, obscure or otherwise destroy or in any other manner whatsoever interfere with any placard, notice, or proclamation declaring such quarantine which is placed on or about the premises on which any of said animals so quarantined are located.

**SEC. 62.133. QUARANTINED ANIMALS NOT TO DRINK FROM STREAMS, ETC.**

It shall be unlawful for any person to permit any livestock so quarantined to have access to any irrigation ditch, stream or other channel in which water is running or may run at any time through such quarantined premises, or to allow such livestock to come in contact with other livestock which may have access to any irrigation ditch, stream or other channel so mentioned, or to permit the depositing in such irrigation ditch, stream, or channel of any manure, offal, excrement, or material which might carry infection, or to allow the drainage from any premises so quarantined to come in contact with such irrigation ditch, stream or other channel aforementioned.

Cross reference(s)--Misuse of a hydrant, § 41.121; livestock watering holes, § 42.201.

**SEC. 62.134. [RESERVED.]**

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(Repealed by Ord. No. 5726 (N.S.), effective 5-8-80)

SEC. 62.135. [RESERVED.]

(Repealed by Ord. No. 5726 (N.S.), effective 5-8-80)

ARTICLE 5. [RESERVED.]\*

\*Note--Article 5, titled TUBERCULOSIS TESTS, consisting of Sections 62.136—62.140, repealed by Ord. No. 10098 (N.S.), effective 1-7-11.

ARTICLE 6. HOG RANCHES

SEC. 62.150. [RESERVED.]

(Amended by Ord. No. 5420 (N.S.), effective 4-5-79; repealed by Ord. No. 5510 (N.S.), effective 6-15-79)

SEC. 62.151. [RESERVED.]

(Amended by Ord. No. 5420 (N.S.), effective 4-5-79; repealed by Ord. No. 5510 (N.S.), effective 6-15-79)

SEC. 62.152. [RESERVED.]

(Repealed by Ord. No. 5420 (N.S.), effective 4-5-79)

SEC. 62.153. [RESERVED.]

(Repealed by Ord. No. 5420 (N.S.), effective 4-5-79)

SEC. 62.154. [RESERVED.]

(Repealed by Ord. No. 5420 (N.S.), effective 4-5-79)

ARTICLE 7. [RESERVED.]\*

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\*Note--Article 7, titled SLAUGHTER HOUSES, consisting of Sections 62.160—62.168, repealed by Ord. No. 10098 (N.S.), effective 1-7-11.

#### ARTICLE 8. CATTLE FEED YARDS\*

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\*Note--Article 8, consisting of Sections 62.170--62.179, and titled CATTLE FEED YARDS, added by Ord. No. 2691 (N.S.), effective 5-12-64; repealed by Ord. No. 5510 (N.S.), effective 6-15-79.

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#### CHAPTER 2. POUND DISTRICTS\*

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\*Note--Repealed by Ord. No. 2629 (N.S.), effective 12-5-63.

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#### CHAPTER 3. STRAYS

SEC. 62.301. [RESERVED.]

(Repealed by Ord. No. 8358, (N.S.), effective 3-17-94)

SEC. 62.302. [RESERVED.]

(Repealed by Ord. No. 5200 (N.S.), effective 8-10-78)

#### CHAPTER 4. RABBITS\*

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\*Note--Chapter 4, consisting of Sections 62.401--62.404, repealed by Ord. No. 5200 (N.S.), effective 8-10-78.

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#### CHAPTER 5. PROTECTION OF ELK

SEC. 62.501. [RESERVED.]

(Repealed by Ord. No. 5200 (N.S.), effective 8-10-78)

#### CHAPTER 6. ANIMAL CONTROL\*

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\*Note--Repealed and readopted by Ord. No. 2041 (N.S.), effective 5-3-60; repealed and new Chapter 6 added by Ord. No. 4188 (N.S.), effective 11-29-73; repealed and new Chapter 6 added by Ord. No. 4599 (N.S.), effective 12-4-75, operative 12-5-75; repealed and new Chapter 6 added by Ord. No. 7182 (N.S.), effective 9-11-86; amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and new Chapter 6 added by Ord. No. 8211 (N.S.), effective 4-1-93; repealed and new Chapter 6 added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.) effective 2-26-10.  
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## 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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10612 (N.S.), effective 7-4-19)

### 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.

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(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.

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(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.

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(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.

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 9528 (N.S.), effective 2-27-03; amended by Ord. No. 10036, effective 2-26-10)

Cross reference(s)--Definitions, § 12.101 et seq.

SEC. 62.603. DEPARTMENT OF ANIMAL SERVICES TO ENFORCE.



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

(Added by Ord. No. 10036 (N.S.), effective 2-26-10)

#### SEC. 62.604. FEES.

(a) Fees shall be charged and collected by the Department for dog licensing and for other animal control services and enforcement, as provided in the fee schedule in section 364.8 of the Code of Administrative Ordinances. Such fees shall be collected by County personnel or deputized personnel and deposited in the County treasury.

The owner of any animal which is lawfully impounded shall pay all fees and expenses related to such impoundment including, but not limited to, impound, board, vaccination, examination, and any medical treatment fees for the animal, whether or not the animal is claimed.

(b) Fees shall be paid when due unless the Director, in accordance with Department policy, authorizes a payment arrangement or waives such fees in full or in part.

Specified fees may be deferred subject to the conditions of the Department policy, if the owner claims an economic hardship or the lack of ability to pay the fees when due, provides satisfactory evidence of personal identification, and agrees to pay the fees within a thirty (30) day period.

An owner claiming an economic hardship in paying the fees may submit an application for waiver on forms provided by the Department. The forms shall be executed under penalty of perjury and contain a declaration as to the truthfulness and correctness of the information contained therein. Upon submittal of the completed forms, the fees may be waived if no disqualifying conditions, as set forth in the Department policy, exist. The Department may also waive fees if necessary in order to accomplish the protection of animal or public health, safety or welfare or if the owner provides satisfactory evidence that he/she was not at fault for the violation or incident which led to the Department action and that such action was not justified.

(Added by Ord. No. 10612 (N.S.), effective 7-4-19)

## 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

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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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### SEC. 62.611. [RESERVED.]

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; repealed by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

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(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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 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 and the Health Officer.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

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

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(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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

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

(a) The Department 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 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 or the Health Officer issues under this section. The Department or the Health Officer, however, may grant permission to destroy the animal for the purpose of laboratory examination.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

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

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(a) The Department 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 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 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 or the Health Officer may be released from isolation by the Department or the Health Officer 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 or the Health Officer may authorize, with the consent of the owner, if known, that the impounded animal be euthanized for the purpose of laboratory examination.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

#### 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 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 or the Health Officer, (2) confined and isolated as approved by the Department or the Health Officer and (3) observed for a period of thirty days following revaccination.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-

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00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

### 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.

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(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.

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-

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00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 9528 (N.S.), effective 2-27-03; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### ARTICLE 4. SHELTERS

##### SEC. 62.630. [RESERVED.]

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-



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00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 9528 (N.S.), effective 2-27-03; repealed by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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 or the Health Officer, 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

#### 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.

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

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

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

A kennel operator shall comply with the following requirements:

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(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.

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(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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

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

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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

MINIMUM SPACE REQUIREMENTS

PRIMARY ENCLOSURE

KENNEL HOUSE

WEIGHT OF DOG IN POUNDS

WIDTH

SQ FOOTAGE

WIDTH

SQ FOOTAGE

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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

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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.

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

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(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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.



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(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

### 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.

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(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

State law reference(s)--Animal regulation, Penal Code, § 148.

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

State law reference(s)--Arrest without warrant, Penal Code, § 836.5; citations, Penal Code, § 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.

(Added by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

SEC. 62.664. [RESERVED.]

SEC. 62.665. ENTRY ON PRIVATE PROPERTY.

The Department, 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

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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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

State law reference(s)--Animal regulation, Penal Code, § 148.

SEC. 62.666. [RESERVED.]

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 ordering the quarantine, vaccination or destruction of a diseased animal or animal exposed to a dangerous disease or toxic substance.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

SEC. 62.669. RESTRAINT OF DOGS REQUIRED.

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(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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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

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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 enforcement duties or responsibilities.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

State law reference(s)--Protection dog defined, Business and Professions Code, § 7521.

#### 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.

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99;

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repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

Cross reference(s)--Uniform public nuisance abatement procedure, § 16.201 et seq.

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### SEC. 62.672. [RESERVED.]

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; repealed by Ord. No. 10036 (N.S.), effective 2-26-10)

#### SEC. 62.673. [RESERVED.]

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; repealed by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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:

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(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(l), 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.

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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



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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 comply with 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.

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(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

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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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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

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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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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

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found to be unwarranted, the Department shall return the animal to the owner or custodian without charge for the impoundment.

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

**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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-

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00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

**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.

(Amended by Ord. No. 7704 (N.S.), effective 1-19-90; amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; amended by Ord. No. 8992 (N.S.), effective 2-11-99; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

**SEC. 62.681. WILD ANIMALS.**

(a) Except as provided in subsections (d) and (e), 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

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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 crocodilian (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.

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(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) Subsections (a) and (c) shall not apply to an entity in the business of providing consumers with rattlesnake avoidance training techniques for animals provided the entity giving the training is a registered California corporation (for profit or not for profit) in good standing, a sole proprietorship or a registered partnership in good standing, has Commercial General Liability Insurance in the amount of at least \$1,000,000 for bodily injury/property damage and has provided proof of insurance to the Department of Animal Services prior to giving any training in each calendar year. The insurance shall name the County as an additional insured. Upon the request of an Animal Control Officer, Humane Officer or peace officer, an entity claiming to be exempt from subsections (a) and (c) shall provide proof of compliance with this subsection. It shall be unlawful for an entity to refuse to comply with the request of an Animal Control Officer, Humane Officer or peace officer to provide this information. Nothing in this subsection shall affect the provisions of the San Diego County Zoning Ordinance or authorize an entity providing the training to violate any applicable federal, state or local law.

(f) 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 (h) below.

(g) The owner or custodian of a wild animal who receives a notice under subsection (f) 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.

(h) 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 preimpoundment 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 the impoundment or proposed abatement of the animal. The request for a hearing shall be in writing and shall be received by the Department within 10 days from the date of the notice.



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(i) 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10232 (N.S.), effective 1-3-13)

#### SEC. 62.682. PUBLIC NUISANCE.

(a) In addition to exercising abatement powers under sections 16.201 et seq. the Department, the County Health Officer, 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 62.674(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.

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(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.

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(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 an 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

Cross reference(s)--Uniform public nuisance abatement procedure, § 16.201 et seq.

SEC. 62.683. INJURIES AND COMMUNICABLE DISEASES.

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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 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.

(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10098 (N.S.), effective 1-7-11)

#### 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.

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(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.

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

SEC. 62.685. [RESERVED.]

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(Amended by Ord. No. 7906 (N.S.), effective 6-20-91; repealed and added by Ord. No. 8211 (N.S.), effective 4-1-93; amended by Ord. No. 8353 (N.S.), effective 3-3-94; repealed and added by Ord. No. 8422 (N.S.), effective 8-11-94; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 9528 (N.S.), effective 2-27-03; amended by Ord. No. 9663 (N.S.), effective 8-14-04; repealed by Ord. No. 10036 (N.S.), effective 2-26-10)

SEC. 62.686. [RESERVED.]

(Added by Ord. No. 9420 (N.S.), effective 2-2-02; repealed by Ord. No. 10036 (N.S.), effective 2-26-10)

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.

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(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.

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(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 comply 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.



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(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.

(Added by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 9528 (N.S.), effective 2-27-03; amended by Ord. No. 9663 (N.S.), effective 8-14-04; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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 that the 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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10)

#### ARTICLE 7. ROOSTERS

##### SEC. 62.690. INTENT.

The intent of this Article is to limit the number of roosters that may be kept on a premises and to ensure that roosters are treated humanely to minimize the potential for a public nuisance, illegal cockfighting and the raising of birds to be used for cockfighting to protect the public health, safety and welfare.

(Added by Ord. No. 10166 (N.S.), effective 10-13-11)

##### SEC. 62.691. DEFINITION.

As used in this Article, the following words have the following definitions:

(a) "Premises" means one or more lots or parcels that are contiguous and that are under common ownership.

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(b) "Rooster" means a male chicken that:

- (1) Is six months of age or older;
- (2) Has full adult plumage; or
- (3) Is capable of crowing.

(c) "Net property size" means the actual size of the premises, excluding any roadways or portions thereof, as calculated by the County Survey Records System.

(Added by Ord. No. 10166 (N.S.), effective 10-13-11; amended by Ord. No. 10548 (N.S.), effective 8-23-18)

#### SEC. 62.692. ROOSTER REGULATIONS.

(a) Beginning on January 1, 2012, no person shall keep or maintain on any premises more roosters than are listed in the following table for the applicable net property size of the premises:

Net Property Size of Premises	Maximum Number of Roosters
< .5 acre	1
.5 to 1 acre	4
> 1 to 5 acres	6
> 5 acres	20

Each individual rooster that exceeds the number listed in the table above for the applicable size of the premises constitutes a separate violation of this ordinance.

(b) Each rooster shall be housed in an enclosure that shall be located a minimum of 50 feet from the property line and 150 feet from any adjacent residence.

(c) (1) Subsections (a) and (b) shall not apply to commercial poultry ranches the primary purpose of which is to produce eggs or meat for sale for human consumption, public or private schools, County-operated animal shelters or other animal-welfare organizations that employ humane officers as described in Corporations Code 14502.

(2) Subsection (a) shall not apply to a member of a local chapter of 4-H or Future Farmers of America (FFA) provided all of the following factors are met:

A) Written proof of current membership in 4-H or FFA shall be provided to any animal control officer, humane officer or peace officer upon demand;

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B) Written documentation and approval of a 4-H or FFA project that involves the roosters shall be provided to any animal control officer, humane officer or peace officer upon demand. The approval shall be from the 4-H, the County 4-H Advisor or the FFA. The documentation shall detail the nature of the project, number of roosters included in the project, breed of each rooster, duration of the project, purpose for keeping the roosters, and address where the roosters are kept and maintained;

C) The roosters are on the property designated in the 4-H or FFA project documentation;

D) The number of roosters on the premises does not exceed the number of roosters specified in the 4-H or FFA project documentation; and

E) Any person seeking to assert this exemption shall allow an onsite inspection of the premises by an animal control officer, humane officer or peace officer upon demand to verify initial and continued eligibility for this exemption.

(d) Nothing in this Article shall be construed as authorizing the keeping of any roosters in violation of any other County ordinance including, but not limited to, the Zoning Ordinance. If there is any conflict between this ordinance and any other County ordinance, the most restrictive provision shall apply.

(e) No person shall maintain or keep any rooster by means of a tether attached to an object. Each individual rooster that is tethered constitutes a separate violation of this ordinance.

(f) Each rooster shall, at all times, be provided with:

(1) Access to water and shelter from the elements (rain, wind, direct sun, etc.).

(2) Sufficient room to spread both wings fully and to be able to turn in a complete circle without any impediment and without touching the side of an enclosure.

(3) Clean and sanitary premises that are kept in good repair.

(g) An animal control officer, humane officer or peace officer may enter private property to inspect the property when the person entering has reasonable cause to believe that there is a violation of this section.

(h) (1) Amortization of nonconforming rooster enclosures. Any nonconforming rooster enclosure which was in place before August 24, 2018 shall be in compliance with the requirements of Section 62.692(b) no later than August 24, 2020. A rooster owner may apply for one six-month extension of this period. The Director may grant that extension upon determining that the operator would be subjected to unreasonable financial hardship if forced to come into compliance.

(2) Any nonconforming rooster enclosure shall not be expanded, enlarged, extended or altered except that the use may be changed to a conforming use.

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(Added by Ord. No. 10166 (N.S.), effective 10-13-11; amended by Ord. No. 10259 (N.S.), effective 5-23-13; amended by Ord. No. 10548 (N.S.), effective 8-23-18)

CHAPTER 7. [RESERVED]\*

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\*Note--Chapter 7, VACCINATION, Section 62.701 repealed and readopted by Ord. No. 2041 (N.S.), effective 5-3-60. Chapter 7 repealed by Ord. No. 4188 (N.S.), effective 11-29-73. New Chapter 7, ANIMALS IN VEHICLES, Sections 62.700--62.701, added by Ord. No. 7177 (N.S.), effective 9-4-86; repealed and readopted by Ord. No. 9098 (N.S.), effective 12-16-99; repealed and readopted by Ord. No. 9274 (N.S.), effective 12-15-00; repealed and readopted by Ord. No. 9420 (N.S.), effective 2-2-02; repealed by Ord. No. 10036 (N.S.), effective 2-26-10.

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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 may abate a public nuisance on property involving a dead animal to protect the public health and safety.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

SEC. 62.802. DEFINITIONS.

As used in this chapter the term "dead animal" means the carcass or tissue from an animal, large or small, except part or parts of an animal used for food or other beneficial purpose in accordance with federal, state, and local laws and regulations. "Dead animal" does not mean a fish or other primarily aquatic animal.

(Amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

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**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 a dead animal on property in the unincorporated area of the County unless every part is covered by at least three feet of soil and the burial location is at least one hundred feet from any well, spring, stream or other surface water, not in a low-lying area subject to seasonal flooding and not likely to contaminate groundwater.

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

(Amended by Ord. No. 7141 (N.S.), effective 6-26-86; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

**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.

(Amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

**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 62.803 shall remove the dead animal from the property and dispose of it lawfully or dispose of the dead animal on the property lawfully.

(Amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

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

In the event a dead animal is deposited or allowed to remain upon property in violation of section 62.803 the Director may abate the dead animal pursuant to sections 16.201 et seq. and recover the County's abatement costs as provided in those sections.

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(Amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

## CHAPTER 9. BEEKEEPING AND APIARIES\*

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\*Note--Repealed and reenacted by Ord. No. 2709 (N.S.), effective 8-6-64; amended by Ord. No. 10036 (N.S.), effective 2-26-10. Repealed and reenacted by Ord. No. 10393 (N.S.), effective 11-13-15.

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### 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., as well as California Code of Regulations Title 3 Food and Agriculture, Article 3, establish regulations for apiaries that are enforced by the Director of the State Department of Agriculture, California Department of Pesticide Regulation and county agricultural commissioners. This chapter establishes regulations intended to implement and supplement State regulations and ensure that beekeepers maintain apiaries in a responsible manner as to protect the health, safety, and welfare of the citizens of the County of San Diego.

### SEC. 62.902. DEFINITIONS.

Any word or phrase used in this chapter and not defined in this section shall be given the meaning established for such word or phrase by Chapter 1 (commencing with Section 29000) of Division 13 of the Food and Agricultural Code.

The following definitions shall apply to this chapter:

(a) "Abandoned Apiary" includes, but is not limited to, a colony(s) or hive(s) and equipment a beekeeper has ceased to manage, is deserted, not maintained and/or left unattended, remains without authorization on the property of another, is without proper identification and/or registration, and/or where the owner is unable to be located and/or contacted. Hives will be considered abandoned when the owner fails to contact the Commissioner within 30 calendar days of a notice posted at the apiary requesting the beekeeper to do so.

(b) "Abate" means to eliminate a public nuisance or to reduce the degree or intensity of a public nuisance.

(c) "Apiary" is where one or more managed colony(s) or hive(s) is located. An apiary consists of managed honey bee colony(s) or hive(s) that are kept in a structure(s)

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intentionally provided by the beekeeper for honey bee housing. The honey bee housing structure has movable frames to allow the beekeeper and inspector complete access to the inner living area of colony(s) or hive(s) and its contents for manipulations such as requeening, viewing, evaluation, and/or sampling.

(d) "Apiary Pests" means any agent or characteristic in a managed honey bee colony(s) or hive(s) that makes the existence of such colony(s) or hive(s) detrimental to the apicultural industry, other neighboring apiaries, the environment, or public safety by being kept in a manner as to contain any unhealthy condition or be a source of honey bee pests which include but is not limited to disease, parasites, fungi, foulbrood, bacteria, microsporidia, virus, insect, nematode, mites, or other organisms that damage honey bees or honey bee products.

(e) "Bee Smoker" means an appliance utilizing smoke or fire used to aid in manipulating or moving honey bees.

(f) "Bees" are the domesticated European sub-species of *Apis mellifera* honey bee with a cooperative temperament historically managed and kept by beekeepers for agricultural purposes.

(g) "Beekeeper" is any person or persons who owns, operates, maintains, possesses or otherwise controls an apiary and/or the owner of property upon which an apiary is situated.

(h) "BMP Checklist" is a Best Management Practices (BMP) list issued and periodically updated by the Commissioner pursuant to this chapter that beekeepers are required to review, sign, and submit with the required annual apiary registration.

(i) "Colony" has the same meaning as the term "colony" in Food and Agricultural Code section 29006 and is a single managed colony or hive consisting of a queen and all life stages to support sustenance and reproduction kept by a beekeeper and synonymous with "hive."

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

(k) "Flyover Barrier" is a solid wall, fence, or dense vegetation or combination thereof that provides an obstruction through which honey bees cannot readily fly. Barrier must surround the immediate vicinity of the colony(s) or hive(s) yet leave sufficient space for beekeeper to maintain colony(s) or hive(s). Property line fences or barriers do not constitute flyover barriers.

(l) "Inspector" means any person who is employed or appointed by the San Diego County Agricultural Commissioner to implement or enforce this chapter.

(m) "Location" means any property upon which an apiary is located.

(n) "Neighboring Dwellings" means a place where a person resides and may include, but is not limited to, the following: any part of an attached home, unattached residential office,

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unattached garage, mobile home, guest home, granny flat, inhabited boat or other waterborne vessel, a condominium, or apartment.

(o) "Property Line" is the demarcation, whether natural or artificial (man-made), of legal ownership between two contiguous estates, usually contained in a grant deed or shown on a subdivision map of record.

(p) "Road" is a public or private thoroughfare, paved or non-paved travel way, route, trail, pathway, easement or way on land between two places, which allows travel by foot or some conveyance, including a horse, bicycle, motorcycle or other motor vehicles, by the public or local neighbors. A roadway will include sidewalks and roadside paths where people travel.

(q) "Sensitive Sites" are areas where people such as the elderly, small children, individuals with medical conditions or confined animals inhabit or frequent that are more at risk if stinging incidents were to occur. Sensitive sites are characterized by demonstrated need for a greater safety buffer. These areas include, but are not limited to, schools, playgrounds, picnic areas, outdoor sports facilities, daycare centers, senior care facilities, medical facilities, kennels and horse-boarding facilities. Property operators, owners, or residents who have medical reasons may apply to have their locations designated as sensitive sites. Businesses with employees who have medical reasons or where bees could cause a nuisance during normal work activities may also apply to have their locations designated as sensitive sites. The Commissioner may remove sites previously approved or designated as sensitive sites upon request. The Commissioner has final discretion to approve designation of locations as sensitive sites upon review of supportive documentation.

(r) "Undesirable Honey Bee Behavior(s)" is any behavior exhibited by honey bees from a managed hive, colony or apiary that may result in undue harm to others. Undesirable honey bee behaviors include, but are not limited to, characteristics of Africanized honey bees (*Apis mellifera scutellata*) guarding a larger territorial perimeter around the hive in greater numbers than is typical of European (*Apis mellifera*) honey bees, responding to minimal or no provocation into over-defensiveness, aggressiveness, repeated swarming, unpredictability, reactivity, and agitation during, but not limited to, apiary inspection. Undesirable honey bee behavior includes bees congregating on properties other than where the apiary is located, including at water sources (such as pools, fountains, irrigation, and/or livestock and pet water) in an amount such as to endanger public health or safety, or to create unreasonable interference with the use of property of others, as determined by the Commissioner. Honey bees foraging on flowering vegetation is considered normal and desirable.

#### SEC. 62.903. REGISTRATION AND REQUEST FOR PESTICIDE NOTIFICATION.

Beekeepers located in all jurisdictions in the county shall:



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(a) Register with the Commissioner the number of colonies and the location of each apiary on the first day of January of each year or within 30 calendar days of acquiring an apiary consistent with Food and Agricultural Code Sections 29040-29056.

(b) Notify the Commissioner within 72 hours of relocating any colony into or within the County, consistent with Food and Agricultural Code Sections 29070-29070.5.

(c) Inform the Commissioner if they desire advance notice of qualified pesticide applications shall inform the Commissioner consistent with Food and Agricultural Code Sections 29100-29103.

#### SEC. 62.904. BEEKEEPERS IN UNINCORPORATED COUNTY.

Other than section 62.903 which applies to all jurisdictions, this ordinance applies to apiary locations in the unincorporated areas in the County of San Diego. This ordinance is not meant to regulate undomesticated or feral honey bee swarms or hives.

#### SEC. 62.905. APPROVED HIVES, COLONIES, OR APIARIES.

Beekeepers shall maintain honey bees in a structure(s) intentionally provided by the beekeepers for honey bee housing. The honey bee housing structure shall have movable frames to allow full access to the inner honey bee living quarters by the inspector for viewing, evaluation, and/or sampling of the structure and its contents including but not limited to brood, drones, queens, workers, beeswax, comb, honey, and pollen.

#### SEC. 62.906. APIARY TIERS DEFINED.

The following are tiered levels of apiaries applicable to this chapter.

Tier A: 1-2 colonies per apiary location with up to 5 colonies on a temporary basis (up to 30 calendar days) to prevent swarming.

Tier B: 3-20 colonies per apiary location.

Tier C: More than 20 colonies per apiary location.

#### SEC. 62.907. DISTANCE OF APIARY FROM ROADS.

Apiaries must be located at or greater than the following distances from roads:

(a) Tier A: Twenty-five (25) feet.

(b) Tier B: Fifty (50) feet.

(c) Tier C: One hundred (100) feet.

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The distance will be measured from the nearest edge of the road as defined by this chapter.

#### SEC. 62.908. DISTANCE FROM NEIGHBORING DWELLINGS.

Apiaries must be located at or greater than the following distances from a neighboring dwelling:

- (a) Tier A: Thirty-five (35) feet.
- (b) Tier B: One hundred (100) feet.
- (c) Tier C: Three hundred (300) feet.

The distance will be measured from the nearest portion of the neighboring dwelling.

#### SEC. 62.909. DISTANCE FROM PROPERTY LINES.

Apiaries must be located at or greater than the following distances from the property line of the adjacent neighbor(s) as:

- (a) Tier A: Twenty-five (25) feet.
- (b) Tier B: Fifty (50) feet.

If the property line extends into a thoroughfare or road, the distance will be measured from the nearest edge of the road, as defined by this chapter.

The Commissioner may allow the placement of apiaries closer than the distance requirements from the property line if the Commissioner finds that the location is on an open-space-adjacent property that would not endanger public health or safety or create a nuisance.

#### SEC. 62.910. DISTANCE FROM SENSITIVE SITES.

Apiaries must be located at or greater than the following distances from a sensitive site:

- (a) Tier A: One-hundred-fifty (150) feet.
- (b) Tier B: One-hundred-fifty (150) feet, if between three (3) and ten (10) colonies.
- (c) Tier B: Three hundred (300) feet if between eleven (11) and twenty (20) colonies.
- (d) Tier C: Four-hundred-fifty (450) feet.

The distance will be measured from the nearest edge of the property line of the sensitive site.

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**SEC. 62.911. BMP CHECKLIST.**

Beekeepers shall complete, sign and submit the BMP Checklist for their respective tier at the time of annual registration. The beekeeper shall implement all the BMPs as required by the BMP Checklist.

**SEC. 62.912. IDENTIFICATION SIGNS.**

Beekeepers shall identify the beekeeper's name and telephone number information on all apiary hives in black letters, not less than one inch high, on a background of contrasting color.

**SEC. 62.913. REGULAR HIVE CHECK.**

Beekeepers shall inspect each colony at least once a month to detect undesirable honey bee behavior and/or apiary pests in order to take corrective action(s) in a timely manner. Beekeepers shall practice swarm prevention techniques and provide additional space for colony growth to minimize honey bee swarming. Tier A may maintain up to five (5) colonies for up to thirty (30) calendar days for swarm prevention.

**SEC. 62.914. FLYOVER BARRIER.**

Apiaries in Tier A or B with twenty (20) or fewer colonies in a residential area within three hundred feet (300') of a neighboring dwelling shall maintain a six foot (6') vertical-flyover barrier.

**SEC. 62.915. WATER SUPPLY REQUIRED.**

Beekeepers shall maintain an adequate and accessible supply of fresh water available at all times, including prior to introduction to a new location. If the property on which the apiary is located does not contain sufficient natural water, the beekeeper shall provide one or more water containers or water sources. The water supply shall provide landing sites for the honey bees to drink without drowning, undue competition, or over-crowding. The water supply shall be of acceptable quality and must be utilized by the bees. If honey bees are congregating at water sources on properties other than where the apiary is located, then the bee behavior must be corrected by relocation of hives or another method which stops the undesirable behavior. It is unlawful for a beekeeper to allow a water source to become stagnant or a mosquito breeding site.

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**SEC. 62.916. FIREBREAK.**

Beekeepers shall maintain apiaries with a fire break that meets the following specifications:

(a) The area within ten feet (10') surrounding apiaries shall be cleared to bare earth and free from all other combustible material. This shall be the only firebreak required for five (5) colonies or less in residential areas.

(b) The area beginning from ten feet (10') surrounding apiaries out to thirty feet (30') surrounding apiaries shall have all combustible vegetation maintained to a height of six inches (6") above the ground or less.

(c) Vegetation along the route being traveled by motor vehicles to any apiary location shall have all combustible vegetation maintained to a height of six inches (6") above the ground or less.

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

**SEC. 62.917. FIRE FIGHTING SUPPLIES.**

Beekeepers shall keep and maintain the following fire-fighting equipment, in good working condition, located at the apiary or in any motor vehicle used for apiary maintenance, so as to be immediately available in case of fire:

(a) A shovel;

(b) A fire extinguisher or backpack type firefighting pump; or

(c) An operable water supply such as a charged garden hose with a nozzle that is extended to the apiary site.

**SEC. 62.918. BEE SMOKERS.**

Beekeepers shall maintain apiaries free from fire hazards due to use of bee smokers by complying with the following regulations:

(a) The bee smoker shall be plugged with a noncombustible or fire resistive plug such as metal or hardwood, while being transported to or from an apiary so as to prevent sparks or embers from escaping.

(b) During hand-carry transport of a bee smoker containing burning or smoldering substances to or from an apiary, the smoker shall be carried in a noncombustible secondary container with the lid securely fastened in the closed position to prevent the smoker from spilling its contents when tipped over.

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(c) During motorized vehicle transport of a bee smoker containing burning or smoldering substances to or from an apiary, the smoker shall be placed in a noncombustible secondary container with the lid securely fastened in the closed position.

(d) All burning or smoldering substances within a bee smoker shall be completely extinguished with water and cold to touch after use.

#### SEC. 62.919. REQUESTED INSPECTION.

Beekeepers and/or the owner(s) and/or occupant(s) of an apiary location or premises may voluntarily request an inspection of the apiary to ensure the apiary is maintained in accordance with the terms set forth in this chapter.

#### SEC. 62.920. INSPECTION TERMS.

In accordance with Food and Agricultural Code 29201, inspectors may enter any location where an apiary is maintained and make an inspection of the apiary including ancillary buildings. The inspector may give prior notice of the inspection where the notice would not interfere with the purpose of the inspection. The right of inspection shall occur at reasonable times. No person shall interfere with the entry of an inspector in the official course of his or her duty. No person shall maintain an apiary in any manner that prevents or hinders access to the inside of any colony(s) or hive(s) for inspection by an apiary inspector.

#### SEC. 62.921. TRANSPORTATION OF HONEY BEES.

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

#### SEC. 62.922. 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 has established for the inspection and certification.

#### SEC. 62.923. UNDESIRABLE HIVES, COLONIES, OR APIARIES.

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No beekeeper shall own or operate an apiary that exhibits undesirable honey bee behavior, contains apiary pests, or is an abandoned apiary, as determined by the Commissioner. Required abatement methods for affected hives may include, but are not limited to, relocation, requeening, destruction, or another method approved by the Commissioner. The Commissioner may conduct inspection(s) and/or request documentation as needed to verify compliance.

**SEC. 62.924. ADMINISTRATIVE COMPLIANCE.**

The Commissioner may issue administrative citations for any violation of this chapter pursuant to sections 18.101 et seq. of the San Diego County Code of Administrative Ordinances.

**SEC. 62.925. ENFORCEMENT.**

Any person who violates section 62.921 of this chapter shall be guilty of a misdemeanor pursuant to Food and Agricultural Code sections 29300-29311. Any person who violates this chapter shall be guilty of a misdemeanor pursuant to sections 11.116 et seq. of the San Diego County Code of Regulatory Ordinances.

**SEC. 62.926. 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. of the San Diego County Code of Regulatory Ordinances.

**SEC. 62.927. REMEDIES CUMULATIVE.**

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

**CHAPTER 10. USE OF ANIMALS OR FOWL FOR TARGET PRACTICE\***

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\*Note--Chapter 10, consisting of Sections 62.1001--62.1002, repealed by Ord. No. 5200 (N.S.), effective 8-10-78. Title added, not included in Code.

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**CHAPTER 11. AREAS DEVOTED CHIEFLY TO GRAZING\***

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\*Note--Added by Ord. No. 3063 (N.S.), effective 5-17-67.  
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**SEC. 62.1101. WARNER RANCH AND ADJACENT AREAS.**

Pursuant to the authority of Section 17124 of the Food and Agricultural Code, the following described real properties of the County of San Diego are hereby declared to be devoted chiefly to grazing:

(a) Rancho Valle de San Jose: Rancho Valle de San Jose, as per patent issued by the United States of America to Sylvestre de la Portilla on January 10, 1880, recorded February 20, 1880, in Book 2 of Patents at page 84, Records of San Diego, California.

(b) Rancho San Jose del Valle: The Rancho San Jose del Valle patented by the United States of America to J.J. Warner, January 16, 1880, and recorded February 20, 1880, in Book, 2 of Patents at page 73, Records of San Diego County, California; EXCEPTING THEREFROM:

(1) Hot Springs Area: that portion of the Rancho San Jose del Valle described as follows:

Beginning at a point on the Northeasterly boundary line of the said Rancho between Corners W-21 and W-22 of said Rancho; thence South 56o45' East, 5826 feet to Corner W-22 of said Rancho; thence continuing along the line of said Rancho South 16o East 5082 feet more or less to Corner W-23 of said Rancho; thence continuing along the line of said Rancho South 57o East 3094.7 feet more or less to the closing corner of intersection of said Rancho line with the South line of Section 30, Township 10 South, Range 4 East, San Bernardino Base and Meridian; thence leaving the line of said Rancho West 17,000 feet to a point; thence North 5,300 feet more or less to an intersection with the centerline of California State Highway Route No. 79; thence in a Northeasterly direction 9,300 feet more or less to the point of beginning.

(2) Airfield: That portion of Rancho San Jose del Valle described as follows:

Beginning at the closing corner located at the intersection of the Northeasterly boundary line of said Rancho with the South line of Section 30, Township 10 South, Range 4 East, San Bernardino Base and Meridian; thence West 17,000 feet to a point; thence North 5300 feet more or less to an intersection with the centerline of California State Highway Route No. 79, the true point of beginning, which point is identical with the Northwest corner of the above described Hot Springs Area; thence from the true point of beginning following along the West boundary line of said Hot Springs Area hereinabove described, South 1200 feet to a point; thence leaving said boundary line West 4500 feet to a point; thence North 2500 feet more or less to an intersection with the centerline of said California State Highway Route No. 79; thence along the centerline of said California State Highway Route No. 79, in a Southeasterly and Easterly direction to the true point of beginning.

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(c) McCray Property: The West one-half of the Southwest quarter, the Southeast quarter of the Southwest quarter, and the South one-half of the Southeast quarter, all of Section 4; the Northeast quarter of the Northeast quarter of Section 9; and Lots 1 and 2 (Northwest quarter) (EXCEPTING County Road Survey No. 717); all of Township 11 South, Range 2 East, San Bernardino Base and Meridian, and all according to United States Government Survey; EXCEPTING THEREFROM 100 foot California State Highway Route No. 76.

(d) Script Property: The East one-half of the Northwest quarter, the Northeast quarter of the Southeast quarter, and the South one-half of the Northeast quarter, all of Section 15, Township 11 South, Range 2 East, San Bernardino Base and Meridian, and all according to United States Government Survey.

(e) Grand Property: In Township 11 South, Range 2 East, San Bernardino Base and Meridian, according to United States Government Survey, all of: Lot 1 (Northeast quarter of the Northeast quarter) and the Northwest quarter of the Northeast quarter of Section 15; Lot 5 (Southwest quarter of the Southeast quarter) of Section 10; and Lot 1 (Fractional Northwest quarter) of Section 14, EXCEPTING THEREFROM the portions thereof described as follows:

(1) Beginning at the intersection of the Southerly line of Rancho Valle de San Jose and the Southerly line of Fractional Northwest quarter of said Section 14, thence North 52°15' West on the Southerly line of said Rancho 345 feet, thence South 37°45' West 264.4 feet to the Southerly line of said Northwest quarter, thence East to the point of beginning in said Lot 1 (Fractional Northwest quarter); and

(2) 100 foot California State Highway Route No. 76.

(f) Ellis Property: Lots 1, 2, 3, 4, 5 and 6, Section 16, Township 11 South, Range 3 East, San Bernardino Base and Meridian, all according to United States Government Survey.

(g) Mendenhall Property: The Southeast quarter of the Northeast quarter of Section 34; the North one-half of the Southeast quarter and the Southeast quarter of the Southeast quarter (Lot 1) of Section 34; and Lot 3 of Section 35; all of Township 10 South, Range 2 East, San Bernardino Base and Meridian, and all according to United States Government Survey.

(h) Grammer Property: Lots 1 and 2 of Section 23; and Lots 1, 2, 3, and 4 of Section 24; all of Township 10 South, Range 2 East, San Bernardino Base and Meridian, and all according to United States Government Survey.

(i) Shoulder Property: Lot 1 of Section 13; Lot 4 of Section 14; and the Northeast quarter of the Northeast quarter of Section 23; all in Township 11 South, Range 2 East, San Bernardino Base and Meridian, according to United States Government Survey, bounded on the Northeasterly side by the Southwesterly line of Rancho Valle de San Jose, and on the Southerly and Westerly sides by the centerline of County Highway Route No. 18, March, 1912; EXCEPTING THEREFROM 100 foot California State Highway Route No. 76.

AND ALSO Lots 2 and 3 of Section 14, Township 11 South, Range 2 East, San Bernardino Base and Meridian, according to United States Government Survey, bounded on the



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Northeasterly side by Rancho Valle de San Jose, and on the Southerly and Westerly sides by the centerline of County Highway Route No. 18, March, 1912; EXCEPTING THEREFROM 100 foot California State Highway Route No. 76.

(Amended by Ord. No. 8358 (N.S.), effective 3-17-94)

SEC. 62.1102. STARR-RUTHERFORD RANCH.

Pursuant to the authority of Section 17124 of the Food and Agricultural Code, there is hereby declared to be devoted chiefly to grazing all that real property indicated in red on Document No. 393348, filed in the office of the Clerk of the Board of Supervisors of the County of San Diego and consisting of seven maps, labeled "Map Sheet" Nos. 1 through 7, both inclusive.

(Added by Ord. No. 3126 (N.S.), effective 11-16-67; amended by Ord. No. 8358 (N.S.), effective 3-17-94)

SEC. 62.1103. MENDENHALL PROPERTY in Vicinity of Portions of Section 1, 2 and 12, T. 10S., R. 1E.; Sections 6, 7 and 18, T. 10S., R. 2E.; and Section 31, T. 9S., R. 2E. (Palomar-Lake Henshaw Area).\*

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\*Note--Not wholly capitalized in original ordinance.

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Pursuant to the authority of Section 17124 of the Food and Agricultural Code of the State of California, there is hereby declared to be devoted chiefly to grazing all that real property indicated within red markings on Document No. 396449, filed in the Office of the Clerk of the Board of Supervisors of the County of San Diego and consisting of three maps labeled Map No. 1 through 3, inclusive.

(Added by Ord. No. 3162 (N.S.), effective 2-15-68; amended by Ord. No. 8358 (N.S.), effective 3-17-94)

SEC. 62.1104. FLORA C. MONEY AND RONALD C. KEMP, ET AL, PROPERTY in the Vicinity of T. 14S., R. 5 and 6, E., T. 15S., R. 5E, T. 17S., R. 3 and 5, E.\*

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\*Note--Not wholly capitalized in original ordinance.

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Pursuant to the authority of Section 17124 of the Food and Agricultural Code of the State of California, there is hereby declared to be devoted chiefly to grazing all that real property indicated within red markings on Document No. 396450, filed in the Office of the Clerk of the Board of Supervisors of the County of San Diego and consisting of twelve maps labeled Map Nos. 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12 and 14.

(Added by Ord. No. 3162 (N.S.), effective 2-15-68; amended by Ord. No. 8358 (N.S.), effective 3-17-94)

SEC. 62.1105. CHARLES R. CONO, ROBERT D. KRUG, AND VINCE R. PROVENZANO  
PROPERTY in the Vicinity of the South Half of the Northwest Quarter; the South Half of the Northeast Quarter; the Northeast Quarter of the Southwest Quarter excepting therefrom the West 350 feet thereof; and the Southeast Quarter of Section 1; the West Half of the Southeast Quarter, and the Southeast Quarter of the Northeast Quarter of Section 2; the Northeast Quarter of Northeast Quarter of Section 12, all in Township 18 South, Range 3 East, S.B.B.M. in the County of San Diego, according to U.S. Government Survey approved 5-20-81.\*

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**\*Note--Not wholly capitalized in original ordinance.**  
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Lot 2 and the South Half of Lot 1 in the Southwest Quarter of Section 6; the North Half of Lots 1 and 2 of the Northwest Quarter; the South Half of Lot 1 in the Northwest Quarter excepting therefrom the North 315 feet of the East 315 feet; the North Half of Lot 2 in the Southwest Quarter and the North Three-fourths of the North Half of Lot 1 in the Southwest Quarter, all in Section 7, all being in Township 18 South, Range 4 East, S.B.B.M. in the County of San Diego, State of California, according to U.S. Government Survey approved 5-3-59.

The Southwest Quarter of the Northwest Quarter of Section 7, Township 18 South, Range 4 East, S.B.B.M. according to U.S. Government Survey approved 5-3-59.

The Easterly One-Half of the Southeast Quarter of Section 2, Township 18 South, Range 3 East, S.B.B.M. according to U.S. Government Survey approved 5-20-81. (Potrero Area). Pursuant to the authority of Section 406 of the Agricultural Code of the State of California, there is hereby declared to be devoted chiefly to grazing all that real property indicated within red markings on Document No. 400002, filed in the Office of the Clerk of the Board of Supervisors of the County of San Diego and consisting of five maps labeled Map Nos. 1 through 5, inclusive.

(Added by Ord. No. 3198 (N.S.), effective 6-5-68)

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SEC. 62.1106. INAJA RESERVATION IN THE VICINITY OF SECTIONS 26 and 35, T 13 S, R 3 E.

Pursuant to the authority of Section 17124 of the Food and Agricultural Code of the State of California, there is hereby declared to be devoted chiefly to grazing all that real property indicated within red markings on Document No. 433086, filed in the Office of the Clerk of the Board of Supervisors of the County of San Diego and consisting of a map labeled Inaja & Cosmit Reservations.

(Added by Ord. No. 3647 (N.S.), effective 3-4-71; amended by Ord. No. 8358 (N.S.), effective 3-17-94)

SEC. 62.1107. [RESERVED.]

(Added by Ord. No. 4213 (N.S.), effective 1-10-74; amended by Ord. No. 8358 (N.S.), effective 3-17-94; repealed by Ord. No. 9686 (N.S.), effective 12-31-04)

SEC. 62.1108. CHARLES E. McCOY PROPERTY.

Pursuant to the authority of Section 17124 of the Food and Agricultural Code, there is hereby declared to be devoted chiefly to grazing all that real property in the County of San Diego comprising the West half of the Southwest quarter, Section 2; the Northwest quarter of the Northwest quarter, Section 11; and the Northeast quarter of the Northeast quarter, Section 10; all in Township 14 South, Range 3 East, San Bernardino Base and Meridian.

(Added by Ord. No. 5690 (N.S.), effective 2-28-80)

CHAPTER 12. PROTECTION OF REPTILES\*

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\*Note--Added by Ord. No. 3714 (N.S.), effective 8-12-71.

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SEC. 62.1201. [RESERVED.]

(Amended by Ord. No. 3798 (N.S.), effective 12-23-71; repealed by Ord. No. 5200 (N.S.), effective 8-10-78)

SEC. 62.1202. [RESERVED.]

(Amended by Ord. No. 3798 (N.S.), effective 12-23-71; repealed by Ord. No. 5200 (N.S.), effective 8-10-78)

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SEC. 62.1203. [RESERVED.]

(Repealed by Ord. No. 3798 (N.S.), effective 12-23-71)

DIVISION 3. CROPS AND PLANTS

CHAPTER 1. [RESERVED]\*

\*Note--Chapter 1, Quarantine Regulations, repealed by Ord. No. 10036 (N.S.), effective 2-26-10.

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).

(Added by Ord. No. 10036 (N.S.), effective 2-26-10)

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.

(Amended by Ord. No. 2797 (N.S.), effective 1-1-66; amended by Ord. No. 3429 (N.S.), effective 11-27-69; amended by Ord. No. 5315 (N.S.), effective 1-4-79; amended by Ord. No. 5944 (N.S.), effective 1-1-81; amended by Ord. No. 6715 (N.S.), effective 2-17-84; amended by Ord. No. 8358 (N.S.), effective 3-17-94; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

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

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Commissioner the annual fee established by the Board to cover the County's costs for the registration, authorized by F & A Code section 12034.

(Added by Ord. No. 3956 (N.S.), effective 9-28-72; amended by Ord. No. 5944 (N.S.), effective 1-1-81; amended by Ord. No. 6715 (N.S.), effective 2-17-84; amended by Ord. No. 8358 (N.S.), effective 3-17-94; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

**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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10)

**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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10)

**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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10)

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

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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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10)

### CHAPTER 3. [RESERVED]\*

\*Note--Chapter 3, Removal of Plants, repealed by Ord. No. 10036 (N.S.), effective 2-26-10.

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

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\*Note--Chapter 4, Cotton, Sections 63.401 and 63.402, repealed by Ord. No. 2797 (N.S.), effective 3-25-65. New Chapter 4, Agricultural Enterprises and Consumer Information, Sections 63.401--63.408, added by Ord. No. 7408 (N.S.), effective 12-10-87; amended, as Agricultural Enterprises and Notice to Prospective Homeowners, by Ord. No. 10036 (N.S.), effective 2-26-10.

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#### 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

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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.

(Amended by Ord. No. 9539 (N.S.), effective 4-4-03; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### 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 or 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."

(Amended by Ord. No. 9539 (N.S.), effective 4-4-03; amended by Ord. No. 10036 (N.S.), effective 2-26-10)

#### CHAPTER 5. AVOCADO TESTS

##### SEC. 63.501. [RESERVED.]

(Repealed by Ord. No. 2797 (N.S.), effective 3-25-65)

##### SEC. 63.502. [RESERVED.]

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(Repealed by Ord. No. 2797 (N.S.), effective 3-25-65)

**DIVISION 4. DISEASE CONTROL**

**CHAPTER 1. GENERAL PROVISIONS -- NUISANCES**

**SEC. 64.101. DUTY OF DIRECTOR.**

It shall be the duty of the Director of the Department of Environmental Health and Quality (Director DEHQ) and the Director of Environmental Health, as applicable, under the direction and control of the Board of Supervisors, to enforce all laws, ordinances, and rules and regulations relating to the protection of the public's health through environmental means, including but not limited to: prevention of sickness, nuisances or sanitation within the County.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**SEC. 64.102. RESISTING DIRECTOR.**

It is unlawful for any person to resist or attempt to resist the entrance of the Director DEHQ or their designee, or the Director of Environmental Health or their designee, into any railroad car, stage, vehicle, building, room, lot or other place in the County in performance of their duties, or to refuse to obey any lawful order of the Director DEHQ or the Director of Environmental Health when made in performance of their duties or within the powers conferred by this chapter or by law.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**SEC. 64.103. VIOLATION -- INFRACTION -- MISDEMEANOR.**

(a) Except as provided in subsection (b), any person violating any provision of this chapter shall be deemed guilty of an infraction.

(b) A person convicted of a third or subsequent violation of this chapter within two years from the date of the first conviction shall be deemed guilty of a misdemeanor.

(c) Each day on which a violation occurs or continues shall constitute a separate offense.

(Amended by Ord. No. 5200 (N.S.), effective 8-10-78; amended by Ord. No. 6466 (N.S.), effective 12-2-82; amended by Ord. No. 10238 (N.S.), effective 1-4-13)



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#### SEC. 64.104. ABATEMENT OF NUISANCES.

(a) It shall be the duty of the Director of DEHQ or their authorized agent, and that of the Director of Environmental Health or their authorized agent, as applicable, 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.

(Amended by Ord. No. 7141 (N.S.), effective 6-26-86; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10536 (N.S.), effective 7-1-18; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 64.105. NOTIFICATION OF NUISANCE.

Whenever a nuisance endangering, in the opinion of the Director of DEHQ or their authorized agent, and that of the Director of Environmental Health or their authorized agent, as applicable, the public health shall be ascertained to exist on any premises, or in any house or other place in any city, town or township, the Director shall notify in writing any person or persons owning or having control of, or acting as agent for, such premises, house, or other place, to abate or remove such nuisance within a reasonable time, to be stated in such notice. The notice may be given 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.

(Amended by Ord. No. 7141 (N.S.), effective 6-26-86; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 64.106. RECOVERY OF COST OF ABATEMENT.

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Upon the neglect or refusal of any owner, occupant or agent, or other person having control of such house, or other place to comply with such notice, the Director DEHQ or the Director of Environmental Health may abate such nuisance, and the owner, agent, or occupant, or other person having control of such house, or place, in addition to the penalty provided by this chapter, shall be liable to the County for the cost of such abatement, to be recovered in a civil action in any court of competent jurisdiction or 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.

(Amended by Ord. No. 7141 (N.S.), effective 6-26-86; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### 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 and Quality (hereinafter "DEHQ"), or incurred in support of DEHQ by other County departments, or incurred by other agencies acting in conjunction with DEHQ as part of the Unified San Diego County Emergency Services Organization (USDCESO), 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 expenses and costs as provided in that Chapter is authorized by Section 104.13 of the California Fire Code (as amended and adopted in this County), 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.

(Added by Ord. No. 8010 (N.S.), effective 12-26-91; amended by Ord. No. 8825 (N.S.), effective 8-12-97; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10536 (N.S.), effective 7-1-18; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

State law reference(s)--Hazardous substances, Health and Safety Code, § 25316, Labor Code, § 6382; hazardous wastes, Health and Safety Code, §§ 25515, 25117.

#### CHAPTER 2. VECTOR ABATEMENT AND CONTROL\*

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\*Editor's note--Repealed and new Chapter, Mosquitoes and Flies, §§ 64.201--64.204, added by Ord. No. 2527 (N.S.), effective 5-25-63. Section 64.201 amended by Ord. No. 5135 (N.S.), effective 5-11-78; § 64.203 amended by Ord. No. 7141 (N.S.), effective 6-26-86, and amended by Ord. No. 7428 (N.S.), effective 2-4-88. Chapter repealed and new Chapter 2, §§ 64.201--64.212, added by Ord. No. 8384 (N.S.), effective 5-29-94; amended by Ord. No. 10019 (N.S.), effective 11-20-09.

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**SEC. 64.201. PURPOSE.**

Health and Safety Code (H & S Code) sections 2001 et seq. recognize that California's climate and topography support a wide diversity of biological organisms and that while most of these organisms are beneficial, some are vectors of human disease pathogens or directly cause other human diseases. The Legislature recognized that some of the diseases may be fatal, especially in children and older adults. In order to protect Californians and their communities against the dangers of vector-borne diseases and vector-related public nuisances the Legislature granted broad statutory authority to mosquito abatement and vector control districts. Government Code Section 25842.5 allows a board of supervisors to provide the same services and exercise the powers of a mosquito abatement and vector control district. Pursuant to this statutory authority, the Board of Supervisors resolved to act as a mosquito abatement and vector control district in both the incorporated cities and the unincorporated area of the County. The city council of each incorporated city in the County consented to the Board's resolution. The Board also resolved to delegate implementation and enforcement duties to the Department of Environmental Health and Quality. The purpose of this chapter is to establish a program authorized by Government Code section 25842.5 to control and abate mosquitoes and other vectors in San Diego County to protect the public health, safety and welfare of the entire San Diego County community from vector-borne diseases and vector-related public nuisances.

(Amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10019 (N.S.), effective 11-20-09; amended by Ord. No. 10240 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**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 Quality 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).

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(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.

(g) "Public Nuisance" means, subject to the limitation described in Section 2062 of the Health and Safety Code, any of the following:

(1) Any property, excluding water, that has been artificially altered from its natural condition so that it now supports the development, attraction, or harborage of vectors. The presence of vectors in their developmental stages on a property is prima facie evidence that the property is a public nuisance.

(2) Any water that is a breeding place for vectors. The presence of vectors in their developmental stages in the water is prima facie evidence that the water is a public nuisance.

(3) Any activity that supports the development, attraction, or harborage of vectors, or that facilitates the introduction or spread of vectors.

(h) "Vector" means an animal capable of transmitting the causative agent of human disease. "Vector" also includes eye gnats.

(Amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10019 (N.S.), effective 11-20-09; amended by Ord. No. 10240 (N.S.), effective 1-4-13; amended by Ord. No. 10257 (N.S.), effective 5-10-13; amended by Ord. No. 10536 (N.S.), effective 7-1-18; amended by Ord. No. 10616 (N.S.), effective 7-26-19; amended by Ord. No. 10642 (N.S.), effective 1-10-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 64.203. SCOPE AND AUTHORITY.

(a) Except as provided in subdivision (b) of this section, the Director when acting pursuant to this chapter may exercise the following powers on any property or water located in the unincorporated area of the County or in any incorporated city in the County:

(i) Conduct surveillance programs and other appropriate studies of vectors, vector control methods, and vector-borne diseases.

(ii) Take any necessary and lawful action to prevent the occurrence of vectors, human discomfort from vectors, and vector-borne diseases.

(iii) Take any necessary and lawful action to abate or control vectors, human discomfort from vectors, and vector-borne diseases.

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(b) The Director's exercise of the powers set out in this chapter is limited as to eye gnats as provided in chapter 4 of this division.

(c) The Director may undertake, fund, or contribute to the funding of research to identify additional or better methods to abate or control vectors, provided such research will be applicable to and beneficial to San Diego County.

(d) The Director may delegate such powers and responsibilities for vector control to the Director of the County Department of Agriculture, Weights and Measures as is mutually agreed between those Directors, provided that such delegations must be related to agricultural operations or to eye gnats generally. The Director shall transfer Vector Control Program funds to the Department of Agriculture, Weights and Measures as necessary to support any agreed vector control activities of that Department that are not supported by other fees and charges.

(Added by Ord. No. 10019 (N.S.), effective 11-20-09; amended by Ord. No. 10240 (N.S.), effective 1-4-13)

#### SEC. 64.204. RIGHT TO INSPECT PROPERTY.

Subject to the limitations of the United States Constitution and the California Constitution, the Director may enter any property in San Diego County or property outside San Diego County from which disease bearing vectors may enter San Diego County, without interference or hindrance for the following purposes:

(a) Inspect the property to determine the presence of vectors or other public nuisance that is likely to create a breeding ground or harborage for vectors.

(b) Abate a public nuisance pursuant to this chapter, either directly or to give notice to the property owner to abate the public nuisance.

(c) Determine if a notice to abate a public nuisance has been complied with.

(d) Control vectors and treat property with appropriate physical, chemical or biological control measures.

(Added by Ord. No. 10019 (N.S.), effective 11-20-09)

#### SEC. 64.205. INSPECTION AND ABATEMENT WARRANTS.

The Director may request an inspection or abatement warrant pursuant to Code of Civil Procedure sections 1822.50 et seq. A warrant issued pursuant to this section, however, shall apply only to the exterior of a place, dwelling, structure or premises. The warrant shall state the geographic area which it covers and shall state its purposes. A warrant may only authorize the Director to enter property to do the following:

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(a) Inspect to determine the presence of vectors or other public nuisance that may create a breeding ground or harborage for vectors.

(b) Abate a public nuisance, either directly or by giving notice to the property owner to abate a public nuisance.

(c) Determine if a notice to abate a public nuisance has been complied with.

(Added by Ord. No. 10019 (N.S.), effective 11-20-09)

#### SEC. 64.206. NOTICE AND ORDER TO ABATE.

(a) Whenever the Director determines that a public nuisance exists on property the Director may issue a Notice and Order to Abate to the property owner. Whenever the Director determines that a public nuisance exists in water the Director may issue a Notice and Order to Abate to the property owner or to any person or agency who controls the diversion, delivery, conveyance, or flow of water that is a breeding place for vectors. Whenever the Director determines that an activity is a public nuisance, the Director may issue a Notice and Order to Abate to the person conducting that activity.

(b) Notice to a property owner or other person or agency shall be served in the same manner as a summons in a civil action. If, after a diligent search, notice cannot be served in that manner, notice shall be sent by certified U.S. mail to the owner at the address shown on the County's current assessment roll and shall also be posted in a conspicuous place on the property on which the public nuisance exists. If the property has no frontage the notice shall also be posted at a conspicuous location on the roadway closest to the property most likely to give actual notice to the property owner.

(c) The notice shall contain the following information:

(1) That the Director has determined that a public nuisance exists on the property, describing the nuisance and its location on the property.

(2) The date by which the property owner or other person or agency is ordered to abate the nuisance.

(3) Any action the property owner or other person or agency is ordered to take to prevent the recurrence of the nuisance.

(4) If the property owner or other person or agency fails to comply with the notice and order within the time specified the Director has the right to take the action ordered and the owner or other person or agency may be liable for paying the County's costs to abate, including the County's administrative costs.

(5) If the property owner or other person or agency fails to comply with the notice and order within the time specified the owner may be liable for civil penalties up to \$1,000 per day for each day the nuisance continues after the specified time.

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(6) The property owner or other person or agency has the right to request a hearing by a date specified in the notice. The notice shall also advise the owner or other person or agency of the requirements for filing an appeal in section 64.207.

(Added by Ord. No. 10019 (N.S.), effective 11-20-09; amended by Ord. No. 10240 (N.S.), effective 1-4-13)

#### SEC. 64.207. APPEAL PROCEDURE AND FEE.

(a) A property owner or other person or agency may appeal a Notice and Order to Abate by filing a written request for a hearing to the Clerk (Clerk) of the Board of Supervisors, stating the grounds for the appeal, contain the name, mailing address and telephone number of the appellant and be accompanied by the appeal fee.

(b) The fee to appeal a Notice and Order to Abate issued pursuant to this chapter shall be the same fee as the Board periodically establishes, based on the County costs incurred, to appeal a Notice and Order to Abate under the County Public Nuisance Abatement procedure in sections 16.201 et seq. If the hearing officer finds there is no public nuisance the Clerk shall refund the fee without interest.

(c) If the appellant claims an economic hardship in paying the appeal fee, the appellant may apply for a waiver of the appeal fee on forms provided by the Clerk for that purpose. The forms shall be substantially similar to those required of litigants initiating court proceedings in forma pauperis pursuant to Government Code section 68511.3. The appellant shall execute the forms under penalty of perjury and contain a declaration as to the truthfulness and correctness of the information contained in the forms that an appellant qualifies for a waiver under this section. The Clerk shall allow the appeal to go forward without the appellant paying the appeal fee. If the appellant timely files an appeal and demonstrates good cause the Clerk may grant the appellant up to two additional days to complete and submit the waiver forms. If the appellant fails to timely submit the waiver forms or pay the appeal fee the appellant's request for appeal shall be automatically denied and the Director may enforce the order to abate as if the appellant did not submit an appeal request.

(d) When a property owner or other person or agency submits a timely request for appeal to the Clerk, the Clerk shall set the matter for hearing, assign the appeal to a hearing officer by selecting a hearing officer on a rotating basis from the list of appointed hearing officers and provide at least ten days written notice to the appellant and the Director of the time, date and location of the hearing.

(e) A hearing under this chapter shall be conducted in the same manner as a hearing under section 16.209, except that the hearing officer shall also accept written testimony and may assign the appropriate weight to the written testimony based upon the hearing officer's determination as to the testimony's reliability.

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(f) The request for hearing shall stay the effect of the Notice and Order to Abate until the time specified for compliance in the hearing officer's decision if the hearing officer upholds the notice and order.

(Added by Ord. No. 10019 (N.S.), effective 11-20-09; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10240 (N.S.), effective 1-4-13)

#### SEC. 64.208. PRE-ABATEMENT HEARING.

When conducting a hearing requested by property owner or other person or agency to contest a Notice and Order to Abate, the hearing officer shall determine whether the Director has demonstrated there is substantial evidence of a public nuisance and additional action is necessary to abate the public nuisance. At the conclusion of the hearing the hearing officer shall make written findings of fact and conclusions of law. The hearing officer's decision shall uphold or overrule, in whole or in part, the Director's determination that a public nuisance exists and whether additional action is necessary to prevent recurrence of the public nuisance. If the hearing officer determines the Notice and Order to Abate shall be enforced, the hearing officer shall determine a reasonable time for compliance and the decision shall specify a date by which the property owner shall comply. The hearing officer shall file the decision with the Clerk within seven days of the conclusion of the hearing. The hearing officer's decision shall be final when it is filed with the Clerk. The Clerk shall send the decision to the appellant by U.S. mail and provide a copy to the Director.

(Added by Ord. No. 10019 (N.S.), effective 11-20-09; amended by Ord. No. 10240 (N.S.), effective 1-4-13)

#### SEC. 64.209. NONCOMPLIANCE WITH NOTICE AND ORDER TO ABATE.

(a) If the property owner or other person or agency fails to abate the public nuisance or take action to prevent the public nuisance from recurring within the time specified in the Director's order or the hearing officer's decision, whichever is applicable, the Director may abate the public nuisance and take whatever action is necessary to prevent the recurrence of the public nuisance. If the Director intends to recover the County's costs for the abatement the Director shall keep a separate account for the costs for each assessor's parcel involved in the Director's action.

(b) The Director may also impose a civil penalty up to \$1,000 a day for each day the property owner or other person or agency failed to comply. The Director shall apportion the daily civil penalty assessed among the parcels involved in the action, applying the same percentage to each parcel based upon the percentage of the County's costs incurred for each parcel.

(Added by Ord. No. 10019 (N.S.), effective 11-20-09; amended by Ord. No. 10240 (N.S.), effective 1-4-13)



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**SEC. 64.210. SUMMARY ABATEMENT.**

(a) If the Director determines the existence of a public nuisance on property constitutes an immediate threat to public health and safety the Director may summarily abate the nuisance without notice and without a hearing, even if the Director has sent a Notice and Order to Abate pursuant to section 64.206 and the time specified in the notice has not expired or the property owner has requested a hearing under section 64.207.

(b) When the Director summarily abates a public nuisance and intends to recover the County's abatement costs the Director shall keep a separate account for the costs for each assessor's parcel involved in the summary abatement.

(Added by Ord. No. 10019 (N.S.), effective 11-20-09)

**SEC. 64.211. RECOVERY OF COSTS AND CIVIL PENALTIES.**

(a) The Director may bill the property owner or other person or agency by U.S. mail to recover the County's cost in abating a public nuisance, taking other action to prevent the recurrence of the public nuisance and any civil penalties the Director assessed. If the property owner or other person or agency does not pay the bill within 15 days the Director shall request the Clerk of the Board schedule a hearing with a County hearing officer. With the request the Director shall submit to the Clerk an itemized written cost report including a copy of each invoice from each private contractor who performed any of the work included in the cost report.

(b) When the Director requests the Clerk of the Board schedule a hearing under this section the Clerk shall select a hearing officer and schedule a hearing in the same manner as provided in section 64.207(d). With the notice of hearing sent to the property owner, the Clerk shall include a copy of the Director's cost report.

(Added by Ord. No. 10019 (N.S.), effective 11-20-09; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10240 (N.S.), effective 1-4-13)

**SEC. 64.212. POST-ABATEMENT HEARING.**

(a) A hearing officer conducting a hearing requested by the Director pursuant to section 64.211 shall follow the same hearing procedures as provided in section 64.207.

(b) The hearing officer conducting a post- abatement hearing shall review the abatement costs, the costs to prevent the recurrence of the public nuisance abatement and the amount of civil penalties the Director assessed. In reviewing the costs, the hearing officer shall determine whether the costs are reasonable for the work performed. In cases where the Director acted pursuant to a Notice and Order to Abate, the hearing officer shall not review whether a public nuisance existed or whether it was necessary for the Director to take

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action to prevent the recurrence of the public nuisance. Where the Director summarily abated a public nuisance the hearing officer shall also review whether a public nuisance existed.

(c) The hearing officer may consider the following factors when reviewing the amount of civil penalties: the duration of the public nuisance, the nature and extent of the public nuisance, what action the owner took after first being made aware of the public nuisance, the frequency or recurrence of the public nuisance condition, the economic impact of the penalties on the property owner and any other factors the interests of justice require the hearing officer consider.

(d) At the conclusion of the hearing, the hearing officer shall make written findings of fact and conclusions of law. In cases where the Director acted pursuant to a Notice and Order to Abate, the hearing officer shall determine the amount of costs and civil penalties to allow. Where the Director summarily abated a public nuisance, the hearing officer shall decide whether a public nuisance existed and if so, the amount of costs to allow. The hearing officer shall file a decision with the Clerk within seven days of the conclusion of the hearing. If the hearing officer finds for the Director, in whole or in part, with the decision the hearing officer shall also issue a separate Notice of Abatement Lien that shall provide the name of the record owner of the property, the last known address of the record owner, the last date that work was performed on the property to abate a public nuisance and to prevent the recurrence of the public nuisance, the amount of costs and the amount of civil penalties awarded against the property owner and the parcel number and if applicable, the address of the real property subject to the lien. If more than one parcel is involved, the hearing officer's decision shall state which costs and penalties are awarded against each parcel and the hearing officer shall issue a separate Notice of Abatement Lien for each parcel for which the hearing officer makes an award in favor of the County. The hearing officer's decision shall be final when it is filed with the Clerk. The Clerk shall send the decision to the appellant by U.S. mail and provide a copy to the Director.

(Added by Ord. No. 10019 (N.S.), effective 11-20-09; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 64.213. COLLECTION OF COSTS AND PENALTIES.

(a) If the property owner fails to pay the amount awarded within 30 days of the hearing officer's post-abatement decision the County may collect the amount at the same time and in the same manner as ordinary county taxes are collected. The unpaid amount shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of County taxes are applicable to the costs and civil penalties awarded against the property.

(b) If the property owner fails to pay the amount awarded within 30 days the County may also cause each Notice of Abatement Lien the hearing officer issues to be recorded.

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(Added by Ord. No. 10019 (N.S.), effective 11-20-09)

**SEC. 64.214. UNLAWFUL TO INTERFERE WITH DIRECTOR.**

It shall be unlawful for a person to restrain, hinder, obstruct or threaten the Director or to interfere with any work being done by the Director or any person acting under the Director's direction when the Director is acting pursuant to this chapter.

(Added by Ord. No. 10019 (N.S.), effective 11-20-09)

**CHAPTER 3. PREVENTION AND CONTROL OF FLY BREEDING ON COMMERCIAL POULTRY RANCHES\***

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\*Note--Chapter 3 added by Ord. No. 2080 (N.S.), effective 7-12-60; amended by Ord. No. 2126 (N.S.), effective 10-25-60; repealed and new Chapter 3 added by Ord. No. 2527 (N.S.), effective 4-25-63; repealed and new Chapter 3 added by Ord. No. 3607 (N.S.), effective 12-5-70; repealed by Ord. No. 5135 (N.S.), effective 5-11-78; new Chapter 3, Prevention and Control of Fly Breeding, added by Ord. No. 7025 (N.S.), effective 10-17-85; amended by Ord. No. 9965 (N.S.), effective 2-6-09.

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**SEC. 64.301. PURPOSE.**

Commercial poultry ranches may serve as a source for fly breeding, which if unregulated may endanger the public. The purpose of this chapter is to adopt regulations to prevent fly breeding hazards on commercial poultry ranches in the unincorporated area of the County, which may constitute a threat to the public health and safety. This chapter also establishes the Fly Abatement and Appeals Board to assist in determining whether a fly breeding hazard exists and what methods shall be used to abate the hazard. In administering this chapter, there shall be taken into account factors of proximity of human populations, population density, the determination of other sources of fly breeding and the implementation of the standards provided in this chapter to promote the public health and safety.

(Amended by Ord. No. 9965 (N.S.), effective 2-6-09)

**SEC. 64.302. DEFINITIONS.**

The following definitions shall apply to this chapter:

- (a) "Annual proposal" means the written proposal submitted to the Director by a commercial ranch owner or operator describing the owner or operator's plan to control fly

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breeding. The proposal shall provide for manure management and disposal, water system maintenance, waste water management, dead poultry and waste egg disposal, water system maintenance, chemical control of flies and other information that the Director may require, depending on the particular circumstances that exist on a ranch.

(b) "Commercial poultry ranch" means a facility where 300 or more poultry are kept or maintained for the primary purpose of producing poultry, poultry products or eggs for sale or other distribution.

(c) "Director" means the Director of the County Department of Environmental Health and Quality and any person appointed or hired by the Director to administer and enforce this chapter.

(d) "Fly breeding hazard" means the existence of a condition on a commercial poultry ranch resulting from failure to comply with (1) the standards for fly prevention and control established by this chapter or (2) the ranch annual proposal that, (A) the Director approves, (B) the Director modifies and the rancher accepts or (C) the Fly Abatement and Appeals Board approves following a hearing.

(e) "Poultry" means any domesticated bird, including a chicken, duck, turkey, goose or guinea fowl.

(f) "Spent hens" means any poultry which is no longer used for production of eggs or poultry products.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9965 (N.S.), effective 2-6-09; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

Cross reference(s)--Definitions, § 12.101 et seq.

#### SEC. 64.303. FLY ABATEMENT AND APPEALS BOARD -- FORMATION.

(a) The Board of Supervisors shall appoint five persons to serve on a Fly Abatement and Appeals Board (FAAB). The FAAB shall be composed of two persons who are owners or operators of a commercial poultry ranch, one person who is a graduate in biological or environmental health sciences, knowledgeable in fly control procedures and not associated with the Department of Environmental Health and Quality or any commercial poultry ranch and two persons who are representatives of the community at large, not associated with any commercial poultry ranch and one of whom is a business owner. All appointments under this section shall be for a term of three calendar years.

(b) The FAAB shall choose a chairperson, vice chairperson and a secretary from its members.

(Amended by Ord. No. 7679 (N.S.), effective 11-16-89; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9965 (N.S.), effective 2-6-09; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

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**SEC. 64.304. FLY ABATEMENT AND APPEALS BOARD POWERS.**

The FAAB shall have the authority to conduct public hearings as provided by in this chapter. Three members of the FAAB shall constitute a quorum. An action by the FAAB requires a quorum to be present and at least three concurring votes. The FAAB shall determine based upon the evidence presented at a public hearing whether a violation of this chapter has occurred and what procedures a rancher shall utilize to correct the violation. If the FAAB determines that a fly breeding hazard exists it shall issue an order to abate the fly breeding hazard within a specified period of time. The order of abatement may include, but not be limited to: (a) removal, repair, maintenance, construction, reconstruction, replacement and reconditioning of structures, appliances, fringe areas or equipment, (b) removal, transportation, disposal and treatment of refuse, manure or other substance or media capable of supporting fly breeding, (c) the application of chemical or biological agents, or other substances and (d) the use of mechanical means to prevent, control, eradicate or eliminate sources or causes of fly breeding media or conditions.

(Amended by Ord. No. 9965 (N.S.), effective 2-6-09)

**SEC. 64.305. INSPECTION BY THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY.**

The Director is authorized to inspect a commercial poultry ranch whenever the Director has reasonable cause to believe that a fly breeding hazard exists on the ranch. The Director shall have the authority to inspect all commercial poultry ranches at least once a year to determine compliance with this chapter. If the Director receives a complaint implicating a commercial poultry ranch the Director shall also have the authority to inspect the surrounding area to confirm that the fly breeding hazard does not exist somewhere other than the commercial poultry ranch implicated in the complaint.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9965 (N.S.), effective 2-6-09; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**SEC. 64.306. STANDARDS FOR PREVENTION AND CONTROL OF FLY BREEDING.**

The standards in Sections 64.307, 64.308, 64.309, 64.310 and 64.311 are established to provide effective fly control practices in accordance with recognized integrated pest management practices for the prevention and control of fly breeding on commercial poultry ranches. These standards shall apply to all commercial poultry ranches, unless the Director approves an alternative practice for fly breeding prevention and control in the proposal applicable to a specific ranch.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9965 (N.S.), effective 2-6-09)

**SEC. 64.307. CONSTRUCTION AND MAINTENANCE STANDARDS.**

(a) Structures and equipment for poultry operations shall be constructed to facilitate the drying and removal of manure and shall provide moisture drainage away from all manure.

(b) Watering and cooling systems shall be installed to prevent backflow and maintained to prevent overflowing, splashing or leaking on manure and feed.

(c) Waste water shall be managed by using a drainage system specified in the approved annual proposal to prevent and control fly breeding and to keep waste water away from manure.

(d) Poultry housing operations shall be designed and maintained to allow adequate ventilation and weather protection by proper spacing, elevation and roofing designs.

(e) Feed storage facilities shall be designed and maintained to prevent adult fly emergence.

(f) Any person proposing to construct, operate or maintain a commercial poultry ranch or any building, structure or enclosure on a commercial poultry ranch after September 1, 1985 shall follow the principles provided in the University of California, Division of Agricultural Sciences, Leaflet 2505, titled, "Integrated Management of Pest Flies on Poultry Ranches." A copy of Leaflet 2505 shall be maintained in the Office of the Clerk of the Board of Supervisors as Document No. 677041.

(Amended by Ord. No. 9965 (N.S.), effective 2-6-09)

Cross reference(s)--Unified program, sewage and solid waste disposal, § 68.101 et seq.

**SEC. 64.308. FLY CONTROL THROUGH MANURE MANAGEMENT STANDARDS.**

(a) A commercial poultry ranch owner or operator who employs the drying and coning operation method of manure management shall comply with the following requirements for the prevention and control of fly breeding unless otherwise approved by the Director and specified in the approved annual proposal:

(1) The process shall begin on at least a six inch pad of dry manure to harbor predators and parasites and to provide absorbent surface for fresh droppings, unless otherwise approved by the Director. A proportionately deeper pad of dry manure shall be required if the area beneath the poultry enclosures is below the levels of the aisles.

(2) Any system used for watering the poultry shall be maintained to prevent water from reaching the manure and feed.

(3) All wet manure created by water leaks or poultry shall be thoroughly removed and, if necessary, be replaced with an adequate base of dry poultry manure.

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(4) Whenever manure is removed from under the enclosures a six inch pad of dry manure shall be left to provide absorbent surfaces, facilitate the forming of new cones and maintain a habitat for predators and parasites. This may be done by one of the following methods:

- (A) Removing every other row and then pushing half of the manure from the remaining row into the "cleaned out" row.
- (B) Cleaning so as to leave at least a six inch pad of dry manure in each row.
- (C) Cleaning out all manure and replacing it with at least a six inch pad of dry manure.

(5) The poultry house aisles and adjacent areas shall be cleaned of feathers and other debris at intervals specified in the approved annual proposal to eliminate pupation areas for fly larvae.

(b) A commercial poultry ranch owner or operator who employs the frequent manure removal operation method of manure management shall comply with the following requirements unless otherwise approved by the Director and specified in the approved annual proposal:

(1) Manure shall be removed from under poultry enclosures at least once weekly or more frequently if necessary to prevent larvae and pupae from completing their life cycles and emerging as adult flies.

(2) Whenever manure is removed from underneath poultry enclosures larvae and pupae shall also be removed from the aisle and adjacent areas.

(3) The aisles and adjacent areas of the poultry housing shall be cleaned of feathers and other debris at intervals specified in the approved proposal to prevent larvae and pupae from completing their life cycles and emerging as adult flies.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9965 (N.S.), effective 2-6-09; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 64.309. MANURE MANAGEMENT STANDARDS.

(a) Manure removed from a ranch shall be managed and disposed of in a manner that will not cause a threat to the public health and safety from fly breeding at any other location.

(b) Manure on the ranch shall be disposed of by any of the following methods, provided that there is sufficient area available for whichever method is selected, unless otherwise approved by the Director and specified in the approved annual proposal:

(1) Incorporating manure into an effective rolling windrow decomposing or drying operation that prevents any larvae and pupae in the manure from completing their life cycle.

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(2) Spreading manure thinly to dry on a manure pad or designated area and harrowing often enough to dry or discing manure under, provided that fly larval migration, pupation and adult emergence is prevented.

(Amended by Ord. No. 9965 (N.S.), effective 2-6-09; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 64.310. STANDARDS FOR CONTROL OF OTHER FLY BREEDING SOURCES.

(a) Dead poultry shall be removed from poultry housing at least once a day and immediately disposed of by one of the following methods, unless otherwise approved by the Director and specified in the approved annual proposal:

(1) Placed in a fly-tight container or structure for the proper off-site removal. Dead poultry shall be removed from the ranch at least weekly. Containers and structures shall be kept clean to prevent fly breeding.

(2) Placed in a fly-tight disposal pit.

(3) Incinerated or cremated.

(4) Placed in manure on a dry pad for an effective decomposition process.

(b) Waste eggs shall be disposed of by one of the following methods, unless otherwise approved by the Director and specified in the approved annual proposal:

(1) Placed daily in the dead poultry disposal pit.

(2) Placed in a fly-tight container or structure and removed from the ranch at least weekly.

(3) Placed in rolling windrows or thin bed dried.

Waste eggs shall not be disposed of in manure underneath a poultry enclosures.

(c) Spoiled, unused, spilled feed shall be managed by one the following methods, unless otherwise approved by the Director and specified in the approved annual proposal:

(1) Feed storage areas kept dry.

(2) Frequent removal and proper disposal of spoiled, unused and spilled feed.

(3) Place spoiled, unused or spilled feed in rolling windrows or thin bed drying.

(d) Spent hens shall be disposed of by one of the following methods, unless otherwise approved by the Director and specified in the approved annual proposal:

(1) Picked up by a rendering company.

(2) Sold for any legal use.



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(3) Placed on the dry pad in the manure and into an effective decomposition process, provided that fly larval migration, pupation and adult emergence are prevented. A ranch owner or operator using this method shall notify the Director within 24 hours whenever spent hens are removed from poultry houses and placed into the decomposition process.

(Amended by Ord. No. 9965 (N.S.), effective 2-6-09; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 64.311. GENERAL RANCH OPERATION STANDARDS.

(a) A commercial poultry ranch shall maintain adequate equipment and personnel available to implement a ranch's manure management program for fly prevention and control.

(b) A ranch shall use appropriate State of California registered pesticides to control life stages of fly populations in accordance with the approved annual proposal. Appropriate pesticides including traps and baits shall be used to control adult fly populations.

(c) Dropping boards used in speeding the drying process shall be cleaned frequently enough so that any larvae and pupae cannot complete their life cycles and emerge as adult flies, unless otherwise approved by the Director and specified in the approved annual proposal.

(Amended by Ord. No. 9965 (N.S.), effective 2-6-09)

#### SEC. 64.312. ANNUAL PROPOSAL FOR PREVENTION AND CONTROL OF FLY BREEDING.

An owner or operator of a commercial poultry ranch shall, on or before December 31 of each year, review with the Director and file with the Director, on a form provided by the County, a proposal for the prevention and control of fly breeding on his or her commercial poultry ranch for the next calendar year. The proposal may be amended periodically with the Director's prior approval.

In the event the Director determines that the proposal submitted will not adequately prevent and control fly breeding to the extent necessary to protect the public health and safety, the Director may modify the proposal after review with the commercial poultry rancher. The Director shall provide written notice of any proposal modification to the rancher. The rancher may within 10 days, appeal any proposal modification to the FAAB. The FAAB shall hear the appeal and make a final decision approving, rejecting or modifying the proposal. The FAAB's decision shall be binding on the rancher. If a rancher does not appeal a proposal modification the rancher shall comply with the modified proposal.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9965 (N.S.), effective 2-6-09)

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**SEC. 64.313. REINSPECTION FEE.**

If the FAAB issues an order of abatement to correct a fly breeding hazard to any commercial poultry ranch owner or operator, the Director shall reinspect the ranch to determine if the rancher has complied with the abatement order. The rancher shall pay the Director a \$50 reinspection fee within 30 days from the date the Director bills the rancher for the reinspection fee. If the reinspection fee is not paid on or before the due date, the rancher shall also owe a penalty as provided in section 65.105 of this code.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9965 (N.S.), effective 2-6-09; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

**SEC. 64.314. NOTICE OF VIOLATION.**

If the Director determines after inspection that the owner or operator of a commercial poultry ranch has violated this chapter or an approved annual proposal for prevention and control of fly breeding, the Director may issue a notice of violation.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9965 (N.S.), effective 2-6-09)

**SEC. 64.315. PROCEDURES TO CORRECT VIOLATIONS.**

(a) The Director may issue a written notice of violation to the owner or operator of a commercial poultry ranch to correct a violation within a time period the Director deems appropriate, up to 14 days.

(b) If the owner or operator of the ranch fails to correct the violation within the time allowed in the written notice of violation, the Director is authorized to issue a written order directing the owner or operator to appear before the FAAB. The order to appear shall describe the violation and direct the owner or operator to appear at a public hearing in not less than seven days or more than 15 days.

(c) If the Director issues three or more notices of violations to a ranch owner or operator within a 12 month period, the Director may also serve, with the third and any subsequent notice of violation, a written order to appear before the FAAB.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9965 (N.S.), effective 2-6-09)

**SEC. 64.316. APPEAL OF NOTICE OF VIOLATION.**

A commercial poultry ranch owner or operator may appeal a notice of violation issued by the Director to the FAAB. The appeal shall be in writing and postmarked within seven days

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of the date of the notice of violation. The appeal shall be sent to the Director, who shall schedule a hearing date with the FAAB not less than seven days nor more 15 days after receiving a notice of appeal. The commercial poultry ranch owner or operator shall be notified in writing of the hearing date, time and place at least five days prior to the hearing. When an appeal is filed, corrective action in response to the notice of violation shall be stayed pending the decision of the FAAB, which shall be final. If the FAAB determines that the Director was justified in issuing the notice of violation, in whole or in part, the FAAB shall issue an appropriate abatement order.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9965 (N.S.), effective 2-6-09)

#### SEC. 64.317. HEARING.

On the date, time and place specified in the written order or notice to appear, the FAAB shall convene and conduct a public hearing and shall, upon evidence presented, determine whether a violation has occurred and what steps are necessary to correct the violation.

(Amended by Ord. No. 9965 (N.S.), effective 2-6-09)

#### SEC. 64.318. ABATEMENT.

If the FAAB issues an order of abatement, any person who intentionally or negligently violates the order shall be liable for a civil penalty of up to \$500 for each day in which a violation occurs. The civil penalties prescribed herein shall be assessed and recovered in a civil action brought in the name of the County of San Diego. In determining the amount to be assessed, the court shall consider the extent of harm caused by the violation, the length of time over which the violation occurs and corrective action, if any, taken by the ranch owner or operator.

(Amended by Ord. No. 9965 (N.S.), effective 2-6-09)

#### SEC. 64.319. SERVICE OF NOTICE OR ORDER.

Each notice or order given or made under this chapter shall be served upon the owner or operator of the commercial poultry ranch subject to the notice or order. If the Director is unable to personally serve the owner or operator, the Director shall post the notice or order in a conspicuous place on the ranch and serve the owner or operator by mail.

(Amended by Ord. No. 9965 (N.S.), effective 2-6-09)

#### SEC. 64.320. PROHIBITED CONDUCT.

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It shall be unlawful for an owner or operator of a commercial poultry ranch to:

- (a) Fail to comply with the standards for the prevention and control of fly breeding on commercial poultry ranches in sections 64.307 - 64.311 of this chapter.
- (b) Fail to comply with the provisions of the approved proposal for the prevention and control of fly breeding on commercial poultry ranches.
- (c) Restrain, hinder, obstruct or threaten any officer or employee of the Department of Environmental Health and Quality in the performance of that person's duties pursuant to this chapter.
- (d) Fail to file a proposal for the prevention and control of fly breeding as required by section 64.312.
- (e) Fail to comply with any final order of the FAAB.

(Amended by Ord. No. 9965 (N.S.), effective 2-6-09; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 64.321. ADDITIONAL REMEDIES.

The civil and criminal provisions of this chapter are in addition to any other existing remedy authorized by law.

(Amended by Ord. No. 9965 (N.S.), effective 2-6-09)

#### CHAPTER 4. PREVENTION AND CONTROL OF EYE GNAT IMPACTS ASSOCIATED WITH COMMERCIAL ORGANIC FARMS

#### SEC. 64.401. PURPOSE.

Commercial organic farming operations located on or near an urban-rural interface can in some cases support the development, attraction or harborage of eye gnats in numbers that cause human discomfort in nearby communities. Eye gnats will not breed on all organic farms in numbers that cause human discomfort, but farms with sandy soil conditions that are cultivated and watered can breed high numbers of eye gnats. Eye gnats seek the eye, nose and mouth of humans and pets, and when they are present in large numbers they cause discomfort and can limit the activities of persons living or working nearby. There may be significant related economic harm.

Chapter 2 of this division defines "vector" to include eye gnats, and provides that the Director may exercise state law vector control district powers as to eye gnats except as provided in this chapter 4. This chapter limits and conditions the exercise of Vector Control Program powers as to eye gnats. This chapter does not limit the right of any person affected by an agricultural operation that is a nuisance to seek judicial abatement of that nuisance pursuant to the California Civil Code.

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It is recognized that more research related to eye gnats and eye gnat abatement is necessary to identify additional best management practices and abatement measures that are compatible with the operation of organic farms in San Diego County.

(Added by Ord. No. 10240 (N.S.), effective 1-4-13)

#### SEC. 64.402. DEFINITIONS.

The definitions set out in chapter 2 of this division shall apply to this chapter. In addition:

(a) "Abatable source" means any property that supports the development, attraction or harborage of eye gnats in numbers that cause human discomfort.

(b) "Applicable eye gnat abatement measure" means a validated eye gnat abatement measure that is technically suited to a crop or crops and to conditions and practices at a specific commercial organic farm, and that would reduce eye gnat development, attraction, harborage, or off-farm flight if used at that farm.

(c) "Barrier crop" means plants grown in a specified area for the purpose of intercepting eye gnats, which can be treated with conventional pesticides. (Barrier crops treated with pesticides can be used by farmers on a voluntary basis, but the Director cannot order that they be used.)

(d) "Commercial organic farm" means a farm that grows and sells certified organic products.

(e) "Cultural control method" means any farming practice that is selected at least in part to reduce or prevent eye gnat development, attraction or harborage.

(f) "Department" mean the Department of Environmental Health and Quality.

(g) "Director" means the Director of the County Department of Environmental Health and Quality and any person appointed or hired by the Director to administer and enforce this chapter.

(h) "Eye gnat breeding hazard" means an avoidable or mitigable condition on a commercial organic farm that is likely to contribute to the development of eye gnats in numbers that could contribute to a nuisance in a nearby community.

(i) "Eye gnat source identification testing" means any reliable technical method for determining whether a farm or other property is developing, attracting or harboring eye gnats, and includes but is not limited to emergence trapping on the farm or other suspected sources, grid trapping to determine concentrations of eye gnats in the vicinity of the farm, and the use of trap count patterns to determine whether eye gnat populations are greater closer to the farm or other property than further away.

(j) "Grower" or "farmer" means any person who can direct changes in practices on a commercial organic farm.

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(k) "Last resort situation" means a public nuisance as defined in Chapter 4, for which a commercial organic farm alone is a predominant cause, which has not been abated within nine months after the implementation of abatement measures by that farm pursuant to an agreed voluntary plan or abatement order. Where a commercial organic farm is a predominant cause of a public nuisance only in combination with other sources, a last resort situation does not exist until those other sources also take or are ordered to take abatement actions the Director determines are appropriate. Notwithstanding any other provision of this ordinance, the Director may also exercise the last resort powers described in section 64.403 where a farmer fails or refuses to participate in the voluntary plan process or fails or refuses to comply with a previously issued abatement order or approved voluntary plan.

(l) "Predominant cause" of a public nuisance means any cause or combination of causes contributing substantially more to the existence of that nuisance than other causes, which, if mitigated, would substantially reduce nuisance conditions in the community.

(m) "Public nuisance" means conditions that constitute a public nuisance as defined in section 3480 of the California Civil Code, predominantly caused by the development, attraction or harborage of eye gnats on a commercial organic farm and by the migration of eye gnats from that farm.

(n) "Reasonable precautionary and protection measures" means the use of any inexpensive, convenient, and relatively non-invasive practice by an individual property owner to abate eye gnats on that owner's property and shall include the use of abatement traps in good condition and maintained at least once a week in structure and bait by the individual property owner, provided traps and bait are furnished free of charge to such property owner.

(o) "Validated eye gnat abatement measure" includes any farming practice, cultural control measure, or other eye gnat abatement measure that has been reviewed as set out in section 64.405 and determined by the Director to be effective in some organic farming situations. As of September 2015 those measures include proper fertilizer use and irrigation practices, as described on the DEH eye gnat web page. Any subsequently validated measures will also be shown on that page.

"Validated eye gnat abatement measure" also includes the following measures which research and experience had shown to be effective before the County's eye gnat program was adopted:

1. Reduced tilling of fresh or dry organic matter into soils
2. Barrier crops
3. Flight barriers
4. Trapping to intercept eye gnats or to reduce eye gnat numbers
5. Fallow or dry periods

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(p) "Voluntary plan" means the written proposal submitted to the Director by an organic farm or other agricultural operation describing the owner's or grower's plan to control eye gnat breeding. The voluntary plan includes any changes requested by the Director and agreed to by the owner or grower.

(Added by Ord. No. 10240 (N.S.), effective 1-4-13; amended by Ord. No. 10257 (N.S.), effective 5-10-13; amended by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 64.403. SCOPE AND AUTHORITY; LIMITATIONS ON AUTHORITY.

The Director may exercise the powers established in chapter 2 of this division except as otherwise provided in this chapter 4. The specifications and limitations set out below are generally applicable to the Director's use of state law vector control district powers and the powers established in chapter 2 to address eye gnats.

(a) The Director may enter into a stipulated order to abate with any person subject to this Chapter.

(b) The Director may not issue any order to abate eye gnats to a commercial organic grower unless the grower has been given a reasonable opportunity to implement the voluntary plan procedures set out in Section 64.404. After written notice to the farmer, who shall have 15 days to respond and a reasonable opportunity to cure the deficiencies specified in the notice, the Director can terminate the voluntary plan process and issue an order to abate if a grower does not participate in that process diligently and in good faith. When issuing that order, the Director shall state the deficiencies in diligence or good faith that were not cured.

(c) A new owner or operator of a commercial organic farming operation is not required to develop a new voluntary plan solely due to the conveyance of the farming operation, but if an approved voluntary plan or abatement order was in place for a specific operation prior to its transfer or sale, the new owner or operator will be subject to the requirements of the prior voluntary plan or order in accordance with this chapter, unless a new plan or order is approved by the Director.

(d) The Director may not issue an order to abate eye gnats to a commercial organic grower unless that grower's operations are a predominant cause of a 'public nuisance' as defined in this chapter.

(e) The Director may not order a commercial organic grower to use any pesticide to abate eye gnats, or to use any abatement measure that would cause the grower to lose certification as an organic grower for the affected field or crop. The Director may not order a commercial organic grower to cease organic farming operations, or to use any abatement measure that is not validated. Except as provided in subsection (h) of this Section, these limitations apply even in last resort situations.

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(f) The Director may order a commercial organic grower to implement a flight barrier or trapping measure that the Director has determined would be an applicable and practicable eye gnat abatement measure for that farm even if implementation of that measure would require the use of land on which organic crops could otherwise be grown.

(g) The Director may order a fallow period or non-irrigated period, unless the fallow period or non-irrigated period would prevent a crop from being grown, e.g., by precluding the completion of a crop cycle within the growing season.

(h) Except in a last resort situation, the Director may not order a commercial organic grower to limit or to cease organic production of a particular crop or type of crop. In a last resort situation, if validated eye gnat abatement measures applicable to a crop will not sufficiently abate eye gnat development, attraction or harborage associated with that crop, the Director may issue an order to limit or to cease growing that crop to the extent necessary (in combination with other measures) to abate the nuisance.

(i) Notwithstanding the limitations in this section and in section 64.405, in last resort situations the Director may order the use of eye gnat abatement measures without regard to practicability. The limitations in subsection (d) shall apply.

(j) Except in a last resort situation, the Director may not issue any order to abate eye gnats to a commercial organic grower if a voluntary plan that includes all validated and applicable eye gnat abatement measures has been fully implemented and is being maintained by the grower.

(k) If voluntary measures result in changed conditions such that the presence of nuisance conditions in the community can no longer be verified by County staff, taking available data, direct observations by staff, and evidence provided by the community into account, the Director shall advise the farmer concerning validated and applicable eye gnat control measures that should be used in the subsequent year to prevent the recurrence of a nuisance.

(l) The Director must review any abatement order in November of each year, or otherwise at the end of the eye gnat season, and determine the efficacy of that order and the need for an abatement order in the following year.

(m) This chapter does not limit or condition the authority of the Director to obtain an inspection warrant.

(Added by Ord. No. 10240 (N.S.), effective 1-4-13; amended by Ord. No. 10257 (N.S.), effective 5-10-13)

#### SEC. 64.404. VOLUNTARY PLAN PROCEDURES.

Prior to issuing an order to abate to a commercial organic grower, the Director shall provide the grower an opportunity to take effective action voluntarily. The procedures set out below apply.



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(a) If the Director receives a substantial number of eye gnat complaints from a community near the farm, the Director shall investigate. The Director shall endeavor to complete this investigation within 30 days. If completion of the investigation is interrupted by seasonal or other factors, the investigation may resume when feasible without requiring new community complaints. The Director shall proceed with the process set out in this section if the investigation:

i. Verifies through eye gnat source identification testing that the farm supports the development, attraction or harborage of eye gnats; and

ii. Verifies through observations by County staff or through evidence provided by community members that nuisance conditions exist in the community; and

iii. Determines through surveillance, eye gnat source identification testing or other testing whether other abatable sources of eye gnats in the area may also be, alone or in combination, a predominant cause of the development, attraction or harborage of eye gnats.

(b) If the conditions in subsection (a) are satisfied, the Director shall promptly contact the farmer, state that action to abate eye gnats is required under state law, and offer assistance to the farmer to undertake such action voluntarily.

(c) The assistance offered shall include consultation with an Eye Gnat Advisor, as detailed in section 64.412 (Eye Gnat Advisor), to assess the eye gnat problem on the farm and to identify eye gnat abatement measures that are likely to be effective and to be practicable for that farm. The Director shall inform the farmer that, if the offer of assistance is accepted, the conclusions and recommendation of the Eye Gnat Advisor will be shared with the Director. The farmer may retain independent scientific experts to consult on preparation of a voluntary plan.

(d) If the farmer agrees to accept assistance from the Eye Gnat Advisor, the farmer shall have such time as specified by the Director, but not fewer than 60 days, to submit a voluntary plan for eye gnat abatement to the Director. The Director may extend the period for submission of this plan if an extension is requested by the Eye Gnat Advisor.

(e) During development of the voluntary plan the grower and Eye Gnat Advisor shall consider and discuss at least the following strategies: the management of weeds and crop residues, the selection of fertilizers, watering practices, soil covers, flight barriers, barrier crops, trapping strategies, fallow periods or non-irrigated periods. The voluntary plan shall address both the prevention of eye gnat breeding and the interception of eye gnats on the farm, and shall include both appropriate cultural control measures and other appropriate control measures.

(f) The voluntary plan must include a combination of validated measures applicable to and practicable for that farm that the Farm and Home Advisor, after consultation with any experts hired by the farmer, determines are likely to significantly reduce eye gnat development and migration from the farm. The plan may include additional eye gnat abatement measures that have not yet been validated. The plan shall include provisions for

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monitoring the effectiveness of control measures on the farm and in the community. Plans typically should cover a one year period, however, a two-year plan can be submitted to and approved by the Director if the Eye Gnat Advisor advises the Director that the most significant eye gnat abatement measures in that plan will take two or more years to achieve the effects intended.

(g) The Director shall approve the plan as submitted if the Director determines that it is likely to be sufficient to alleviate nuisance conditions in the affected community, or if the Director determines that the plan includes all validated, applicable and practicable measures for that farm. If the Director does not respond to or approve a plan within 45 days of receipt of the plan, the plan shall be deemed to have been approved.

(h) The Director may approve any plan that the Director determines constitutes an appropriate effort for that farm that year.

(i) In the event the Director determines that the voluntary plan submitted will not adequately abate eye gnats, the Director after review with the commercial organic farmer may request modifications to the plan to incorporate additional validated, applicable and practicable measures. The Director shall provide written notice of any requested modification to the farmer. Additions can include requirements to use on-farm and offsite trapping strategies. If the submitted or modified plan includes providing traps and bait free of charge to affected residents, the Director shall inform recent and subsequent complainants that free traps and bait are available from the farmer.

(j) The Director may request that a plan be modified at any time if the plan requires clarification or refinement, or if additional eye gnat abatement measures are validated while that plan is in place, and those measures are determined by the Director to be applicable and practicable for that farm. In addition, the Director may request that the second year of a two year plan be modified if the success of that plan is in jeopardy because significant eye gnat abatement measures in that plan did not perform as anticipated in the first year of the plan.

(k) If a farmer declines to add additional measures to a voluntary plan as requested by the Director, the Director may issue an order to abate, subject to the limitations in section 64.403. The farmer may appeal the order to abate as set out in this chapter.

(l) If the approved voluntary plan is implemented by the farmer on a timely basis and if there is substantial and continuous conformance to that plan, the Director may not issue an order to abate eye gnats to that farmer during the remainder of the calendar year or years in which the plan was implemented. If substantial progress is made by the end of the plan period the Director after consultation with the Eye Gnat Advisor and consideration of any input provided by experts hired by the farmer may approve a voluntary plan for an additional full calendar year. The Director can request modifications to any approved plan at any time to the extent provided in subsection (j) of this section.

(m) Whether to issue an order to abate after the first voluntary plan period (whether one or two years) is in the Director's discretion, subject to the limitations in section 64.403.

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(Added by Ord. No. 10240 (N.S.), effective 1-4-13; amended by Ord. No. 10704 (N.S.), effective 1-8-21)

**SEC. 64.405. VALIDATED AND APPLICABLE EYE GNAT ABATEMENT MEASURES.**

Procedures for validating abatement measures in addition to the measures listed in Section 64.402(I), and for determining where they are applicable are set out in this section.

(a) Within one month of the effective date of this section, and approximately annually thereafter, the Director shall compile a list of eye gnat abatement measures that are candidates for validation. Candidate measures shall be limited to measures that have been tested for effectiveness under controlled conditions, or that have been observed to be effective by a qualified scientist in a farm or test farm setting. Candidate measures shall include on-farm measures that are compatible with organic farming, measures to address other sources of eye gnat development, and measures to reduce eye gnat populations from all sources within affected communities. The Director shall consider input from the Eye Gnat Advisor, as detailed in section 64.412 (Eye Gnat Advisor) and any input provided by other qualified experts when compiling this list.

(b) The Director shall confer with the Eye Gnat Advisor to determine for each candidate measure whether a scientific peer review process has been completed and supports the conclusion that an abatement measure is effective. If the Director determines that an abatement measure has been peer reviewed and is effective, the Director may validate that measure.

(c) Within three months of the effective date of this section and from time to time thereafter, the Director shall arrange for two or more Professors of Entomology or similarly qualified persons, not employed by the County, to review the effectiveness of candidate measures identified by the Eye Gnat Advisor that have not been validated based on prior peer reviews. Where new information is available concerning the effectiveness of a previously validated eye gnat abatement measure, that information shall also be reviewed. If feasible, this accelerated informal peer review shall be conducted orally through questions posed to a representative of the Eye Gnat Advisor in a forum that the public can observe. If a participating reviewer is unable or unwilling to participate in a public forum, the Director can accept and consider a written review by that Professor of Entomology or similarly qualified person. Any written review shall be made available to the public while it is being considered by the Director.

(d) Based on the advice of the Eye Gnat Advisor and the reviewing Professors of Entomology or similarly qualified persons, the Director shall determine whether specific eye gnat abatement measures are likely to be feasible and effective, and in what circumstances. The Director shall validate only those measures that are sufficiently proven to warrant mandated use in one or more applicable situations. The Director may determine that additional eye gnat abatement measures are suited to implementation by the Vector Control Program or by others on a voluntary basis.

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(e) Before issuing an order to abate to a commercial organic farmer, the Director shall determine, in consultation with the Eye Gnat Advisor, which validated eye gnat abatement measures are practicable and applicable to the farm and situation at issue. In making this determination the Director shall consider, in consultation with the Eye Gnat Advisor, whether implementation at that farm is technically feasible or appropriate, whether a noticeable reduction in eye gnats is expected to result, whether costs are disproportionate to the benefits achieved, and other relevant factors. The Director may not require the submission of cost information or financial information by a farmer for consideration in making this determination, but may consider any such information a farmer chooses to submit.

(Added by Ord. No. 10240 (N.S.), effective 1-4-13; amended by Ord. No. 10257 (N.S.), effective 5-10-13; amended by Ord. No. 10704 (N.S.), effective 1-8-21)

#### SEC. 64.406. OTHER ABATEMENT.

(a) Where eye gnat impacts to a community are jointly caused by a commercial organic farm plus other properties that develop, accumulate or harbor eye gnats, the Director shall consider whether to order the abatement of those other properties. The Director may also expend Vector Control Program funds to abate eye gnats on such properties.

(b) The Director may expend Vector Control Program funds for eye gnat monitoring and abatement measures in or near a community affected by eye gnats from a commercial organic farm, to assist in alleviating an eye gnat nuisance. The Director may not compel any specific property owner to accept the use of abatement measures on that owner's property, unless that property itself supports the development, attraction or harborage of eye gnats. The Director shall consider the overall level of community acceptance of abatement measures deployed within that community and the implementation of reasonable precautionary and protection measures in the community in determining the eye gnat abatement measures which are appropriate to require a commercial organic grower to implement.

(c) The Director may include validated and applicable offsite eye gnat abatement measures in any order to abate eye gnats issued pursuant to this division. A grower ordered to deploy abatement measures offsite cannot be required to deploy such measures on land not owned by the grower, unless off-site property owners consent to that deployment without compensation by the grower.

(d) This chapter does not require the Director to abate or to order the abatement of other eye gnat nuisances in the vicinity of a commercial organic farm prior to requiring action by a commercial organic farmer.

(Added by Ord. No. 10240 (N.S.), effective 1-4-13; amended by Ord. No. 10257 (N.S.), effective 5-10-13)

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#### SEC. 64.407. APPEALS AND PETITIONS.

(a) Any order to abate eye gnats issued to a commercial organic grower may be appealed within 30 days of its initial issuance, or within 30 days before or after the first anniversary of its initial issuance, but not otherwise. All such appeals shall be heard by the Eye Gnat Abatement Appeals Board established in the chapter, rather than by a hearing officer, unless the grower elects when the appeal is filed or within 14 days thereafter to have the appeal heard by a hearing officer.

(b) An appeal of an abatement order shall only stay those terms of the appealed order that are more stringent than the voluntary plan or abatement order that was in place for the prior calendar year. Except as provided in this chapter, all other aspects of the appeals process are as set out in chapter 2 of this division.

(c) If the Director makes or requests modifications to a voluntary plan pursuant to subsections (i) or (j) of section 64.404 that a farmer believes are not appropriate, the farmer or the Director may petition the Eye Gnat Abatement Appeals Board for an advisory opinion. Petitions must be filed within 10 days. If an abatement order is subsequently issued, the time allowed for an immediate appeal of that abatement order shall be 10 days not 30 days.

(d) Appeals of civil penalties imposed on a commercial organic grower by the Director are governed by chapter 2 of this division, and shall be heard by a hearing officer.

(e) If a governmental agency disputes the need or the method and materials to be used to abate or prevent a public nuisance under this chapter with respect to land that such governmental agency is owner, lessor, or otherwise has a legal interest in, the matter shall be subject to appeal to the State Department of Public Health or his designee within 10 days from the final decision on an appeal to the Eye Gnat Abatement Appeals Board or hearing officer, as applicable; provided that such governmental agency participated in the appeal hearing before the Eye Gnat Abatement Appeals Board or hearing officer, as applicable. A Notice and Order to Abate shall remain stayed during the pendency of an appeal under this subdivision, and if the State Department of Public Health consents to hear the appeal, a Notice and Order to Abate shall be stayed under this subdivision until the issuance of the State Department of Public Health's final decision on the appeal. If the State Department of Public Health determines that it does not have jurisdiction to hear such an appeal, or does not consent within 60 days of the final decision of the Eye Gnat Abatement Appeals Board or hearing officer to hear the appeal, the Notice and Order to Abate shall no longer be stayed.

(Added by Ord. No. 10240 (N.S.), effective 1-4-13; amended by Ord. No. 10257 (N.S.), effective 5-10-13)

#### SEC. 64.408. EYE GNAT ABATEMENT APPEALS BOARD— FORMATION.

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(a) The Board of Supervisors shall appoint five persons to serve on an Eye Gnat Abatement Appeals Board (EGAAB). Nomination and appointments shall be made as set out in the Administrative Code.

(b) The EGAAB shall choose a presiding officer for each appeal hearing or petition hearing that it conducts.

(Added by Ord. No. 10240 (N.S.), effective 1-4-13)

#### SEC. 64.409. EYE GNAT ABATEMENT APPEALS BOARD POWERS.

(a) The EGAAB, or hearing officer if elected by the farmer pursuant to Section 64.407(a), shall have the authority to hear appeals of abatement orders issued by the Director to commercial organic farmers as provided in this section.

(b) When an appeal from an abatement order is heard, the EGAAB can determine whether an eye gnat breeding hazard exists and whether any applicable limitations on the issuance and scope of abatement orders set out in section 64.403, 64.404 and 64.405 have been violated. If any of these three legal requirements have not been met, the EGAAB can vacate or modify the order.

(c) When an appeal from an abatement order is heard and the farmer asserts that required abatement measures are not practicable for that farmer's operations, the burden of proof to show impracticability shall be on the farmer.

(d) The EGAAB can consider whether a commercial organic farm is the principal cause of an eye gnat public nuisance in a community, whether the measures required by an abatement order are likely to substantially alleviate that nuisance, whether those measures can be implemented at a reasonable cost, and whether it is reasonable for the farmer to bear any disruptions in farm operations the order would cause, taking into account the degree to which the surrounding community is participating in abatement efforts. The EGAAB cannot vacate or modify an order based on these considerations, but can advise the Director to modify an abatement order based on these considerations, including advising the Director concerning making the order more or less stringent.

(e) The EGAAB may advise the Director to take action to abate other sources of eye gnats it finds are contributing to an eye gnat public nuisance.

(f) Appeals shall be heard in public. Petitions pursuant to subsection (c) of section 64.407 may be heard informally or by teleconference. Advisory opinions in response to such petitions may be provided orally or in writing, on behalf of the Eye Gnat Abatement Appeals Board as a body or by each sitting member of that board individually.

(g) Three members of the EGAAB, including at least one farmer and one community representative, shall constitute a quorum. An action by the EGAAB requires a quorum to be present and except as provided in subsection (f) at least three concurring votes.

(Added by Ord. No. 10240 (N.S.), effective 1-4-13)

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**SEC. 64.410. INSPECTIONS.**

The Director is authorized to inspect a commercial organic farm whenever the Director has reasonable cause to believe that a public nuisance or an eye gnat breeding hazard exists on that farm. If the Director receives a complaint implicating a commercial organic farm the Director shall also have the authority to inspect the surrounding area to confirm that the eye gnat breeding hazard does or does not exist somewhere other than the commercial organic farm implicated in the complaint. Nothing in this section limits the inspection authority of the Director pursuant to state law.

(Added by Ord. No. 10240 (N.S.), effective 1-4-13)

**SEC. 64.411. STANDARDS FOR PREVENTION AND CONTROL OF EYE GNAT BREEDING.**

The Director shall maintain a list of the eye gnat abatement measures the Director has validated and a summary of their conclusions concerning the circumstances in which those measures are likely to be applicable. This information shall be updated as it changes, shall be available on the Department web site or page, and shall be provided to commercial organic farmers and community members on request.

(Added by Ord. No. 10240 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**SEC. 64.412. EYE GNAT ADVISOR.**

The Director may apply vector control program funds to support work by an independent Eye Gnat Advisor to implement this chapter, including funding research by the Eye Gnat Advisor. The independent Eye Gnat Advisor shall be an institute of higher learning having the requisite staff to provide independent advising services regarding eye gnats. The Director may also fund work by the Eye Gnat Advisor to address situations with the potential to become community eye gnat nuisances, including outreach to help farmers identify and mitigate those situations.

(Added by Ord. No. 10240 (N.S.), effective 1-4-13; amended by Ord. No. 10704 (N.S.), effective 1-8-21)

**SEC. 64.413. SUNSET REVIEW.**

This chapter and the definition of "vector" in chapter two shall be subject to initial sunset review not later than three years after enactment, and thereafter shall be reviewed as part of this Title under the schedule applicable pursuant to Board Policy A-76.

(Added by Ord. No. 10240 (N.S.), effective 1-4-13)

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**DIVISION 5. PERMIT FEES AND PROCEDURES FOR  
BUSINESSES AND HEALTH REGULATED ACTIVITIES\***

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\*Note--Division 5, Dead Bodies, repealed by Ord. No. 4081 (N.S.), effective 5-3-73. New Division 5, Permit Fees and Procedures for Business and Health Regulated Activities, added by Ord. No. 6378 (N.S.), effective 7-29-82.

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**APPLICATIONS, PERMITS AND FEES**

**SEC. 65.101. APPLICATION.**

Every applicant for a permit, license or registration required by the Department of Environmental Health and Quality (the Department) shall file a written application on a form prescribed by said Department. This may include an electronic application with an electronic signature filed in a manner prescribed by the Department. The application shall state the name and address of the applicant, the description of the property by street and number wherein or whereon it is proposed to conduct the business or activity for which the permit or license is required, the nature of the permit or license for which application is made, the character of the business or activity proposed to be conducted and any other information as the Department may require.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9858 (N.S.), effective 5-25-07; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**SEC. 65.102. ANNUAL INSPECTION FEE FOR DEPARTMENT REGULATED ACTIVITIES.**

Every person applying for a permit, license or registration for a food establishment, apartment house or hotel, organized camp, public swimming pool, sewage pumping vehicle, unified program facility, small quantity medical waste generator registration or other regulated business or facility for which an annual, biennial, or one time permit, license or registration is required under the provisions of this Code and issued by the Director shall at the time of making application for the permit, license or registration pay the permit, license or registration fees, as set forth in Section 65.107.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8118 (N.S.), effective 9-3-92; amended by Ord. No. 8279 (N.S.), effective 8-19-93; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 8680 (N.S.), operative 7-1-96; amended by Ord. No. 9322 (N.S.), effective 5-4-01; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10379 (N.S.), effective 4-17-15; amended by



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Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 65.103. INVESTIGATION BY DEPARTMENT.

(a) Upon receipt of such application, accompanied by the required fee, it shall be the duty of the Department to investigate the matters set forth in such application, and the sanitary conditions in the place where it is proposed to conduct the business or activity mentioned in the application, or in the case of a unified program facility, or facility eligible for the small quantity medical waste generator registration program, investigate the conditions in and about the place where it is proposed to conduct the activities subject to the unified program requirement or other requirement specified in the application. If the Department determines that the statements contained in the application are true, and that the existing sanitary conditions in the place mentioned in said application comply with the provisions of law, the Medical Waste Management Act, or in the case of a unified program facility the facility complies with unified program facility requirements of this Code and State laws, a permit, license or registration shall thereupon be granted. Such permit, license, or registration shall be granted only upon the express condition that it shall be subject to revocation or suspension by said Department upon a showing satisfactory to said Department of a violation by the holder of such permit or any person acting with their consent or under their authority, of any applicable provision of law regulating places or activities of the character for which the permit, license, or registration is granted.

(b) Pursuant to California Health and Safety Code Section 114387, the Director of Environmental Health may order the closure of any food facility that is operating without a permit, and may administratively impose and directly invoice the facility operator for a penalty of up to 300% of the applicable permit fee. These consequences are in addition to penalties under sections 114390 to 114399 of the California Health and Safety Code. If a closure is ordered pursuant to this subsection the Director shall notify the operator of their right to a hearing as provided in section 114409 of the Health and Safety Code. If a penalty is imposed under this subsection but the facility is not ordered to close, the Director of Environmental Health shall notify the operator of their right to appeal as set out in Section 16.101 to 16.106 of the County Code.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9322 (N.S.), effective 5-4-01; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10606 (N.S.), effective 7-1-19; amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 65.104. RENEWAL OF PERMIT, LICENSE OR REGISTRATION.

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A permit, license, or registration issued pursuant to this Title 6 shall expire on the last day of the month of the one year anniversary month in which the permit was issued and shall be renewed annually, except as set forth as follows:

(a) The permit for sewage pumping vehicles shall expire on December 31 of each year. The permit for newly permitted non-prepackaged mobile food facilities and mobile food preparation units and newly permitted food vending machines shall also expire on December 31 of each year. "Newly permitted" is defined as "not permitted to the same owner or operator within the last three years by the Department of Environmental Health and Quality." The annual fees shall be pro-rated as follows:

1. If the permit is issued during the period of January 1, to June 30, the full annual rate is due.

2. If the permit is issued after June 30, the rate shall be one-half (1/2) of the annual rate or at full cost recovery whichever is more.

(b) The permit for newly permitted prepackaged mobile food facilities shall expire on March 31 of each year. The annual fees shall be pro-rated as follows:

1. If the permit is issued during the period of April 1, to September 30, the full annual rate is due.

2. If the permit is issued after September 30, the rate shall be one-half (1/2) of the annual rate or at full cost recovery, whichever is more.

(c) The operating permit for underground storage tanks shall be renewed as per Sections 68.1003 and 68.1009 of this Code.

(d) The registration fee for small quantity medical waste generators eligible for the registration program shall be renewed pursuant to section 68.1202.

At the time application is made, there shall be paid to the Department the required annual fee, which fee is due and payable each year by the expiration date of the permit, except where specified above.

(e) The permit for the treatment of medical waste shall be renewed as per Section 68.1203.

(Amended by Ord. No. 7142 (N.S.), effective 6-27-86; amended by Ord. No. 7299 (N.S.), effective 6-11-87; amended by Ord. No. 7797 (N.S.), effective 9-6-90; amended by Ord. No. 7931 (N.S.), effective 7-18-91; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9322 (N.S.), effective 5-4-01; amended by Ord. No. 9525 (N.S.), effective 1-10-03; amended by Ord. No. 9742 (N.S.), effective 12-2-05; amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

SEC. 65.105. DELINQUENT PAYMENTS.

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A. Any fee which is not paid by the annual permit expiration date, or for invoiced fees other than annual permits, thirty (30) days from the invoice date, is delinquent.

B. In any case where a fee is delinquent, an initial delinquent fee of fifty dollars (\$50) or an amount equal to 50% of the fee, whichever is less, shall be added to and collected with the required fee.

C. In any case where a fee is delinquent, and the annual permit fee or invoiced fee and the initial delinquent fee are not paid on or before the last day of the month following the annual permit expiration date, or for invoiced fees other than annual permits, thirty (30) days from the invoice date, an additional delinquent fee of one hundred dollars (\$100) or an amount equal to 100% of the fee, for a total delinquent fee of one hundred-fifty dollars (\$150) or 150% of the fee, whichever is less, will be added to and collected with the required fee.

D. The imposition of or payment of the delinquent fee imposed by this section shall not prevent the imposition of any other penalty prescribed by this code or any ordinance nor prosecution for violation of this code or any ordinance.

E. The delinquent fee may be waived by the Director of the Department of Environmental Health and Quality in case of error made by Department staff, in case of circumstances beyond the control of the applicant, or when the applicant has not held an environmental health permit during the past five years, and was unaware that an environmental health permit was required.

(Amended by Ord. No. 7142 (N.S.), effective 6-27-86; amended by Ord. No. 7299 (N.S.), effective 6-11-87; amended by Ord. No. 7356 (N.S.), effective 9-10-87; amended by Ord. No. 7495 (N.S.), effective 7-21-88; amended by Ord. No. 7797 (N.S.), effective 9-6-90; amended by Ord. No. 7931 (N.S.), effective 7-18-91; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9322 (N.S.), effective 5-4-01; amended by Ord. No. 10065 (N.S.), effective 8-13-10; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 65.106. PERMIT OR LICENSE NOT TRANSFERABLE.

A permit or license is not transferable from one person or one place to another, and shall be deemed voided if removed from the place or location specified in the written application and in the permit.

#### 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:

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(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) **Restaurant Annual Permits:**

1 to 10 employees: \$825

11 to 25 employees: \$968

26 to 100 employees: \$1,147

101 or more employees: \$2,046

Each food preparation area at a restaurant type food facility in excess of three (3) at the same location: \$636

(2) **Low-Risk Food Facility (as defined in section 61.102) and Restricted Food Service Facilities (as defined in the California Health and Safety Code section 113893) Annual Permit.** For those sites with lodging, additional housing fees apply: \$564

(3) **Miscellaneous Food Facilities Facility (as defined in section 61.102) Annual Permit:** \$200

(4) **Prepackaged Retail Markets Food Facility (may also include prepackaged retail markets that make ice and dispense non-potentially hazardous beverages), Annual Permits:** \$245

(5) **Wholesale Food Warehouse Annual Permits:**

Warehouse (1-19,999 square feet): \$588

Warehouse (20,000 square feet and greater): \$733

(6) **Satellite Food Service Operation (operating in accordance with the California Health and Safety Code sections 113899 and 114067) Annual Permit:** \$144

(7) **Multiple Kitchen Complex Operation (as defined in section 61.102) (Note: Additional tenant fees are based on the type of food facility operated), Annual Permits:**

0 - 9,999 square feet: \$175

110,000 square feet and over: \$235

(8) **Retail Market with up to three delicatessens and/or other food preparation areas on the same premises, Annual Permits:**

1 to 10 employees: \$927

11+ employees: \$1,242

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Each delicatessen and/or food preparation area at a retail market in excess of three (3) at the same location: \$551

(9) Retail Food Processing Facility Annual Permit: \$748

(10) Full Service Catering Facility and Direct Sales Catering Annual Permit: \$701

(11) School Food Processing Facility Annual Permit: \$481

(12) School Food Auxiliary Facility Annual Permit: \$353

(13) Licensed Health Care Facility Annual Permit: \$772

(14) Temporary Food Facility that operates at a fixed location for the duration of a community event (as defined in California Health and Safety Code Section 113755), or a Temporary Food Facility that operates at a single fixed Swap Meet Location without a Temporary Event Organizer (as defined in California Health and Safety Code sections 113930 and 114335(a)).

(Note: Nonprofit 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 fiscal year. This exemption does not apply to the late application submittal fees):

Single Location Swap Meet Vendor - Annual Permit: \$109

Prepackaged Foods/Limited Beverage Service - Single Event Permit: \$145

Prepackaged Foods/Limited Beverage Service - Annual Permit: \$353

Unpackaged Foods - Single Event Permit: \$246

Unpackaged Foods (with approved commissary or other approved facility and food safety certification if handling potentially hazardous foods) - Annual Permit: \$672

Temporary Food Facility Event Organizer - Single Event Permit: \$369

Temporary Food Facility Event Organizer - Annual Permit (Identical Event held at same location): \$651

(15) Certified Farmers Market Annual Permits:

Certified Farmers Market: \$470

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): \$776

(16) Fisherman's Market Annual Permit: \$1,100

(17) Food Demonstrator (portioning or sampling of food made and served at an approved permanent food facility):

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Single Event Permit: \$145

Annual Permit: \$353

(18) Late application submittal or modification for all temporary food facilities and organizers of community events, certified farmers markets, and food demonstrators. Supplemental fee paid in addition to required fee if application submittal and/or modifications are submitted less than 14 days prior to the event. Modifications include, but are not limited to, correcting incomplete applications, or changes menu, participating vendors, warewashing facilities, etc.: \$188

(19) Vending Machine or Prepackaged Food Facility Commissary Annual Permit: \$398

(20) Unpackaged Mobile Food or Food Preparation Commissary Annual Permit: \$472

(21) Mobile Food Facility or Mobile Support Unit (as defined in California Health & Safety Code Section 113831 and 113833) under the same ownership and operating out of the same facility, Annual Permits:

Packaged Lunch Truck (may include dispensing coffee made at an approved commissary): \$248

Mobile Support Unit: \$261

Carts and Vehicles: Prepackaged foods/ice cream/produce/tamale carts: \$224

Limited Food Preparation (one limited food preparation cart and one auxiliary unit): \$506

Single Operating Site Mobile Food Facility (as 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: \$612

Single Operating Site Mobile Food Facility (as defined in California Health & Safety Code Section 113831 (b) and 114306) with three to four limited food preparation carts: \$742

Mobile Food Facility with full food preparation: \$745

(22) 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, Annual Permit:

Assessed at the approved hourly rate as authorized in subsection (m). For every 10 units or any part thereof, ½ hour will be assessed.

(23) Boat Annual Permit: \$380

(24) Cottage Food Operations:

Class A - Initial Annual Registration with up to 10 food label reviews: \$227

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Class A - Annual Registration Renewal: \$92

Class B - Initial Annual Permit with up to 10 food label reviews: \$516

Class B - Annual Permit Renewal: \$354

Class A or B - Additional Label Review: Assessed at the approved hourly rate as authorized in subsection (m). Minimum 1/2 hour.

(25) Microenterprise Home Kitchen Operation:

Initial Annual Permit: \$660

Annual Permit Renewal: \$328

Updated SOP Review (after annual permit has been issued): Assessed at the approved hourly rate as authorized in subsection (m).

(26) Limited Service Charitable Feeding Operation (operating in accordance with Sections 113819 and 114333 of the California Retail Food Code):

Small Volume Annual Registration: \$353

Prepackaged Annual Registration: \$353

(b) HOUSING PERMIT FEES — APARTMENT HOUSE OR HOTEL: As required by Chapter 9 of Title 6 of the San Diego County Code of Regulatory Ordinances commencing with Section 66.901:

(1) Annual Permit for Apartment House or Hotel base fee: \$181

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

(c) PUBLIC POOL PERMIT FEES: As required by Chapter 3 of Title 6 of the San Diego County Code of Regulatory Ordinances commencing with Section 67.301.

Annual permit fees:

(1) One (1) body of water: \$443

(2) Two (2) bodies of water: \$576

(3) Three (3) bodies of water: \$852

(4) Four (4) bodies of water: \$962

(5) Five (5) bodies of water: \$1,066

(6) Additional fee for each body of water in excess of five (5): \$186

(7) Dormant body of water: \$163

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(8) Activity Pool/Spray Grounds/Interactive Features (per feature/pool): \$585

(d) DEPARTMENT ENFORCEMENT/ INVESTIGATION FEES:

(1) Fee for reopen, regrade, or reinspection of a facility or an unscheduled investigation of any facility, project, or property subject to Department regulation (per hour fee): Assessed at the approved hourly rate as authorized in subsection (m).

(2) Administrative office hearing: Assessed at four times the approved hourly rate as authorized in subsection (m).

(3) Suspension or revocation hearing: Assessed at six times the approved hourly rate as authorized in subsection (m).

(4) Sherman Act food investigation in accordance with Sections 113980, 114089, and 114094 of the California Retail Food Code, with a confirmed violation: Assessed at the approved hourly rate as authorized in subsection (m).

(5) Foodborne illness and/or recall investigation for activities without a current food facility permit issued by the Department: Assessed at the approved hourly rate as authorized in subsection (m).

(6) Penalty fee for operating a retail food facility without the required health permit: See Section 65.103(b).

(7) The Department's costs to investigate a complaint of non-compliance at any facility operation required by this Title to obtain a health permit, and the Department's costs to verify return to compliance not otherwise recovered through a reinspection fee, only if the complaint is substantially validated: payable by and invoiced to the facility operator: Assessed at the approved hourly rate as authorized in subsection (m).

(e) PLAN CHECK FEES:

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

(a) One (1) body of water: \$2,029

(b) Additional fee for each body of water in excess of one (1): \$846

(c) 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): \$1,619

(d) Minor Remodel of one (1) body of water: \$469

(e) Additional fee for a Minor Remodel of each body of water over one (1) (if with concurrent inspections for all bodies of water): \$189

(f) Renovation for each one (1) body of water: \$772



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(g) Remodel for each one (1) body of water: \$1,402

(h) Pool Facility Remodel Plan Revision and Body of Water as Built Plan as provided for in Section 67.302.5: \$473

(i) Restamping, Body of Water Minor Remodel Plan Revision, Body of Water Renovation Plan Revision, or Approval of Non-Health Regulated Building Plans as required by other governmental agencies: \$210

(j) Additional fee for each construction inspection of a body of water that is not conducted concurrently with another Body of Water on the same project: Assessed at the approved hourly rate as authorized in subsection (m).

(k) Plan check review and related consultations, when construction was initiated prior to the approval of plans by both the Department and the local agency with authority over building plans: Assessed at the approved hourly rate as authorized in subsection (m).

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

(a) 0-1,999 Square Feet (up to three preparation areas): \$1,504

(b) 2,000-5,999 Square Feet (up to three preparation areas): \$1,893

(c) 6,000- 9,999 Square Feet (up to three preparation areas): \$3,091

(d) 10,000 Square Feet and over (one preparation area): \$3,340

(e) 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: \$666

(3) Prepackaged Food Facility or Wholesale Food Warehouse Plan Review as provided for in California Health and Safety Code section 114289:

(a) 0-7,999 Square Feet: \$794

(b) 8,000 Square Feet and over: \$983

(4) Multiple Kitchen Complex Plan Review: \$1,418

(5) Full Service/Direct Sales Catering Plan Review: \$516

(6) Food Facility Minor Remodel Plan Review: \$657

(7) Prepackaged Compact Mobile Food Operation/Prepackaged Truck Mobile Food Facility Plan Review: \$287

(8) Unpackaged Compact Mobile Food Operation Plan Review: \$508

(9) Open Food Preparation Truck Mobile Food Facility Plan Review: \$534

(10) Mobile Food Support Unit Plan Review: \$567

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(11) Prepackaged Compact Mobile Food Operation /Prepackaged Truck Mobile Food Facility Template Plan Check: \$251

(12) Unpackaged Compact Mobile Food Operation Template Plan Review: \$296

(13) Food Facility Plan Revision as provided for in Section 61.106: \$400

(14) Miscellaneous Facilities Plan Review

(a) Body Art Plan Review as regulated under 66.305 (Body Art Facility): \$635

(b) Massage Plan Review as regulated under 66.513 (Massage Establishment): \$616

(c) Other Miscellaneous Facilities as regulated under Section 66.606 (Bath Houses) or for other miscellaneous establishments where a plan review is required. \$463

(15) Expedited Plan Review: Two times the plan check fee.

(16) Expedited Plan Check Inspection: Assessed at one and a half times the approved hourly rate as authorized in subsection (m), minimum two hours.

(17) Food Plan Check Office Consultation: \$182

(18) Food Plan Check Field Consultation: \$393

(19) Pool Plan Check Office Consultation: \$204

(20) Pool Plan Check Field Consultation: \$407

(21) Body Art Plan Check Office Consultation: \$202

(22) Body Art Plan Check Field Consultation: \$405

(23) Massage Plan Check Office Consultation: \$205

(24) Massage Plan Check Field Consultation: \$409

(25) Investigation of work without a permit. Whenever a food facility 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. \$339

(26) Investigation of work without a permit. Whenever a 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. \$375

(f) MISCELLANEOUS PROGRAM FEES:

(1) Massage Establishment Annual Permit: \$265

(2) Body Art Facility Annual Permit: \$460

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Body Art Practitioner Registration (includes annual practitioners and practitioners working in conjunction with a body art temporary event): \$175

Body Art Temporary Event Sponsor: \$798

Body Art Temporary Event Booth: \$93

Body Art Temporary Event Late or Modified Application Fee (Supplemental fee paid in addition to required fee if application submittal is less than 14 days prior to the event and/or if any modifications are made to the submitted application less than 14 days prior to the event): \$275

Body Art Reinspection Fee (assessed if repeated noncompliance makes reinspection necessary): Assessed at the approved hourly rate as authorized in subsection (m).

Notification fee for single-use-needle mechanical ear-piercing only facilities: \$50

Services to Body Art Blood Borne Pathogen Training Providers: Assessed at the approved hourly rate as authorized in subsection (m), for time expended.

(3) Organized Camps Permits

Seasonal: \$913

Year Round: \$1,656

(4) Public Bath House Annual Permit: \$1,033

(5) Food Handler per Section 61.102.

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

Food Handler Training Booklets: \$0.40

Food Manager Training Packet: \$2

(6) Services to food handler training providers: Assessed at the approved hourly rate as authorized in subsection (m), for time expended.

(7) Hazard Analysis Critical Control Point (HACCP) Plan Review (in accordance with the California Health and Safety Code section 114419): Assessed at the approved hourly rate as authorized in subsection (m), for time expended.

(8) Modified Health Permit (includes Standard Operating Procedure review and subsequent facility inspection): Assessed at the approved hourly rate as authorized in subsection (m).

(g) LAND USE FEES:

Duration of fees:

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With the exception of, renewable permits and deposit accounts, permits are valid for one year 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) of this section for authorized billing rates.

(1) Recycled Water Plan Check Fees, as provided for in Section 67.521(d): Assessed at the approved hourly rate as authorized in subsection (m).

(2) Recycled Water Inspection, as provided for in Section 67.523: Assessed at the approved hourly rate as authorized in subsection (m).

(3) OWTS Layout Report Review/Percolation Test, as provided for in Section 68.361:

Percolation Test/ Soil Profile Review: \$940

Layout Report: New Construction: \$1,693

Layout Report: Additions/ Pools: \$1,495

Modification/Revision to Approved Layout: \$964

Layout Diagram/Information Review: over the counter, no field investigation: \$266

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

Septic Tank / Seepage Pit Destruction Stand Alone Project as assessed at the approved hourly rate as authorized in subsection (m).

Septic Tank / Seepage Pit Destruction with Repair Project as assessed at the approved hourly rate as authorized in subsection (m).

Holding Tank / Vaulted-Privy / Other Sanitation Facilities Project Review as assessed at the approved hourly rate as authorized in subsection (m).

Holding Tank / Vaulted-Privy / Other Sanitation Facilities Installation Permit as assessed at the approved hourly rate as authorized in subsection (m).

Standard Onsite Wastewater System Installation Permit: \$881

Standard Onsite Wastewater System Re-Inspection: \$370

Standard Onsite Wastewater System Repair Installation Permit: \$852

Treated Onsite Wastewater System Installation Permit: \$1,563

Treated Onsite Wastewater System Major Repair Installation Permit: \$1,535

Treated Onsite Wastewater System Annual Operating Permit, as provided for in Section 68.334: \$578

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Onsite Wastewater System Enforcement Fee, as provided for in Section 68.336: Assessed at the approved hourly rate as authorized in subsection (m), minimum two hours.

Qualified Professional, Licensed Installer, Qualified Service Provider, Owner-Builder Demonstration (Consultation Review): Assessed at the approved hourly rate as authorized in subsection (m), minimum two hours.

Qualified Professional, Licensed Installer, Qualified Service Provider, Owner-Builder Annual Registration: \$66

(5) Lot Line Adjustment/Certificate of Compliance/Conditional Certificate of Compliance, up to four lots as provided for in Sections 81.901 et seq./81.1103/81.1104, field investigation needed: \$1,768

(6) Lot Line Adjustment/Certificate of Compliance/Conditional Certificate of Compliance over the counter, no field investigation: \$421

(7) Graywater System Permits

Plan Review - with field check, as provided for in Section 68.361: \$862

Installation Inspections, as provided for in Section 68.361: \$745

Re-Inspection Fee, as provided for in Section 68.361: \$325

(8) Complaint response. Department costs to investigate a complaint and to verify return to compliance not otherwise recovered through a reinspection fee, only if the complaint is substantially validated: Assessed at the approved hourly rate as authorized in subsection (m).

(9) Sewage Pumper Examination Fee, as provided for in Section 68.602: \$198

(10) Sewage Pumper Base Registration Fee, as provided for in Section 68.604(a): \$309

(11) Sewage Pumping Vehicle (per vehicle), as provided for in Section 68.604(b): \$189

(12) Sewage Pumping Vehicle complaint response. Department costs to investigate a complaint of non-compliance by a sewage pumping vehicle, and Department costs to verify return to compliance not otherwise recovered through a reinspection fee, only if the complaint is substantially validated: Assessed at the approved hourly rate as authorized in subsection (m).

(13) Grading Plan, Major, as provided for in Section 87.204: \$811

(14) Deposit for a Special Projects Application Review as provided for in Section 68.361. (Initial deposit, additional funds at the hourly rate may be required for full cost recovery): \$1,552

(15) Deposit for a Tentative Map as provided for in Section 81.201 et seq. (Initial deposit, additional funds at the hourly rate may be required for full cost recovery): \$3,492

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(16) Deposit for Tentative Parcel Map on Septic or Sewer as provided for in Section 81.201 et seq. (Initial deposit, additional funds at the hourly rate may be required for full cost recovery): \$1,940

(17) Deposit for Major Use Permits, Standard Application Review as provided for in Section 68.361 (Initial deposit, additional funds at the hourly rate may be required for full cost recovery): \$1,940

(18) Major Use Permit Modification/Minor Deviation as provided for in Section 68.361: \$1,115

(19) Discretionary Project Review as provided for in Section 68.361: \$1,153

(20) Administrative Permit Standard Application as provided for in Section 68.361: \$1,250

(21) Major Project Pre-application Conference as provided for in Section 68.361: \$1,445

(22) Pre-application Conference (Initial Consultation – No Permit) as provided for in Section 68.361: \$443

(23) Site Plan Application as provided for in Section 68.361: \$1,032

(h) WELLS FEES:

Duration of fees.

Well permit applications are valid for 120 days from the date of approval

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

(a) Domestic Well: \$1,334

(b) Public Water Supply Well: \$2,397

(c) Well Destruction: \$1,228

(d) Monitoring Wells/Soil Boring (permit)

(1) Borings:

Initial Soil Boring: \$421

Each Additional Soil Boring at a single site: \$129

(ii) Monitoring Wells (Ground Water/Vadose Wells/Cathodic Protection Wells)

Initial Monitoring Well: \$768

Each Additional Monitoring Well at a single site: \$490

(iii) Monitoring Well Destruction

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Initial Monitoring Well Destruction: \$377

Each Additional Monitoring Well Destruction at a single site: \$234

(e) Soil Vapor Survey (per site): \$1,411

(2) Extension of Permit: \$108

(3) Inactive Well Declaration: \$806

(4) Plan Check Re-submittal Fee. Assessed at the approved hourly rate as authorized in subsection (m).

(5) Water Well Inspection Fee: For plan check inspections and final well permit re-inspections. Assessed at the approved hourly rate as authorized in subsection (m).

(6) Monitoring Well Re-inspection Fee (per site): \$668

(7) Variance Requests. For review of variance from State Well Standards. Assessed at the approved hourly rate as authorized in subsection (m).

(8) Discretionary/CEQA Review. For compliance with CEQA requirements for discretionary actions. Minimum charge, 2 hours at the approved hourly rate as authorized in subsection (m).

(9) Collected Water Sample from Private Well: \$786

(10) 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.

(11) Miscellaneous Well Program Fee. Includes Well Program activities where no fee is specifically indicated. Assessed at the approved hourly rate as authorized in subsection (m).

(12) Complaint Response. Department costs to investigate a complaint and to verify return to compliance not otherwise recovered through a reinspection fee, only if the complaint is substantially validated. Assessed at the approved hourly rate as authorized in subsection (m).

(13) Enforcement Fee for noncompliance with permitting requirements and conditions as provided for in Section 67.440. Assessed at the approved hourly rate as authorized in subsection (m).

(i) STATE SMALL WATER SYSTEM FEES:

(1) State Small Water System Change of Ownership/Permit Amendment/Plan Review Fee, as provided for in California Health and Safety Code, Sections 101325 and 116340. Assessed at the approved hourly rate as authorized in subsection (m).

(2) State Small Water System

Annual Drinking Water Operating Permit Fee, as provided in California Health and Safety Code, Sections 101325, 116340: \$1,565

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(3) Enforcement fee, as provided for in California Health and Safety Code, Section 116650:

Assessed at the approved hourly rate as authorized in subsection (m), 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 116701.

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

Annual Permit Fees:

(1) Municipal Solid Waste Landfills (active):

Large – Permitted to receive more than 500 tons per day: \$72,667

Small – Permitted to receive 500 tons or less per day: \$36,399

(2) Transfer/Processing Facilities and Operations:

(a) Extra Major Large - Sites that require twelve inspections per year: \$36,127

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: \$22,681

Large Volume Transfer/Process Facility (permitted to receive/process more than 1,000 tons per day and up to 3,000 tons per day)

(c) Minor Large - Sites that require twelve inspections per year: \$16,516

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

Inert Debris Processing Facility

Large Volume CDI Debris Processing Facility

Large Volume C&D Wood Debris Chipping and Grinding Facility

(d) Medium - Sites that require twelve inspections per year: \$10,573

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



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Medium Volume C&D Wood Debris Chipping and Grinding Facility

(e) Limited/Small - Sites that require four inspections per year: \$4,779

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

(f) Limited/Small - Sites that require two inspections per year: \$2,340

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) Sealed Container Transfer Operations - Sites that require one inspection per year: \$971

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

(h) Recycling Center - Sites that require one inspection per year: \$971

CDI Recycling Center

Inert Debris Recycling Center

(3) CDI Waste Disposal Facility - Sites that require twelve inspections per year: \$17,293

(4) Inert Debris Type A Disposal Facility - Sites that require twelve inspections per year: \$11,337

(5) Inert Debris Engineered Fill Operation - Sites that require four inspections per year: \$4,622

(6) Compostable Materials Handling and In-Vessel Digestion Facilities and Operations:

(a) Full Permit - Sites that require twelve inspections per year: \$13,941

(b) Registration Permit Tier or Enforcement Agency Notification -- Sites that require twelve inspections per year: \$13,767

(c) Registration Permit Tier or Enforcement Agency Notification -- Sites that require four inspections per year: \$4,952

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(d) Enforcement Agency Notification - Sites that require two inspections per year: \$2,600

(e) Registration Permit Tier or Enforcement Agency Notification -- Sites that require one inspection per year: \$1,102

(7) Closed Sites Annual Fees:

(a) Monthly - Sites that require twelve (12) inspections per year: \$38,132

(b) Quarterly Large Landfills - Sites that require four (4) inspections per year: \$11,663

(c) Quarterly Burn Sites/Small Landfills - Sites that require four (4) inspections per year: \$5,778

(d) Annual - Sites that require one inspection per year: \$1,451

Other Solid Waste Fees:

(8) Solid waste handling fees - All solid waste handlers within the jurisdiction of the County of San Diego LEA shall remit \$0.19 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) LEA Review of Required Submissions

LEA processing of application or notification materials for a solid waste facility permit or other allowed operating status, and processing of related informal submissions by project proponents inquiring concerning a solid waste facility permit or a potential permit modification or revision, and review and processing of any required technical reports or proposed plans related to solid waste management activity or the correction of illegal or unpermitted activity. This includes but is not limited to the costs of reviewing reports, investigation plans, closure plans, and evidence of financial ability. To be paid by the applicant or project proponent, based

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on LEA time expended at the approved hourly rate as authorized in subsection (m). The LEA may require that a deposit be made against the estimated cost of reviewing or processing each submission by the operator applicant or project proponent.

(10) Unauthorized or Non-Compliant Solid Waste Activity

LEA investigation and resolution of any solid waste activity conducted without a required permit or in accordance with state solid waste regulations, including LEA review of any required reports to the LEA. Also the Department costs to investigate a complaint of non-compliance at a facility required to have a solid waste facility permit or other entitlement to operate, or in accordance with state solid waste regulations, and the Department's costs to verify return to compliance not otherwise recovered through a reinspection fee, if but only if the complaint is substantially validated: To be paid by the responsible party based on LEA time expended at the approved hourly rate as authorized in subsection (m), if unpermitted or otherwise illegal or non-compliant activity is substantially validated: Assessed at the approved hourly rate as authorized in subsection (m). This fee is in addition to any fines or penalties imposed for the unpermitted activity-compliant activity, and in addition to any permit application fees that may apply. The LEA may require that a deposit be made against the estimated cost of reviewing or processing each submission by the responsible party.

(k) UNIFIED PROGRAM AND HAZARDOUS MATERIALS PROGRAM FEES, MEDICAL WASTE FEES:

(1) Unified Program Facility or Medical Waste Generator Facility Annual Permit Base Fee (Required for all Permits except as noted. A Medical Waste Generator Facility which is also a Unified Program Facility shall be subject to one base fee): \$432

Reinspection Fee: \$432

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 and Small Medical Waste Generator Registration applications repeatedly not accepted: Assessed at the approved hourly rate as authorized in subsection (m).

(2) Hazardous and Medical Waste

(a) Per hazardous waste and/or medical waste: \$91

(b) Per universal waste at or above hazardous materials business plan inventory threshold: \$91

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

(a) Conditional Exemption per unit: \$297

(b) Conditional Authorization per unit: \$526

(c) Permit by Rule per unit: \$896

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(4) Hazardous Material Response Plans and Inventory Annual Permit

(a) Per hazardous material: \$91

(b) Maximum fee for hazardous materials: \$3,640

(c) Minimal Inventory Variation Low Risk Business Operations: \$509

(5) Underground Storage Tank Annual Operating Permit, Per Tank: \$521

(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): \$2,704

Each Additional Tank: \$676

(b) Underground Storage Tank Closure/Removal

Base Fee (up to 11 hours): \$1,957

Closure/Removal projects requiring more than 11 hours: Assessed at the approved hourly rate as authorized in subsection (m).

(c) Plan Re-Review and Plan Extension: \$197

(d) Underground Storage Tank Modification/Upgrade that involves inspection

Base Fee (up to 10 hours): \$1,780

Modification/Upgrade projects requiring more than 10 hours: Assessed at the approved hourly rate as authorized in subsection (m)

(e) Underground Storage Tank Additional Plan Check Inspection/Reinspection: \$890

(f) Underground Storage Tank Consultation Fee: Assessed at the approved hourly rate as authorized in subsection (m).

(7) Unified program facilities subject only to Chapter 6.5 of the California Health and Safety Code as small quantity hazardous waste generators, and no other unified program requirements, and which generate less than 200 pounds per month of medical waste annual permit (Annual Permit Base Fee not required): \$146

(8) Small Quantity Medical Waste Generator Biennial Registration: \$199

(9) Payment for medical waste onsite treatment permit application review and processing:

(a) Initial Application: Assessed at the approved hourly rate as authorized in subsection (m). Two hour minimum.

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(b) Review or Revised Application(s): Assessed at the approved hourly rate as authorized in subsection (m). Two hour minimum.

(10) Business establishments that generate 200 or more pounds of medical waste in any month of a 12-month period annual permit: \$825

(11) Hazardous Materials Management Business Plan (HMBP) Review for sites amending their HMBP as part of the Building Permit process (fee per site): \$458

(12) Hazardous Materials Management Business Plan (HMBP) Review for sites evaluated as part of the Building Permit process (Exempted Sites; fee per site): \$102

(13) Preliminary workscope assessment where no fee is specifically indicated. (Includes Risk Management Plans and other technical assistance.) Assessed at the approved hourly rate as authorized in subsection (m), minimum two hours.

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

(a) Program 1 annual fee: \$373

(b) Program 2 & 3 annual fee: \$448

(c) RMP review work and additional inspection/ audit costs that exceed the annual fee: Assessed at the approved hourly rate as authorized in subsection (m).

(15) Day Care Questionnaire Review for City of San Diego (fee per site): \$340

(16) Notification Only Fee for Low Risk Unified Program Facilities designated by the Director of Environmental Health and Quality as notification only (Unified Program Facility Annual Permit Base Fee not required):

(a) Facilities designated pursuant to sections 68.902(b) and 68.909.5 of this Code, including Photographic Imaging Waste annual fee: \$85

(Note: Facilities with a valid Small Quantity Medical Waste Generator Biennial Registration are not subject to this fee.)

(b) Unstaffed, Remote Location (one-time fee per facility): \$1,256

(17) 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. \$433

(18) 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.

(19) 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

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Facility Permit Base Fee, the Hazardous Waste Generator Fees, the medical waste generator facility Fees, the Hazardous Materials Fees, the Aboveground Petroleum Storage Act 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. \$27,797

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

Program Level I (1,320 - 9,999 gal): \$317

Program Level II (10,000 - 100,000 gal): \$385

Program Level III (100,001 - 1,000,000 gal): \$502

Program Level IV (1,000,001 - 10,000,000 gal): \$1,706

Program Level V (10,000,001 - 100,000,000 gal): \$2,073

(21) 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, 20 hours at the approved hourly rate as authorized in subsection (m)(8). Initial deposit, additional funds at the approved hourly rate as authorized in subsection (m) may be required for full cost recovery.

(22) 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 the Department 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)(21)(a) below shall be made by the responsible party or the person requesting oversight. Actual time expended by the Department in oversight shall be charged to this deposit account at the approved hourly rate as authorized in subsection (m)(9).

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: \$5,675

(23) Regulated facility complaint response: The Department's costs to investigate a complaint or an agency referral regarding non-compliance at a facility required to have a Unified Program

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Facility Permit, Medical Waste Generator Facility Permit or Small Quantity Medical Waste Generator Biennial Registration, including the Department's costs to verify return to compliance. Applicable if the complaint is substantially validated:

Department labor, including travel time, assessed at the approved hourly rate as authorized in subsection (m), 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)(25) of this Section is also applicable. For the Hazardous Incident Response Team Emergency Response the approved Environmental Health Specialist hourly rate is authorized in subsection (m)(8).

(24) Other complaint response: Department 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 includes the Department's costs to verify proper on-site management, or the removal and proper subsequent disposition of those materials or wastes. Applicable if the complaint is substantially validated:

Department labor, including travel time, assessed at the approved hourly rate authorized in subsection (m), 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)(25) of this Section is also applicable. For the Hazardous Incident Response Team Emergency Response the approved Environmental Health Specialist hourly rate is authorized in subsection (m)(8).

(25) Hazardous waste and hazardous material abatement. The Department's 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:

Department labor, including travel time, assessed at the approved hourly rate specified in subsection (m), 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. For the Hazardous Incident Response Team Emergency Response the approved Environmental Health Specialist hourly rate is specified in subsection (m)(8).

The appeal and lien provisions of Chapter 8 of Division 8 of this Title are applicable to invoices issued under this subsection (k)(25).

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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 FEES:**

(1) Radiation Shielding Plan Check Fee (base fee includes two rooms): \$102

(2) For more complex plan checks: Sites are billed at the approved hourly rate as authorized in subsection (m)(7) for additional plan check and inspection costs that exceed the hours covered by the fee calculated above.

**(m) MISCELLANEOUS DEPARTMENT FEES:**

(1) Duplicate permit, license, grade card, registration, or other required document under any Department program (per document): \$18

(2) Health regulated business name change: \$30

(3) Copies of Documents: Fees are allowed under the California Public Records Act (Government Code Section 6253(b)), are set by the County of San Diego Auditor and Control and can be found here: <https://www.sandiegocounty.gov/content/sdc/auditor/feeschedule.html>.

(4) Vector Control Technician hourly rate for which no fee is specifically indicated, including consultation services (minimum charge one hour, each additional ½ hour will be charged one half of the hourly rate): \$168

(5) Vector Ecologist hourly rate for which no fee is specifically indicated, including consultation services (minimum charge one hour, each additional ½ hour will be charged one half of the hourly rate): \$241

(6) Environmental Health Technician hourly rate for which no fee is specifically indicated, including consultation services (minimum charge one hour, each additional ½ hour will be charged one half of the hourly rate): \$121

(7) Environmental Health Specialist hourly rate for which no fee is specifically indicated, including consultation services (minimum charge one hour, each additional ½ hour will be charged one half of the hourly rate): \$194

(8) Hazardous Incident Response Team Emergency Response hourly rate for which no fee is specifically indicated, including consultation services (minimum charge one hour, each additional ½ hour will be charged one half of the hourly rate): \$214

(9) Site Assessment and Mitigation Program hourly rate for which no fee is specifically indicated, including consultation services (minimum charge one hour, each additional ½ hour will be charged one half of the hourly rate): \$266



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(10) Recycled Water Program hourly rate for which no fee is specifically indicated, including consultation services (minimum charge one hour, each additional ½ hour will be charged at one half of the hourly rate): \$233

(11) Expedited services will be provided at the request of the customer when possible. These services will be provided by staff working paid overtime. Assessed at one and a half times the approved hourly rate as authorized in subsection (m).

(12) Cost for services provided for which a deposit is required will be assessed at the approved hourly rate as authorized in subsection (m). Costs for expedited services provided for which a deposit is required will be assessed at one and a half times the approved hourly rate as authorized in subsection (m).

(13) 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.

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

(15) Vector Laboratory Special Projects:

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.

CLASS	CLASS TITLE	HOURLY RATE
2120	County Veterinarian	\$444
5426	Agricultural Scientist	\$234
4317	Disease Research Scientist	\$192

(16) The following fees shall be paid to the Department for Vector Laboratory services:

Laboratory tests: \$49

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Save body (effective until such time that the County's Public Health Services implements their own fee): \$25

(Amended by Ord. No. 6599 (N.S.), effective 7-7-83; amended by Ord. No. 6809 (N.S.), effective 8-2-84; amended by Ord. No. 6972 (N.S.), effective 7-18-85; amended by Ord. No. 7061 (N.S.), effective 12-5-85; amended by Ord. No. 7142 (N.S.), effective 6-27-86; amended by Ord. No. 7299 (N.S.), effective 6-11-87; amended by Ord. No. 7356 (N.S.), effective 9-10-87; amended by Ord. No. 7495 (N.S.), effective 7-21-88; amended by Ord. No. 7617 (N.S.), effective 5-18-89; amended by Ord. No. 7647 (N.S.), effective 8-4-89; amended by Ord. No. 7797 (N.S.), effective 9-6-90; amended by Ord. No. 7931 (N.S.), effective 7-18-91; amended by Ord. No. 8007 (N.S.), effective 12-26-91; amended by Ord. No. 8118 (N.S.), effective 9-3-92; amended by Ord. No. 8279 (N.S.), effective 8-19-93; amended by Ord. No. 8458 (N.S.), effective 11-17-94; amended by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95; amended by Ord. No. 8568 (N.S.), effective 8-17-95; amended by Ord. No. 8604 (N.S.), effective 11-17-95; amended by Ord. No. 8614 (N.S.), effective 1-4-96; amended by Ord. No. 8680 (N.S.), operative 7-1-96; amended by Ord. No. 8747 (N.S.), operative 1-1-97; amended by Ord. No. 8856 (N.S.), effective 1-15-98; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 8919 (N.S.), effective 7-9-98; subsections (l)--(r) repealed by Ord. No. 8962 (N.S.), effective 9-23-98; amended by Ord. No. 9269 (N.S.), effective 12-15-00; amended by Ord. No. 9322 (N.S.), effective 5-4-01; amended by Ord. No. 9444 (N.S.), effective 4-12-02; amended by Ord. No. 9524 (N.S.), effective 1-10-03; amended by Ord. No. 9530 (N.S.), effective 3-14-03; amended by Ord. No. 9579 (N.S.), effective 8-8-03; amended by Ord. No. 9664 (N.S.), effective 8-14-04; amended by Ord. No. 9767 (N.S.), effective 5-5-06; amended by Ord. No. 9859 (N.S.), effective 6-15-07, operative 7-1-07; amended by Ord. No. 9883 (N.S.), effective 10-19-07; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10065 (N.S.), effective 8-13-10; amended by Ord. No. 10098 (N.S.), effective 1-7-11; amended by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10229 (N.S.), effective 11-9-12; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10317 (N.S.), effective 2-7-14; amended by Ord. No. 10350 (N.S.), effective 9-5-14; amended by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10473, effective 7-1-17; amended by Ord. No. 10487, effective 7-1-17; amended by Ord. No. 10488, effective 7-1-17; amended by Ord. No. 10536 (N.S.), effective 7-1-18; amended by Ord. No. 10606 (N.S.), effective 7-1-19; amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10733 (N.S.), effective 7-1-21; amended by Ord. No. 10786 (N.S.), effective 7-1-22; amended by Ord. No. 10848 (N.S.), effective 7-1-23)

#### SEC. 65.108. PERMIT FEE REDUCTIONS FOR NONPROFIT ORGANIZATIONS.

Where alternative funding has been provided, the Director of the Department of Environmental Health and Quality may invoice a nonprofit applicant for a permit or renewal thereof relating to operation of a food facility establishment specified in subdivision (a) of Section 65.107, housing specified in subdivision (b) of Section 65.107, or a public swimming pool specified in subdivision (c) of Section 65.107 at 50% of the fee

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specified for the permit or renewal specified in said subdivisions, provided that the applicant is a nonprofit organization for federal tax purposes as set out in Section 501(c)(3) of the federal Internal Revenue Code.

(Added by Ord. No. 6777 (N.S.), effective 6-7-84; amended by Ord. No. 7428 (N.S.), effective 2-4-88; repealed by Ord. No. 8119 (N.S.), effective 9-3-92; amended by Ord. No. 10606 (N.S.), effective 7-1-19; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

State law reference(s)--Exemption from property taxes, Revenue and Taxation Code, § 214.

#### SEC. 65.109. REFUNDS.

(a) The Director shall authorize the refunding of any Department of Environmental Health and Quality fee which was erroneously paid or collected when no fee was due.

(b) The Director shall authorize the refunding of any fee paid for which no service costs have been incurred. Permit application processing and any inspection or enforcement activity directed at a business is a service cost.

(c) An applicant is owed a refund, credit, fee waiver, or other relief for any fees or deposits paid when the applicant can demonstrate that:

(1) The permit issued or approval granted was rescinded due to staff error; or,

(2) The incorrect project fees were assessed due to staff error; or,

(3) An additional County permit or approval is required for the project due to staff oversight; and,

(4) No misinformation was supplied nor information withheld by the applicant which resulted in the permit rescission or initial oversight.

(d) The Director may authorize the refunding of a portion of a fee paid which is in excess of service costs incurred. Refund processing is a service cost which will be deducted from any refund request being made.

(e) Every applicant for an environmental health fee refund shall file with the Department of Environmental Health and Quality a written application with the information prescribed by said Department.

(f) The decision of the Director to grant or deny a refund is final and cannot be appealed.

(Added by Ord. No. 6778 (N.S.), effective 6-7-84; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9882 (N.S.), effective 10-19-07; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10606 (N.S.), effective 7-1-19; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10733 (N.S.), effective 7-1-21)

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**SEC. 65.110. WAIVER OF SPECIFIED FEES FOR FARM EMPLOYEE HOUSING AND FARM LABOR CAMPS.**

Notwithstanding any other provision of this division, the fees specified in Section 65.107 shall be waived for:

(1) As funding is available, any farm employee housing or farm labor camp project for which (i) a complete application for an Administrative Permit or a Minor Use Permit was filed between July 13, 1990, and January 13, 1991 pursuant to Ordinance No. 7768 (N.S.); or was filed between April 5, 1991 and October 5, 1991, pursuant to Ordinance No. 7875 (N.S.); or was filed between October 31, 1991 and June 30, 1993, pursuant to Ordinance No. 8086 (N.S.); or was filed between July 30, 1993 and June 30, 1994, pursuant to Ordinance No. 8271 (N.S.); or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8436 (N.S.); or was filed between September 15, 1995 and June 30, 1998, pursuant to Ordinance No. 8574 (N.S.); or was filed between May 14, 1999 and June 30, 2004, pursuant to Ordinance No. 9021 (N.S.); or was filed between July 1, 2004 and June 30, 2009 pursuant to Ordinance No. 9647 (N.S.); or was filed between July 1, 2009 and June 30, 2014, pursuant to Ordinance No. 10003 (N.S.); and (ii) the application was approved; or

(2) As funding is available, any farm employee housing or farm labor camp project for which (i) Section 17021.5 or Section 17021.6 of the California Health and Safety Code is applicable; (ii) the Agricultural Commissioner has issued a certificate of active agricultural enterprise; (iii) the housing is not the subject of an active code enforcement action; (iv) the applicant has entered into the contract required by Section 6156 u.11 or Section 6906 d. of The Zoning Ordinance; and (v) the application was filed between July 30, 1993, and June 30, 1994, pursuant to Ordinance No. 8271 (N.S.); or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8436 (N.S.); or was filed between September 15, 1995 and June 30, 1998, pursuant to Ordinance No. 8574 (N.S.); or was filed between May 14, 1999 and June 30, 2004, pursuant to Ordinance No. 9021 (N.S.); or was filed between July 1, 2004 and June 30, 2009 pursuant to Ordinance No. 9647 (N.S.); or was filed between July 1, 2009 and June 30, 2014 pursuant to Ordinance No. 10003 (N.S.).

(Added by Ord. No. 7768 (N.S.), effective 7-13-90; amended by Ord. No. 7875 (N.S.), effective 4-4-91; amended by Ord. No. 7977 (N.S.), effective 10-31-91; amended by Ord. No. 8086 (N.S.), effective 7-16-92; amended by Ord. No. 8271 (N.S.), effective 7-30-93; amended by Ord. No. 8436 (N.S.), effective 9-2-94; amended by Ord. No. 8574 (N.S.), effective 9-15-95; amended by Ord. No. 9021 (N.S.), effective 5-14-99; amended by Ord. No. 9647 (N.S.), effective 6-18-04; amended by Ord. No. 10007 (N.S.), effective 10-16-09)

**SEC. 65.111. DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY'S BUILDING AND CODE ENFORCEMENT RESERVE DESIGNATION.**

(Added by Ord. No. 8554 (N.S.), effective 8-10-95, operative 8-10-95; repealed by Ord. No. 8962 (N.S.), effective 9-23-98; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

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SEC. 65.112. WAIVER OF SPECIFIED FEES FOR ACCESSORY DWELLING UNITS.

In any fiscal year in which the Board has appropriated funds to the department to fully offset the specified fee waiver provided for under this section, and notwithstanding any other provision of this division, the fees for new construction layout/ percolation test and onsite wastewater system permits otherwise specified in Section 65.107 (g)(5)-(6) shall be waived for an applicant who is building an accessory dwelling unit located on a lot with an existing single family dwelling when public sewer is not available. If sufficient funds are appropriated for FY 18-19, any such fees paid on or after January 9, 2019 may also be refunded. These permit fee waivers and refunds shall not apply to annual operating permits for on-site wastewater treatment systems requiring monitoring, as provided for in Section 68.334.

(Added by Ord. No. 10590 (N.S.), effective 3-1-19)

DIVISION 6. SANITATION REGULATIONS FOR BUSINESSES\*

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\*Cross reference(s)--Sewers and sewage disposal plants, § 68.101 et seq.

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CHAPTER 1. APPLICATIONS, PERMITS AND FEES

SEC. 66.101. FEES.

Every applicant for a permit, license or registration required by this Division 6 shall at the time of making application pay the fee prescribed in Title 6, Division 5, Section 65.107, par. (j), of this Code.

(Amended by Ord. No. 5405 (N.S.), effective 3-22-79, operative 3-23-79; repealed and new Section 66.101 added by Ord. No. 6378 (N.S.), effective 7-29-82)

SEC. 66.102. [RESERVED.]

(Repealed by Ord. No. 6378 (N.S.), effective 7-29-82)

SEC. 66.103. [RESERVED.]

(Amended by Ord. No. 5405 (N.S.), effective 3-22-79, operative 3-23-79; repealed by Ord. No. 6378 (N.S.), effective 7-29-82)

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SEC. 66.104. [RESERVED.]

(Amended by Ord. No. 3436 (N.S.), effective 1-1-70; repealed by Ord. No. 6378 (N.S.), effective 7-29-82)

SEC. 66.105. [RESERVED.]

(Amended by Ord. No. 4963 (N.S.), effective 9-15-77; amended by Ord. No. 5405 (N.S.), effective 3-22-79, operative 3-23-79; repealed by Ord. No. 6378 (N.S.), effective 7-29-82)

SEC. 66.106. [RESERVED.]

(Repealed by Ord. No. 6378 (N.S.), effective 7-29-82)

SEC. 66.107. [RESERVED.]

(Amended by Ord. No. 4963 (N.S.), effective 9-15-77; repealed by Ord. No. 6378 (N.S.), effective 7-29-82)

SEC. 66.108. [RESERVED.]

(Added by Ord. No. 4963 (N.S.), effective 9-15-77; repealed by Ord. No. 5726 (N.S.), effective 5-8-80)

SEC. 66.109. VIOLATION -- INFRACTION -- MISDEMEANOR.

(a) Except as provided in subsection (b), any person violating any provision of this chapter shall be deemed guilty of an infraction.

(b) A person convicted of a third or subsequent violation of this chapter within two years from the date of the first conviction shall be deemed guilty of a misdemeanor.

(c) Each day on which a violation occurs or continues shall constitute a separate offense.

(Added by Ord. No. 5233 (N.S.), effective 8-22-78; Ord. No. 5233 superseded by Ord. No. 5246 (N.S.), adopted 8-29-78, effective 9-28-78; amended by Ord. No. 6466 (N.S.), effective 12-2-82)

CHAPTER 2. CAMPS AND PICNIC GROUNDS\*

\*Note--Chapter 2, CAMPS AND PICNIC GROUNDS, Sections 66.201--66.221, repealed by Ord. No. 7309 (N.S.), effective 7-2-87. New Chapter 2 added by Ord. No. 10733 (N.S.), effective 7-1-21.

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SEC. 66.201. PURPOSE.

The Director of Environmental Health shall regulate "organized camps" as defined in Part 2.4 of Division 13 of the Health and Safety Code in the manner and to the degree set out for the local health officer in that Part, and in related State rules and regulations, and in building standards for camps adopted by the State Director of Public Health.

(Added by Ord. No 10733 (N.S.), effective 7-1-21)

SEC. 66.202. PERMIT REQUIRED.

No organized camp may operate in this county without first obtaining a permit from the Department of Environmental Health and Quality. Application shall be on a form or in a format prescribed by the Director.

(Added by Ord. No 10733 (N.S.), effective 7-1-21)

SEC. 66.203. FEES AND CHARGES.

No permit shall be issued to an organized camp until the permit fee set out in Section 65.107 of this Code or after any reduction for a nonprofit operator pursuant to Section 65.108, has been paid. Camp operators are also subject where applicable to the late payment fees, miscellaneous fees, and enforcement/ investigation fees set out in Section 65.107.

(Added by Ord. No 10733 (N.S.), effective 7-1-21)

CHAPTER 3. BODY ART\*

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\*Editor's note--Chapter 3, Children's Camps, repealed by Ord. No. 2845 (N.S.), effective 7-22-65; new Chapter 3, Tattoo Parlors and Mobile Tattoo Vehicles, added by Ord. No. 8324 (N.S.), effective 12-9-93; repealed by Ord. No. 10219 (N.S.), effective 8-24-12. New Chapter 3, Body Art, added by Ord. No. 10219 (N.S.), effective 8-24-12.

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ARTICLE 1. PURPOSE, DEFINITIONS AND AUTHORITY

SEC. 66.301. STATEMENT OF PURPOSE.

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This chapter implements state law provisions for body art facilities and their employees, as well as establishes additional local requirements to prevent communicable disease transmission in order to protect public health and safety in San Diego County. Health and Safety Code (H & S Code) sections 119300 et seq., also referred to as the Safe Body Art Act (SBAA), provides statewide health and sanitation standards for body art to include body piercing, tattooing, branding, or application of permanent cosmetics. These sections designate local health officers and directors of environmental health as enforcement officials, allowing a local election of which official enforces this program. The Director of Environmental Health(Director) shall implement this program. The Director is also the director of environmental health in all of the incorporated cities in the County, and therefore will enforce the body art standards in state law Countywide. The SBAA also allows a city or county to adopt local regulations or ordinances that do not conflict with or are more stringent than the provisions of the SBAA, except for mechanical stud and clasp ear piercing. This chapter establishes additional local requirements for body art regulation, to be administered by the Director in the unincorporated portion of the County and in any city that adopts these additional requirements for implementation by the County.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10642 (N.S.), effective 1-10-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 66.302. DEFINITIONS.

Except as provided below, terms defined in section 119301 of the California Health and Safety Code shall have the same meaning when used in this chapter as is set out in that section. Defined terms used in this chapter include the following: body art facility, client, instrument, local enforcement agency, owner, potable water, practitioner, procedure area, procedure site, sponsor, sterilization, tattooing, vehicle, and workstation.

The following terms when used in this chapter shall have the following meaning:

(a) APPROVED means acceptable to the Director or the County Health Officer if the Health Officer is specified.

(b) BODY ART shall have the meaning set out in Section 119301 of the California Health and Safety Code but as provided elsewhere in that act does not include mechanical stud and clasp ear piercing, i.e., piercing the ear with a disposable, single-use, pre-sterilized clasp and stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

(c) Department means the Department of Environmental Health and Quality.

(d) DIRECTOR means the Director of Environmental Health and any person appointed or hired by the Director to enforce or administer this chapter.

(e) ENFORCEMENT OFFICER means the Director and duly authorized Registered Environmental Health Specialists and Environmental Health Specialist Trainees employed by the County.



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(f) **MAYO STAND** means an adjustable stand with stainless steel tray for holding body art implements.

(g) **MOBILE BODY ART VEHICLE** means a non-permanent, mobile body art establishment, operating at locations remote from the permanent body art facility, from which body art practitioners perform body art for a fee or for other consideration.

(h) **PERMIT** means an annual permit issued to a body art facility including a mobile body art vehicle by the Department. Permit also includes the permit issued for each body art temporary event.

(i) **SBAA** means the Safe Body Art Act, codified at California Health and Safety Code sections 119300 and following.

(j) **SINGLE SERVICE** means one-time, one person use.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10642 (N.S.), effective 1-10-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 66.303. DEPARTMENT TO ADMINISTER AND ENFORCE BODY ART PROGRAMS.

**The Department shall be the Local Enforcement Agency for the Safe Body Art Act** countywide. The Department, through the Director, shall also administer and enforce the additional requirements adopted in this chapter within the unincorporated areas of the county; as well as, administer and enforce any similar requirements adopted by municipalities for enforcement by the County. The Director is the Enforcement Officer when acting in the unincorporated area of the County, and when acting in a municipality to enforce the SBAA or any additional requirements enacted by that municipality.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10642 (N.S.), effective 1-10-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### ARTICLE 2. PRACTITIONERS, FACILITIES AND EVENTS

##### SEC. 66.304. REGISTRATION OF PRACTITIONERS.

(a) It shall be unlawful for any person to perform body art without first registering as a body art practitioner with the Department.

(b) The registration process is not complete until the Department confirms that the requirements of the SBAA and of this chapter have been met, and a certificate of registration is issued.

(c) In addition to complying with the requirements of the SBAA including Section 119306 of the Health and Safety Code, every person applying for registration as a

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practitioner shall pay the annual permit fee set forth in Title 6, Division 5, Section 65.107 of this Code.

(d) Practitioners shall only perform body art from a permitted body art facility.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10642 (N.S.), effective 1-10-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 66.305. PERMITS FOR FACILITIES AND EVENTS.

(a) Body art procedures shall be the only activity conducted in a body art facility.

(b) It shall be unlawful for any person to operate a body art facility, including a mobile body art vehicle or a body art temporary event, without first applying for and receiving a permit from the Department.

(c) The permit required by the SBAA and this chapter shall be applied for and issued as prescribed in Section 119312 of the California Health and Safety Code, using the County permitting procedures set out in Title 6, Division 5 of this Code.

(d) Plan submissions for body art facilities shall address the requirements in this chapter and the SBAA, and shall include a finish schedule for sanitary walls, floors and ceiling as approved by the Department. Written approval by the Department is required in advance of the issuance of any building, plumbing or electrical permit by the County or any other local jurisdiction. Written Department approval and any applicable local permits are required prior to commencing work.

(e) An "Infection Prevention Control Plan" (IPCP) shall be provided at the time of application for a new permit. In addition to addressing the requirements of the SBAA including Section 119313 of the Health and Safety Code, the IPCP shall include procedures for dressing of the procedure site.

(f) In addition to submitting required plans, applicants shall pay the plan review fee required in Title 6, Division 5 at the time the person submits plans and specifications.

(g) Every person applying to receive or renew a body art facility permit shall pay the annual permit fee set forth in Title 6, Division 5, Section 65.107 of this Code.

(h) The sponsor or organizer of a body art temporary event shall submit an application to the Department 14 days prior to the start of the event. Late fees are applicable thereafter.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10642 (N.S.), effective 1-10-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 66.306. PREVENTION OF INFECTIONS.

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In addition to complying with the requirements of the SBAA including Section 119308 of the Health and Safety Code, practitioners must comply with these requirements:

(a) No body art procedure shall be done on skin surfaces which have rash, pimples, boils, infections or manifest any evidence of unhealthful conditions.

(b) The practitioner shall be free of communicable diseases and have no pustule skin lesions.

(c) The Director may from time to time notify practitioners and facilities that additional or modified procedures are required in an Infection Prevention Control Plan (IPCP). These notifications may be provided when infection control issues, changes in the practice of body art, or new technology warrant procedural changes. Upon receipt of such notice, practitioners and facilities shall update any applicable IPCP to incorporate the Director's specifications, and shall comply with the updated plan.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10642 (N.S.), effective 1-10-20)

#### SEC. 66.307. SANITATION REQUIREMENTS.

In addition to meeting the requirements of the SBAA, including Sections 119309, 119311, 119314, 119315, 119317 (for mobile facilities) and 119310 (for temporary facilities) of the Health and Safety Code, body art facilities shall meet the following requirements:

(a) As stated in Section 66.305(a), body art procedures shall be the only activity conducted in a body art facility.

(b) The premises of a body arts facility shall be maintained in a clean and sanitary manner at all times, free from vermin or rodent infestation and excessive dust and dirt.

(c) Clean toilet rooms in good repair shall be provided, conveniently located, and accessible for use by employees during all hours of operation. The number of toilet facilities required shall be in accordance with applicable local building and plumbing ordinances, or where applicable, temporary event ordinances. Toilet tissue, soap, and sanitary single-use towels or an air hand drying device shall be provided in permanently installed dispensers conveniently located at each toilet room, or as applicable under local ordinances for temporary events. For mobile body art facilities, these toilet rooms must be located as set out in section 66.309(g) of this chapter.

(d) Adequate lighting and ventilation shall be provided. Workstations must be provided with at least fifty (50) foot-candles of artificial light at the procedure site.

(e) Operating tables or mayo stands shall be constructed of stainless steel or equivalent. The workstation area and equipment shall be separated from observers and waiting customers by at least ten feet.

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(f) Except at temporary body art events, a workstation handwash sink shall be readily accessible and visible no more than 25 feet from the procedure area. For mobile body art facilities, this sink must be located in the vehicle, as specified in section 66.309(d) of this chapter.

(g) At a temporary body art event, the practitioners shall have a portable handwash sink with warm running water available with soap in a dispenser and single use paper towels. The handwash sink shall be made available for use by no more than 15 booths and be no more than 35 feet from the furthest workstation.

(h) Instruments, dyes, inks, pigments, carbon, stencils and other paraphernalia used in the body art facility shall be stored exclusively in approved closed cabinets.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10642 (N.S.), effective 1-10-20)

#### SEC. 66.308. RECORDS AND REPORTING.

(a) The permit holder shall maintain proper records of each customer. In addition to the records required in SBAA, including sections 119303(c), 119307(e), 119313(e) and 119315(f) of the Health and Safety Code, a log of the following information shall be maintained:

- (1) The date when the body art procedure was applied.
- (2) The name, address and age of the client.
- (3) The design and/or the location of the procedure site.
- (4) The name of the Body Art Practitioner.

(b) The information required in subsection (a) shall be permanently recorded, in ink or indelible pencil, in an organized file or bound book kept solely for this purpose. This book shall be available at reasonable hours for examination by the Enforcement Officer and shall be kept in the establishment for a minimum of six months. The confidentiality provisions of section 119303(c) of the Health and Safety Code shall be applied to these records.

(c) All complaints of infections resulting from the practice of body art shall be reported to the County Health Officer by the person owning or operating the body art facility.

(d) A facility that only provides mechanical stud and clasp ear piercing services using a single-use, pre-sterilized, stud and clasp for jewelry in compliance with section 119310 (a) & (b) of the SBAA shall submit a notification form. The form will be provided by the Department in compliance with Article 7 of the SBAA.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

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### ARTICLE 3. ADDITIONAL REQUIREMENTS FOR MOBILE BODY ART VEHICLES

#### SEC. 66.309. MOBILE BODY ART VEHICLES.

In addition to complying with the requirements of Article 2 and requirements for vehicle found in the SBAA, including section 119316 and when applicable section 119317 of the Health and Safety Code, practitioners working from a mobile body art vehicle shall comply with all of the following requirements:

- (a) Mobile body art vehicles which do not have on-board sterilization equipment shall have sufficient utensils and equipment on hand in each mobile body art vehicle to handle one day's tattooing without having to re-sterilize.
- (b) Body art procedures performed pursuant to this section shall be done only from an enclosed vehicle such as a trailer or mobilehome. No body art procedure shall be performed outside of the enclosed vehicle.
- (c) The mobile body art vehicle shall be used only for the purposes of performing body art.
- (d) The mobile body art vehicle shall be equipped with a sink for the exclusive use of the tattoo artist/body arts technician for handwashing and preparing customers for tattooing. The sink shall be supplied with warm running water under pressure, a soap dispenser with soap and single use paper towels from a dispenser. An adequate supply of potable water shall be maintained for the mobile body art vehicle at all times tattooing is being performed.
- (e) All liquid wastes shall be stored in an adequate storage tank with a capacity at least fifty percent greater than the capacity of the on-board potable water. Liquid wastes shall be disposed of at approved trailer dump sites.
- (f) The mobile body art vehicle shall be maintained in a clean and sanitary condition free of vermin, at all times. Doors to a procedure area shall be tight-fitting and kept closed. Openable windows shall have tight-fitting screens.
- (g) There shall be approved restroom facilities within 200 feet of the mobile body art vehicle.
- (h) There shall be adequate light and ventilation in each mobile body art vehicle. Workstations must be provided with at least fifty (50) foot-candles of artificial light at the procedure site.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10642 (N.S.), effective 1-10-20)

### ARTICLE 4. ENFORCEMENT

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#### SEC. 66.310. PENALTIES FOR VIOLATIONS.

In addition to the enforcement provisions of the SBAA, including section 119319 and 119323 of the Health and Safety Code, the following penalties and remedies apply:

(a) Any violation of the SBAA within the County of San Diego and any violation of this chapter shall be a misdemeanor. Each day on which a violation occurs or continues shall constitute a separate offense.

(b) Any violation of the SBAA within the County of San Diego and any violation of this chapter shall be subject to the administrative penalties set out in section 119323 of the Health and Safety Code. The provisions of Title 1 of this code shall apply to the assessment of administrative penalties and to the appeal of such assessments.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12)

#### ARTICLE 5. PERMIT SUSPENSION OR REVOCATION

#### SEC. 66.311. PERMIT SUSPENSION OR REVOCATION.

In addition to permit suspension or revocation for violations of the SBAA as provided in sections 119320 and 119322 of the Health and Safety Code, permits may be suspended or revoked for violations of this chapter. Except as provided in section 119321 of the Health and Safety Code (for cases of an imminent health hazard), suspensions or revocations shall take effect only after notice and an opportunity for a hearing.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12)

#### SEC. 66.312. HEARINGS, APPEALS.

(a) If the Department proposes to suspend or revoke a body art facility permit or registration pursuant to the SBAA or this chapter, or if the Department temporarily closes a body art facility for an imminent health hazard, and a hearing is requested within 15 days of receiving notice as specified in section 119320 of the Health and Safety Code, that hearing shall be scheduled by the Director. The hearing officer shall be a Department employee, at the supervisor level or higher, who was not involved in the decision to propose to modify, suspend or revoke the permit or to temporarily close the facility.

(b) The permit holder may appeal the decision made at the hearing to the Appellate Hearing Board as provided in Chapter 1 of Division 6 of Title 1 of this Code. Filing an appeal shall stay the decision of the Department hearing officer, unless the Department hearing officer determined that an imminent health hazard required closure of the facility.

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(c) The Clerk shall endeavor to schedule the appeal hearing on an expedited basis if the body art facility must remain closed until that appeal is heard.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 66.313. ADMINISTRATIVE PROBATION.

(a) A permit holder or practitioner and the Department may enter into a written administrative probation agreement to modify a decision by a hearing officer to suspend a permit or registration.

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

(Added by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10642 (N.S.), effective 1-10-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 66.314. NOTICE OF CLOSURE OF BODY ART FACILITY.

(a) If the Director determines that a body art facility is operating without a permit required by the SBAA 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 body art facility operating without a permit, advising the public that the facility does not have a permit to perform body art procedures.

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

(1) When the Director orders the facility to close due to an imminent health hazard that the body art 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.

(Added by Ord. No. 10219 (N.S.), effective 8-24-12; amended by Ord. No. 10642 (N.S.), effective 1-10-20)

#### SEC. 66.315. SUNSET REVIEW.

This chapter shall be subject to sunset review pursuant to Board Policy A-76.

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(Added by Ord. No. 10219 (N.S.), effective 8-24-12)

## CHAPTER 4. REFRIGERATION PLANTS

### ARTICLE 1. GENERAL PROVISIONS

#### SEC. 66.401. DEFINITIONS.

(Repealed by Ord. No. 8358 (N.S.), effective 3-17-94)

#### SEC. 66.402. PERMIT REQUIRED.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; repealed by Ord. No. 8358 (N.S.), effective 3-17-94)

#### SEC. 66.403. APPLICATION FOR PERMIT.

(Amended by Ord. No. 6378 (N.S.), effective 7-29-82; amended by Ord. No. 7428 (N.S.), effective 2-4-88; repealed by Ord. No. 8358 (N.S.), effective 3-17-94)

#### SEC. 66.404. ANNUAL PERMIT FEE.

(Amended by Ord. No. 6378 (N.S.), effective 7-29-82; amended by Ord. No. 7428 (N.S.), effective 2-4-88; repealed by Ord. No. 8358 (N.S.), effective 3-17-94)

#### SEC. 66.405. REVOCATION OF PERMIT.

(Amended by Ord. No. 3472 (N.S.), effective 3-19-70; amended by Ord. No. 7428 (N.S.), effective 2-4-88; repealed by Ord. No. 8358 (N.S.), effective 3-17-94)

#### SEC. 66.406. BOND REQUIRED.

(Amended by Ord. No. 5405 (N.S.), effective 3-22-79, operative 3-23-79; repealed by Ord. No. 8358 (N.S.), effective 3-17-94)

### ARTICLE 2. REGULATIONS



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**SEC. 66.410. SANITATION REQUIREMENTS.**

(Amended by Ord. No. 5405 (N.S.), effective 3-22-79, operative 3-23-79; repealed by Ord. No. 8358 (N.S.), effective 3-17-94)

Cross reference(s)--Sewers and sewage disposal plants, § 68.101 et seq.; management of solid waste, § 68.501 et seq.

**SEC. 66.411. STAMPING OF UNINSPECTED MEAT.**

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; repealed by Ord. No. 8358 (N.S.), effective 3-17-94)

**SEC. 66.412. HIDES MUST ACCOMPANY CARCASSES.**

(Amended by Ord. No. 5405 (N.S.), effective 3-22-79, operative 3-23-79; repealed by Ord. No. 8358 (N.S.), effective 3-17-94)

**SEC. 66.413. DESIGNATION OF MEAT PROCESSING DAYS.**

(Amended by Ord. No. 5405 (N.S.), effective 3-22-79, operative 3-23-79; repealed by Ord. No. 8358 (N.S.), effective 3-17-94)

**SEC. 66.414. UNINSPECTED MEAT INCLUDES DEER, GAME, FOWL.**

(Repealed by Ord. No. 8358 (N.S.), effective 3-17-94)

**SEC. 66.415. VIOLATION -- INFRACTION -- MISDEMEANOR.**

(Added by Ord. No. 5233 (N.S.), effective 8-22-78; Ord. No. 5233 superseded by Ord. No. 5246 (N.S.), adopted 8-29-78, effective 9-28-78; amended by Ord. No. 6466 (N.S.), effective 12-2-82; repealed by Ord. No. 8358 (N.S.), effective 3-17-94)

**CHAPTER 7. POOL HALLS**

**SEC. 66.701. [RESERVED.]**

(Repealed by Ord. No. 5521 (N.S.), effective 6-28-79)

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SEC. 66.702. [RESERVED.]

(Repealed by Ord. No. 5200 (N.S.), effective 6-28-79)

SEC. 66.703. [RESERVED.]

(Repealed by Ord. No. 5521 (N.S.), effective 6-28-79)

SEC. 66.704. [RESERVED.]

(Added by Ord. No. 5233 (N.S.), effective 8-22-78; Ord. No. 5233 (N.S.), superseded by Ord. No. 5246 (N.S.), effective 9-28-78; repealed by Ord. No. 5521 (N.S.), effective 6-28-79)

CHAPTER 8. [RESERVED]\*

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\*Note--Chapter 8, Reduction Plants, repealed by Ord. No. 10036 (N.S.), effective 2-26-10.

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CHAPTER 9. ENFORCEMENT OF STATE HOUSING LAW

SEC. 66.901. DIRECTOR TO ENFORCE STATE HOUSING LAW.

The Director of Environmental Health, in addition to their other duties, is hereby designated as the officer to enforce and is charged with the enforcement of the provisions of the State Housing Law pertaining to sanitation, ventilation, use or occupancy of apartment houses, dwellings and hotels within the unincorporated territory of the County.

(Amended by Ord. No. 2260 (N.S.), effective 9-12-61; amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 9525 (N.S.), effective 1-10-03; amended by Ord. No. 9662 (N.S.), effective 8-14-04; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

SEC. 66.902. [RESERVED.]

(Amended by Ord. No. 2260 (N.S.), effective 9-12-61; amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 9273, effective 12-15-00)

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**SEC. 66.903. DEFINITIONS.**

For the purpose of this chapter, unless otherwise specified, the following word or words shall have the following meaning:

**APARTMENT HOUSE** means any building or portion thereof which contains three or more dwelling units. Separate apartment house buildings located upon a single parcel of land or contiguous parcels of land or under the same ownership shall be treated as one apartment house for the purpose of computing the fee prescribed by Section 65.107(b).

**CO-LOCATED RENTAL UNIT** means any other rental unit on the same premises and under the same ownership or management as an apartment house.

**DIRECTOR** means the Director of Environmental Health.

**DWELLING 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 which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than one family and for the purpose of Chapter 1, Division 9, Title 6 includes rented residences.

**GUEST** means any person hiring or occupying a room for living or sleeping purposes.

**GUEST ROOM** means any room or rooms used or intended to be used by a guest for sleeping purposes.

**HOTEL** means any building, or set of buildings located on the same or contiguous premises and under the same ownership or management, containing six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes by guests. Separate hotel buildings located upon a single parcel of land or contiguous parcels of land or under the same ownership shall be treated as hotel for the purpose of computing the fee prescribed by Section 65.107(b).

(Added by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 9322 (N.S.), effective 5-4-01; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10606 (N.S.), effective 7-1-19; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**SEC. 66.904. PERMIT REQUIRED.**

It shall be unlawful to occupy, or to permit to be occupied, any apartment house or hotel or co-located rental unit now or hereafter erected, constructed, reconstructed, altered, converted or moved, as the case may be, or any portion thereof, for human habitation without an annual permit therefor issued by the Director.

(Added by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 9322 (N.S.), effective 5-4-01; amended by Ord. No. 9859 (N.S.), effective 6-15-07, operative 7-1-07;

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amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10412 (N.S.), effective 2-26-16)

**SEC. 66.905. APPLICATION FOR PERMIT.**

The health permit required by this chapter shall be applied for and issued as prescribed in Title 6, Division 5 of this Code. Every person applying for a health permit shall pay the fee set forth in Title 6, Division 5, Section 65.107 of this Code.

(Added by Ord No. 9273 (N.S.), effective 12-15-00)

**SEC. 66.906. VIOLATION INFRACTION.**

Except as provided in subsection (b), any person violating any provision of this chapter shall be deemed guilty of an infraction.

(a) A person convicted of a third or subsequent violation of this chapter within two years from the date of the first conviction shall be deemed guilty of a misdemeanor.

(b) Each day on which a violation occurs or continues shall constitute a separate offense.

(Added by Ord No. 9273 (N.S.), effective 12-15-00)

**SEC. 66.907. FEES FOR UNLICENSED ACTIVITIES.**

(a) The County shall recover the cost of the Director's enforcement activities when they are otherwise not regulated by a permit as a health regulated business. The County shall also recover any reasonable costs that it may incur in connection with the collection of such fees.

(b) The fee shall be assessed when the Director has issued an official inspection report requiring correction of a condition found to exist.

(c) The fee shall be determined by the enforcement effort made to obtain correction. The fee shall be assessed at the approved hourly rate as specified in Section 65.107.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

**SEC. 66.908. FEES FOR SAMPLE COLLECTION, LABORATORY COSTS, AND PROJECT OVERSIGHT.**

(a) The County shall recover the cost of the Director's investigation and enforcement activities for lead hazards when they are related to sample collection, laboratory costs, and

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abatement project oversight. The County shall also recover any reasonable costs that it may incur in connection with the collection of such fees.

(b) The fee shall be determined by the enforcement effort made to obtain correction and shall also be in addition to any permit issued for a health regulated business. The fee shall be assessed to the property owner at the approved hourly rate as specified in Section 65.107(m) of this code, and for all laboratory costs associated with sampling and analysis.

(Added by Ord. No. 9525 (N.S.), effective 1-10-03)

#### CHAPTER 10. PERMITS FOR APARTMENTS AND HOTELS\*

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\*Note--Chapter 10, consisting of Sections 66.1001 - 66.1007, repealed by Ord. No. 9273 (N.S.), effective 12-15-00.

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#### DIVISION 7. WATER AND WATER SUPPLIES\*

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\*Cross reference(s)--County plumbing code, § 94.1.001 et seq.

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#### CHAPTER 1. WASTE OF WATER

##### SEC. 67.101. WASTE OF WATER PROHIBITED.

No person shall waste or cause or permit to be wasted any water furnished or delivered by any agency distributing for public benefit any water dedicated to or provided for public use within the unincorporated territory of the County of San Diego.

##### SEC. 67.102. SEEPAGE CONSTITUTES EVIDENCE OF VIOLATION.

It shall be prima facie evidence of the violation of this chapter for any person to permit any water supplied from such a source to the premises owned, occupied or controlled by such person to escape, flow or seep therefrom.

##### SEC. 67.103. RESPONSIBILITY OF OWNER OF PREMISES.

The person actually or ostensibly in possession, control or ownership of any premises upon which water is wasted or permitted to be wasted in violation of this chapter shall be prima facie responsible for such violation.

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**CHAPTER 2. POLLUTION OF WATERS\***

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\*Cross reference(s)--Misuse of a hydrant in county parks, § 41.121.

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**SEC. 67.201. POLLUTION OF WATER BY ANIMALS PROHIBITED.**

No person shall cause or permit any horses, cattle, sheep, swine, poultry or any kind of livestock or domestic animals to pollute the waters or tributaries of such waters used or intended for drinking purposes by the inhabitants of any part of the County.

**SEC. 67.202. BATHING IN WATERS USED FOR DRINKING PROHIBITED.**

No person shall bathe or wash clothes in any spring, stream, river, lake, reservoir, well, flume, or other waters which are used or intended for drinking purposes by the inhabitants of the County.

**CHAPTER 3. PUBLIC SWIMMING POOLS\***

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\*Note- Repealed and new Chapter 3 added by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10103 (N.S.), effective 1-7-11.

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**SEC. 67.301. DIRECTOR OF ENVIRONMENTAL HEALTH TO ENFORCE STATE LAWS AND REGULATIONS RELATING TO PUBLIC POOLS.**

The Director of Environmental Health is hereby designated to enforce state laws and regulations relating to public pools, including the building standards published in the state building standards codes; standards for pool sanitation and safety in Article 5 of Part 10 of Division 104 of the California Health and Safety Code (commencing with section 116025); and related state regulations (Title 22, California Code of Regulations, Division 4, Chapter 20 (sections 66501 and following) and Title 24, California Building Code, Division 1, Chapter 31B, (sections 3101B and following)).

(Added by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10103 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10642 (N.S.), effective 1-10-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

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#### SEC. 67.301.5. DEFINITIONS.

The following definitions shall apply to this chapter and to Chapter 3 of this Title:

"Body of Water" means an outdoor or indoor structure intended for swimming or recreational bathing, including a swimming pool, hot tub, spa, non-portable wading pool, activity pool, spray ground, and interactive water feature.

"Department" means the County Department of Environmental Health and Quality.

"Director" means the Director of Environmental Health and any person appointed or hired by the Director to enforce or administer this chapter.

"Expedited Plan Review" means plan review service that is provided at an accelerated time frame.

"Expedited Plan Check Inspection" means plan check field inspection service that is provided at an accelerated time frame.

"Major Remodel" means the addition, relocation, or structural changes to an existing Body of Water. Major remodels of a Body of Water will require that any existing non-conforming features and structures of a Body of Water and its related appurtenances be improved to meet current code requirements.

"Minor Remodel" means the remodeling of a Body of Water that includes resurfacing or replastering, decking work, above ground equipment changes, enclosure changes, and related ancillary facility modifications.

"Public Pool" includes all things defined as "public pools" in Division 104 of the Health and Safety Code and in applicable provisions of Titles 22 and 24 of the California Code of Regulations. Note: Pursuant to 22 CCR Section 65503, subsection (d), "Public pool" does not include a residential pool made available to short-term renters of a private residence, unless that pool is accessible to the occupants of more than three residential units at the same time.

"Renovation" means making modifications to an existing Body of Water that include replacement or changes to the below ground plumbing of a Body of Water, including surge tanks and main drain alterations.

"Revision" means any plan submittal required for corrections identified or minor changes to the initial submittal for any New, Major Remodel, Minor Remodel project, or Renovation.

(Added by Ord. No. 10606 (N.S.), effective 7-1-19; amended by Ord. No. 10642 (N.S.), effective 1-10-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No 10733 (N.S.), effective 7-1-21)

#### SEC. 67.302. PERMIT REQUIRED.

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(a) It shall be unlawful for any person to operate a public pool without a valid permit issued by the Department. A permit is not valid unless required fees, including any related late payment fees, have been paid.

(b) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000 or imprisonment not to exceed six months, or both. Each day that a person violates subsection (a) is a separate violation.

(c) The County may also enforce any violation of subsection (a) by an action for injunctive relief.

(Added by Ord. No. 10103 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 67.302.5. PLAN REVIEW FEES.

A person required to submit plans and specifications to the Department pursuant to Health and Safety Code section 116038 shall pay the plan review fee required in Title 6, Division 5 at the time the person submits plans and specifications. If more than one plan review is required, the applicant shall also pay the plan revision and plan check consultation fees specified in that Division.

(Added by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 67.303. POOL CLOSURE.

(a) The Director may order the closure of any public pool that is operating without a valid permit.

(b) The Director may order the closure of any public pool that is maintained or operated in a manner which creates an unhealthful, unsafe or unsanitary condition.

(c) An order issued pursuant to subsection (b) may be appealed as provided in Chapter 1 of Division 6 of Title 1 of this code. An appeal shall not stay the closure of the pool.

(Added by Ord. No. 10103 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### CHAPTER 3.5. SWIMMING POOL FENCING\*

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\*Note--Added by Ord. No. 4945 (N.S.), effective 7-29-77.

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SEC. 67.325. [RESERVED.]

(Added by Ord. No. 4945 (N.S.), effective 7-29-77; repealed by Ord. No. 8614 (N.S.), effective 1-4-96)

SEC. 67.326. [RESERVED.]

(Amended by Ord. No. 5332 (N.S.), effective 2-15-79; amended by Ord. No. 5819 (N.S.), effective 7-31-80; amended by Ord. No. 6034 (N.S.), effective 5-28-81, operative 7-1-81; amended by Ord. No. 6392 (N.S.), effective 7-13-82; Ord. No. 6392 (N.S.), superseded by Ord. No. 6404 (N.S.), adopted 7-20-82, effective 8-19-82; amended by Ord. No. 6907 (N.S.), effective 2-8-85; amended by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95; repealed by Ord. No. 8614 (N.S.), effective 1-4-96)

SEC. 67.327. [RESERVED.]

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95; repealed by Ord. No. 8614 (N.S.), effective 1-4-96)

SEC. 67.328. [RESERVED.]

(Repealed by Ord. No. 5200 (N.S.), effective 8-10-78)

SEC. 67.329. EACH DAY A SEPARATE OFFENSE.

Each person, firm or corporation found guilty of a violation shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provision of this Chapter is committed, continued or permitted by such person, firm or corporation and shall be punishable therefor as provided for in this Chapter, and any use, occupation or building or structure maintained contrary to the provisions hereof shall constitute a public nuisance.

(Amended by Ord. No. 10238 (N.S.), effective 1-4-13)

SEC. 67.330. VIOLATION IS A PUBLIC NUISANCE.

Any swimming pool erected, constructed, altered, maintained or any use of property contrary to the provisions of this Chapter shall be and the same is hereby declared to be unlawful and a public nuisance, and any failure, refusal or neglect to install a fence as required by the terms of this Chapter shall be prima facie evidence of the fact that a nuisance has been committed in connection with the erection, construction, alteration or

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maintenance of any swimming pool erected, constructed, altered or maintained or used contrary to the provisions of this Chapter. Abatement proceedings may be commenced 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.

All of the remedies provided for in this Chapter shall be cumulative and not exclusive.

(Amended by Ord. No. 7141 (N.S.), effective 6-26-86; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 67.331. OPERATIVE DATE.

The provisions of this Chapter apply only to swimming pools erected or enlarged on or after June 18, 1976. This exclusion does not limit the powers of the Director or the Health Officer to close a pool constructed prior to June 18, 1976 pursuant to other legal authority, if that pool is open to the public and is unhealthy, unsanitary or unsafe.

(Added by Ord. No. 4969 (N.S.), effective 9-29-77; amended by Ord. No. 10642 (N.S.), effective 1-10-20)

#### CHAPTER 4. WELLS\*

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\*Note--Added by Ord. No. 4286 (N.S.), effective 5-3-74.

Cross reference(s)--County plumbing code, § 94.1.001 et seq.; sewers and sewage disposal plants, § 68.101 et seq.

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#### ARTICLE 1. GENERAL

#### SEC. 67.401. PURPOSE AND INTENT.

Section 13801 of the State Water Code mandates that cities and counties adopt a water well, cathodic protection well and monitoring well drilling and abandonment ordinance that "meets or exceeds" minimum State standards set out in Department of Water Resources Bulletin 74-81. That bulletin was subsequently supplemented by a "final draft" bulletin 74-90. This chapter implements this State mandate to the end that the ground water of this County will not be polluted or contaminated and that water obtained from such wells will be suitable for the purpose for which used and will not jeopardize the health, safety or welfare of the people of this County. This chapter also provides for the destruction of abandoned wells and of temporary test and exploratory holes, and of wells

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found to be public nuisances to the end that such wells and holes will not cause pollution or contamination of ground water or otherwise jeopardize the health, safety or welfare of the people of this County. Cities in this county have deferred to the County to develop and implement this program, and the standards in this Chapter are therefore applicable countywide.

(Amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10642 (N.S.), effective 1-10-20)

#### 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.

**CALIFORNIA WELL STANDARDS, COMBINED,** means the most recent published standards for wells released as "final" or "final draft" standards by the State Department of Water Resources (DWR) at the time an application for a permit for a well is submitted to the Department, as amended by Article 3 of this Chapter. As of August 2019, the combined standards were as set out in adopted DWR Bulletin 74-81 as modified and supplemented by "Final Draft Bulletin 74-90, California Well Standards: Water Wells, Monitoring Wells, Cathodic Protection Wells; Supplement to Bulletin 74-81, January 1990," with amendments as set out in Article 3. A combined text can be found at [http://wdl.water.ca.gov/well\\_standards/well\\_standards\\_content.html](http://wdl.water.ca.gov/well_standards/well_standards_content.html).

**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.

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**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.

**DEPARTMENT.** The Department of Environmental Health and Quality.

**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 Environmental Health of San Diego County or their 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 fewer 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 re-perforation 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 ground water or a 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.

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**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 ground water 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, 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; (c) test or exploratory holes; or (d) other wells whose regulation is not necessary to fulfill the purpose of this chapter as determined by the Director.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 8815 (N.S.), effective 7-22-97; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10536 (N.S.),

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effective 7-1-18; amended by Ord. No. 10642 (N.S.), effective 1-10-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

Cross reference(s)--Definitions, § 12.101 et seq.

#### SEC. 67.403. STATE REPORTING.

Nothing contained in this chapter shall be deemed to release any person from compliance with the provisions of Article 3 of Chapter 10 of Division 7 of the Water Code of the State of California or any successor thereto.

(Amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 67.404. [RESERVED.]

(Repealed by Ord. No. 5200 (N.S.), effective 8-10-78)

### ARTICLE 2. WELL STANDARDS ADVISORY BOARD

#### SEC. 67.410. [RESERVED.]

(Repealed by Ord. No. 10642 (N.S.), effective 1-10-20)

#### SEC. 67.411. [RESERVED.]

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 10642 (N.S.), effective 1-10-20)

#### SEC. 67.412. [RESERVED.]

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 10642 (N.S.), effective 1-10-20)

#### SEC. 67.413. [RESERVED.]

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 10642 (N.S.), effective 1-10-20)

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### ARTICLE 3. STANDARDS

#### SEC. 67.420. GENERAL.

No person shall construct, repair, reconstruct or destroy any well, test or exploratory hole subject to this Chapter which does not conform to the standards established herein. All water wells, cathodic protection wells, and monitoring wells are subject to this Chapter. Test or exploratory holes described in Section 67.425 are subject to this Chapter.

(Amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10642 (N.S.), effective 1-10-20)

#### SEC. 67.421. STANDARDS FOR WATER WELLS.

Standards for the construction, repair, reconstruction or destruction of water wells shall be as set forth in the California well standards, Combined, as defined in Section 67.402 of this Code.

(Amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10642 (N.S.), effective 1-10-20)

#### SEC. 67.422. STANDARDS FOR CATHODIC PROTECTION WELLS.

Standards for the construction, repair, reconstruction or destruction of cathodic protection wells shall be as set forth in the California Wells Standards, Combined, as defined in Section 67.402 of this Code, with the following modifications:

1. Part I, Section 1-A

DELETE: Definition of "Cathodic Protection Well:" as printed and

ADD: "A. Cathodic Protection Well: A cathodic protection well means an 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 the ground, commonly referred to as Cathodic Protection."

(Amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10642 (N.S.), effective 1-10-20)

#### SEC. 67.423. STANDARDS FOR MONITORING WELLS.

Standards for the construction, repair, reconstruction or destruction of monitoring wells shall be as set forth in the California Well Standards, Combined, as defined in Section 67.402 of this Code.

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(Added by Ord. No. 8815 (N.S.), effective 7-22-97; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10642 (N.S.), effective 1-10-20)

#### SEC. 67.423a. STANDARDS FOR GEOTHERMAL HEAT EXCHANGE WELLS.

Standards for the construction, repair, reconstruction or destruction of geothermal heat exchange wells shall be as set forth in the Geothermal Heat Exchange Well Draft Well Standards of the State Department of Water Resources, April 1999, or as amended.

(Added by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10642 (N.S.), effective 1-10-20)

#### SEC. 67.424. MAINTENANCE.

Wells shall be maintained to meet construction or destruction standards. If a well does not meet construction or destruction standards the property owner or responsible party must repair, reconstruct or destroy the well so it meets the standards.

(Added by Ord. No. 8815 (N.S.), effective 7-22-97; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 67.425. STANDARDS FOR TEST AND EXPLORATORY HOLES.

(a) Test and exploratory holes require a permit and are subject to the standards in subsection (b) of this section if any of the following conditions applies, but not otherwise:

- (1) The planned or actual depth of the hole is 20 feet or greater.
- (2) At the planned depth, the hole is expected to come within five feet of known or anticipated ground water.
- (3) As installed, the hole encounters ground water.
- (4) The hole is planned to remain open for more than 24 hours, or remains open for more than 24 hours.

(b) A test or exploratory hole subject to this section shall be destroyed following completion of the test work in accordance with the standards and criteria set forth in this chapter unless a person first obtains a permit to change the use of the test or exploratory to a monitoring well or water well.

(Added by Ord. No. 10642 (N.S.), effective 1-10-20)

#### ARTICLE 4. NUISANCES\*



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\*Cross reference(s)--Uniform public nuisance abatement procedure, § 16.201 et seq.  
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#### SEC. 67.430. INVESTIGATION.

The Director may, upon reasonable cause to believe that an abandoned well or other well is causing a nuisance by polluting or contaminating ground water, or constitutes a safety hazard, investigate the situation to determine whether such nuisance does in fact exist. The Director shall have the power, when in the performance of his/her duty and upon first presenting his/her credentials and identifying himself/herself as an employee of the Department to the person apparently in control of the premises, if available, to enter upon any such premises between the hours of 8:00 a.m., and 6:00 p.m., to discover or inspect any thing or condition which appears to indicate such a nuisance. The Director may examine such premises, things or conditions, take such samples and make such tests as needed and take any other steps reasonably necessary for the proper investigation and determination of whether such a nuisance exists.

(Amended by Ord. No. 5405 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 67.430.1. RESPONSIBILITY TO ABATE NUISANCE.

The property owner or responsible party shall take the necessary actions to repair, reconstruct or destroy a well that is a nuisance.

(Added by Ord. No. 8815 (N.S.), effective 7-22-97; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 67.431. ORDER TO ABATE NUISANCE.

Whenever the Director determines that an abandoned or other well is causing a nuisance by polluting or contaminating ground water, or constitutes a safety hazard, the Director may issue a written order as provided in the Public Nuisance Abatement Procedures set out in Chapter 2 of Division 6 of Title 1 of this code. All subsequent procedures shall be as specified in that chapter.

(Amended by Ord. No. 7141 (N.S.), effective 6-26-86; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 8815 (N.S.), effective

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7-22-97; amended by Ord. No. 9858 (N.S.), effective 5-25-07; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

SEC. 67.432. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

SEC. 67.433. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

SEC. 67.434. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

## ARTICLE 5. CONSTRUCTION, REPAIR, RECONSTRUCTION AND DESTRUCTION OF WELLS

### SEC. 67.440. ACTS PROHIBITED.

No person shall construct, repair, reconstruct or destroy any well unless a written permit has first been obtained from the Director as provided in this Chapter, and unless the work done shall conform to the standards specified in this Chapter and all the conditions of the said permit.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

### SEC. 67.441. PERMITS.

A. Applications: Applications for permits shall be made to the Director and shall include the following:

1. A plot plan showing the location of the well and related piping with respect to the following items within a radius of 200 feet from the well:

- (a) Property lines
- (b) Waste disposal systems or works carrying or containing sewage, industrial wastes, or solid wastes.
- (c) All intermittent or perennial, natural or artificial bodies of water or watercourses.

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- (d) The approximate drainage pattern of the property.
  - (e) Other wells.
  - (f) Structures, surface or subsurface.
  - (g) Public and private roads.
  - (h) Easements, including boundaries and a summary of allowed uses.
2. Location of the property, and the Assessor's parcel number.
  3. The name of the person who will construct the well.
  4. The proposed minimum and the proposed maximum depth of the well.
  5. The proposed minimum depths and types of casings and minimum depths of perforations to be used.
  6. The proposed use of the well.
  7. Other information as may be necessary to determine if the underground waters will be adequately protected.
  8. The name of the property owner.
  9. The name of the responsible party who has contracted or otherwise caused to have, a monitoring well constructed, repaired, reconstructed or destroyed.
  10. Evidence of compliance with Chapter 8 of Division 7 of Title 6 of this Code (watershed protection).
- B. Fees: Each application shall be accompanied by a fee as set forth in Title 6, Division 5, Section 65.107, par. (g), of this Code.
- C. Conditions: Permits shall be issued in compliance with the standards set out in California Well Standards, Combined, as defined in this Chapter and as further provided in this Chapter except that such standards shall be inapplicable or modified as expressly provided by the Director in such permit upon his finding that such modifications or inapplicability will accomplish the purposes of this ordinance. Permits may also include any other condition or requirement found by the Director to be necessary to accomplish the purposes of this Chapter.
- D. Grounds for Refusal of Permit. The Director may refuse to issue a permit for any of the following reasons:
1. The applicant is not a person authorized to perform the work as provided in this Chapter.
  2. The permit application is not in proper form.

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3. The proposed well would create a water pollution problem or would aggravate a pre-existing water pollution problem or would violate any of the standards established in Article 3 of this Chapter.

4. The applicant is delinquent with submitting well drilling logs to the Director.

5. The proposed location of the well or related piping would place the well or piping at risk from uses allowed within an overlapping or nearby easement, or would interfere with the allowable uses of that easement.

E. Term, completion of work: The permittee shall complete the work authorized by the permit within the time and before the date set out in the permit. The permittee shall notify the Director in writing upon completion of the work and submit a copy of the well drilling log and no work shall be deemed to have been completed until such written notification and a copy of the well drilling log have been received. A final inspection of the work shall be made by the Director unless such inspection is waived by him, and no permittee shall be deemed to have complied with this Chapter or his permit until such inspection has been performed or waived.

F. Review and Appeal: Any person aggrieved by the refusal of a permit or the terms of a permit required by this Chapter may appeal as provided in Chapter 1 of Division 6 of Title 1 of this Code.

(Amended by Ord. No. 6378 (N.S.), effective 7-29-82; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 8815 (N.S.), effective 7-22-97; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10642 (N.S.), effective 1-10-20)

#### SEC. 67.442. PERSON AUTHORIZED TO PERFORM WORK.

Construction, reconstruction, repair, and destruction of wells shall be performed by a contractor licensed in accordance with the provisions of the Contractor's License Law (Bus. & Prof. Code, Ch. 9, Div. 3) unless exempted by that law.

(Amended by Ord. No. 10238 (N.S.), effective 1-4-13)

State law reference(s)--Licensing of contractors, Business and Professions Code, Ch. 9, Div. 3.

#### SEC. 67.443. INSPECTIONS.

1. Upon receipt of an application, an inspection of the well location may be required by the Director to be made by the Director prior to issuance of a well permit.

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2. The Director or any person designated by the Director may inspect the work in progress and may enter the premises at any reasonable time for the purpose of performing such inspection.

3. After work has been completed pursuant to any permit the Director shall be notified by the person performing the work and the Department shall make a final inspection of the completed work to determine compliance with the well standards.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 67.444. EXPIRATION OF PERMIT.

Each permit issued pursuant to this Chapter shall expire and become null and void if the work authorized thereby has not been completed within one hundred twenty (120) days following the issuance of the permit.

Upon expiration of any permit issued pursuant hereto, no further work may be done in connection with construction, repair, reconstruction, or abandonment of a well unless and until a new permit for such purpose is secured in accordance with the provisions of this Chapter.

(Amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 67.445. EXTENSION OF PERMIT.

Any permit issued pursuant to this Chapter may be extended at the option of the Director. Each individual extension granted by the Director shall be for not longer than one hundred twenty (120) days. In no event shall the Director grant an extension which would make the total term of the permit exceed one year. Application for extension shall be made on a form provided by the Director. The fee for submitting such application shall be as set forth in subsection (h) of Section 65.107 of this code.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10473, effective 7-1-17)

#### SEC. 67.446. REVOCATION OR SUSPENSION.

1. A permit issued hereunder may be revoked or suspended by the Director if he determines that a violation of this Chapter exists, that written notice has been directed to the permittee specifying the violation and that the permittee has failed or neglected to make the necessary adjustments within 30 days after receiving the notice. A permit may also be revoked or suspended by the Director if he/she determines that the person to

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whom any permit was issued pursuant to this Chapter has obtained the same by fraud or misrepresentation. A suspension or revocation may be appealed as set out in Section 61.109 of this code.

2. The suspension or revocation of any permit shall not be effective until notice thereof in writing is mailed to the permittee, and the time for filing an appeal has expired. The notice shall advise the permittee of his right to appeal.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9858 (N.S.), effective 5-25-07; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 67.447. LOG OF WELL.

Any person who has drilled, dug, excavated or bored a well, or deepens or perforates such a well, or destroys such a well, shall, within 60 days from the date of completion of the well, submit to the Director a copy of the report of completion for the well required to be submitted to the California Department of Water Resources in accordance with the provisions of Section 13751 of the California Water Code, and all laboratory and geophysical data for soil and groundwater.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10473, effective 7-1-17)

#### SEC. 67.448. VIOLATION -- MISDEMEANOR.

Any person violating the provisions of this Article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars (\$500.00) or by imprisonment for a period of not more than six (6) months in the County Jail or by both such fine and imprisonment.

(Added by Ord. No. 5233 (N.S.), effective 8-22-78; Ord. No. 5233 (N.S.), superseded by Ord. No. 5246 (N.S.), adopted 8-29-78, effective 9-28-78; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 67.449. WAIVER OF SPECIFIED FEES FOR FARM EMPLOYEE HOUSING AND FARM LABOR CAMPS.

Notwithstanding any other provision of this chapter, the permit fees specified in Sections 67.441.B and 67.445 shall be waived for:

(1) Any farm employee housing or farm labor camp project for which (i) a complete application for an Administrative Permit or a Minor Use Permit was filed between July 13,

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1990, and January 13, 1991 pursuant to Ordinance No. 7768 (N.S.); or was filed between April 5, 1991 and October 5, 1991, pursuant to Ordinance No. 7875 (N.S.); or was filed between October 31, 1991 and June 30, 1993, pursuant to Ordinance No. 8086 (N.S.); or was filed between July 30, 1993 and June 30, 1994, pursuant to Ordinance No. 8271 (N.S.); or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8436 (N.S.); or was filed between September 15, 1995 and June 30, 1998, pursuant to Ordinance No. 8574 (N.S.); or was filed between May 14, 1999 and June 30, 2004, pursuant to Ordinance No. 9021 (N.S.); or was filed between July 1, 2004 and June 30, 2009 pursuant to Ordinance No. 9647 (N.S.) and (ii) the application was approved; or

(2) Any farm employee housing or farm labor camp project for which (i) Section 17021.5 or Section 17021.6 of the California Health and Safety Code is applicable; (ii) the Agricultural Commissioner has issued a certificate of active agricultural enterprise; (iii) the housing is not the subject of an active code enforcement action; (iv) the applicant has entered into the contract required by Section 6156 u.11 or Section 6906 d. of The Zoning Ordinance; and (v) the application was filed between July 30, 1993, and June 30, 1994, pursuant to Ordinance No. 8271 (N.S.); or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8436 (N.S.); or was filed between September 15, 1995 and June 30, 1998, pursuant to Ordinance No. 8574 (N.S.); or was filed between May 14, 1999 and June 30, 2004, pursuant to Ordinance No. 9021 (N.S.); or was filed between July 1, 2004 and June 30, 2009 pursuant to Ordinance No. 9647 (N.S.).

(Added by Ord. No. 7768 (N.S.), effective 7-13-90; amended by Ord. No. 7875 (N.S.), effective 4-4-91; amended by Ord. No. 7977 (N.S.), effective 10-31-91; amended by Ord. No. 8086 (N.S.), effective 7-16-92; amended by Ord. No. 8271 (N.S.), effective 7-30-93; amended by Ord. No. 8436 (N.S.), effective 9-2-94; amended by Ord. No. 8574 (N.S.), effective 9-15-95; amended by Ord. No. 9021 (N.S.), effective 5-14-99; amended by Ord. No. 9647 (N.S.), effective 6-18-04; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

## CHAPTER 5. WATER RECYCLING\*

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\*Note--Chapter 5 added by Ord. No. 7737 (N.S.), effective 4-26-90; repealed and new Chapter 5 added by Ord. No. 8222 (N.S.), effective 4-29-93; title amended by Ord. No. 9273 (N.S.), effective 12-15-00.

Cross reference(s)--Sewers and sewage disposal plants, § 68.101 et seq.; graywater systems, § 68.352.

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## ARTICLE 1. TITLE AND DEFINITIONS

### SEC. 67.501. SHORT TITLE.

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This Chapter shall be known as the "Water Recycling Ordinance" and may be cited as such.

(Added by Ord. No. 7737 (N.S.), effective 4-26-90; repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

#### SEC. 67.502. DEFINITIONS.

The definitions in this article shall govern the construction of this chapter unless otherwise apparent from the context.

a) **ADMINISTRATOR.** Shall mean the Director of Environmental Health, or authorized agent.

b) **DIRECTOR.** Shall mean the Director of the Department of Public Works, County of San Diego, or authorized agent.

c) **DISCRETIONARY LAND USE PERMITS.** Shall mean a subdivision map, major use permit, specific plan or specific plan amendment.

d) **GREENBELT AREAS.** A greenbelt area includes, but is not limited to, golf courses, cemeteries, parks and landscaping. Greenbelt areas do not include agricultural operations for the purpose of this ordinance.

e) **OFF-SITE FACILITIES.** Water (or recycled water) pipes and delivery infrastructure from the source of supply to the point of connection with the on-site facilities, normally up to and including the water meter.

f) **ON-SITE FACILITIES.** Water (or recycled water) pipes and delivery infrastructure located on private property, normally downstream from the water meter and under the control of the owner.

g) **POTABLE WATER.** Water which conforms to the federal, state and local standards for human consumption.

h) **POTENTIAL HEALTH HAZARD.** An act or condition that increases the risk to the public health.

i) **RECYCLED WATER.** Water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur.

j) **RECYCLED WATER DISTRIBUTION SYSTEM.** A piping system intended for the delivery of recycled water separate from and in addition to the potable water distribution system.

k) **SPECIAL PURPOSE DISTRICT.** Either a dependent district (governed by the Board of Supervisors) or an independent district (governed by an independent board of directors) authorized to sell potable or recycled water within a defined geographic boundary.



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l) **WASTE DISCHARGE.** Water deposited, released or discharged into a sewer system from a commercial, industrial or residential source which contains levels of any substance which may cause substantial harm to any wastewater treatment or recycling facility or which may prevent any use of recycled water authorized by law, provided levels of those substances exceed those found in water originally delivered to the source of the waste discharge by the water purveyor.

m) **WATER RECYCLING MASTER PLAN.** Plan adopted by the County which defines and establishes guidelines for the use of recycled water within the unincorporated area.

(Added by Ord. No. 7737 (N.S.), effective 4-26-90; repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

Cross reference(s)--Sewers and sewage disposal plants, § 68.101 et seq.

## ARTICLE 2. GENERAL REGULATIONS

### SEC. 67.510. ENFORCEMENT.

The Director and Administrator shall enforce all the provisions of this chapter and for such purpose shall have the powers of a peace officer.

(Added by Ord. No. 7737 (N.S.), effective 4-26-90; repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93)

### SEC. 67.511. APPLICATION.

a) Applicants for discretionary land use permits in the unincorporated areas of the County served by a special purpose district which has adopted a water recycling ordinance, or has established a plan to provide recycled water to its customers, shall be exempt from the provisions of this ordinance.

b) Applicants for discretionary land use permits in the unincorporated areas of the County served by a special purpose district which does not have an adopted water recycling ordinance, or has no established plan to provide recycled water to its customers, shall follow the County Water Recycling Master Plan and this Water Recycling Ordinance to obtain approval for the use of recycled water.

(Added by Ord. No. 8222 (N.S.), effective 4-29-93; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

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**SEC. 67.512. IMPLEMENTATION.**

The Director and Administrator shall promulgate rules and regulations and other requirements as are necessary to fully implement this ordinance, after approval by the Board of Supervisors.

(Added by Ord. No. 7737 (N.S.), effective 4-26-90; repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93)

**SEC. 67.513. PUBLIC AWARENESS PROGRAM.**

The Director shall obtain the approval of the Board of Supervisors for the establishment of a comprehensive water recycling public awareness program.

(Added by Ord. No. 7737 (N.S.), effective 4-26-90; repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

**SEC. 67.514. COORDINATION AMONG AGENCIES.**

The Director shall coordinate efforts between the County and other appropriate agencies in the region to share in the development and utilization of recycled water, where the potential exists.

(Added by Ord. No. 7737 (N.S.), effective 4-26-90; repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

**SEC. 67.515. VIOLATIONS CONSTITUTE PUBLIC NUISANCE.**

Any discharge of wastes or use of recycled water in any manner in violation of this ordinance, the State Water Resources Control Board adopted Water Recycling Criteria in California Code of Regulations, Title 22 and requirements of the California Regional Water Quality Control Board Waste Discharge Requirements, or any other applicable regulations, shall be, and the same is hereby declared to be, unlawful, a public nuisance and a potential health hazard and shall be corrected or abated as directed by the Administrator or Director. Any person creating such a public nuisance and potential health hazard shall be charged with a misdemeanor.

(Added by Ord. No. 7737 (N.S.), effective 4-26-90; repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

Cross reference(s)--Uniform public nuisance abatement procedure, § 16.201 et seq.

**SEC. 67.516. INJUNCTION.**

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Whenever the use of recycled water is in violation of this ordinance or otherwise causes or threatens to cause a condition of nuisance and public health hazard, the Administrator or Director may seek injunctive relief as may be appropriate to enjoin such use.

(Added by Ord. No. 7737 (N.S.), effective 4-26-90; repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

#### SEC. 67.517. PENALTY.

Any person who violates this ordinance shall, for each day of violation, or portion thereof, be subject to a fine not exceeding \$1,000.00. Paying a fine shall not relieve any person of the responsibility for correcting the condition which violates any provision of this ordinance.

(Added by Ord. No. 7737 (N.S.), effective 4-26-90; repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93)

#### ARTICLE 3. MANDATORY RECYCLED WATER USE\*

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\*Note--Title amended by Ord. No. 9273 (N.S.), effective 12-15-00.

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#### SEC. 67.520. PROHIBITION.

No person or public agency shall use water from any source of quality suitable for potable domestic use for non-potable uses, including the irrigation of greenbelt areas, highway landscaped areas, flushing of toilets and urinals in non-residential structures and industrial uses if suitable recycled water is available as provided in Water Code Section 13550 through 13554. This prohibition shall only apply to discretionary land use permits as defined in Section 67.502(c) approved by the County after the effective date of this ordinance.

(Repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

#### SEC. 67.521. DISCRETIONARY LAND USE PERMITS.

a) Upon application for a subdivision map, major and minor use permits, administrative permit, site plan, density bonus program, specific plan or specific plan amendment, the

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Director and affected special purpose district shall review the application and the Water Recycling Plan for the area. Within 20 calendar days of receipt of the application the Director shall transmit to the Department of Planning and Development Services a preliminary determination whether the proposed use of the subject property will be required to be served with recycled water, and/or will be required to include facilities designed to accommodate the use of recycled water. Will serve letters for recycled water service shall be requested from the applicable special purpose district by the applicant. Based upon the Director's determination and the availability of recycled water to the project, use of recycled water and provision of recycled water distribution systems or other facilities for the use of reclaimed water may be required as a condition of approval of the requested permit, plan or amendment.

b) **NOTICE OF DETERMINATION.** A notice of the basis for the preliminary determination, proposed conditions of approval and schedule for compliance shall be provided to the applicant from the Director or special purpose district prior to approval of the development application.

c) **CONDITIONS OF USE.** The design and operational requirements for the project's recycled water distribution system and schedule for compliance shall be based on the rules and regulations adopted pursuant to Section 67.512, and shall require compliance with both the State Water Resources Control Board adopted Water Recycling Criteria in **California Code of Regulations, Title 22** and requirements of the **California Regional Water Quality Control Board.**

d) **PLAN APPROVAL.** Plans for the recycled and potable water distribution systems for the project shall be reviewed and approved by the Administrator and the appropriate special purpose district.

(Repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10224 (N.S.), effective 10-25-12)

#### **SEC. 67.523. INSPECTION OF FACILITIES.**

Prior to commencement of recycled water service, an inspection of on-site facilities will be conducted by the Administrator to verify that the facilities are in good working order and in compliance with recycled water use regulations and current requirements for service. Upon verification of compliance, recycled water shall be served to the parcel for the intended use. If the facilities are not in compliance the applicant shall be notified of the corrective actions necessary, and shall have at least thirty (30) days to take such actions prior to initiation of enforcement proceedings.

(Repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

#### **SEC. 67.524. CROSS CONNECTION CONTROL.**

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There shall be no physical connection between the potable water supply and the recycled water supply, whereby the potable supply could become contaminated. Each special purpose district may appoint a water supervisor, knowledgeable about plumbing and cross connection control, to monitor construction and operation of the on-site and off-site facility distribution system(s). If the special purpose district serving a facility has no water supervisor, the owner or operator of the facility shall appoint a water supervisor to monitor construction and operation of the on-site facility distribution system(s). The Administrator shall review recycled water distribution system plans and recycled water irrigation system plans for cross-connections. This includes an initial cross-connection control site inspection and any required cross-connection control inspection of sites having both recycled and potable water systems.

(Added by Ord. No. 7737 (N.S.), effective 4-26-90; repealed and added by Ord. No. 8222 (N.S.), effective 4-29-93; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

#### CHAPTER 6. WATER CONSERVATION -- COUNTY SERVICE AREA FOUR -- MAJESTIC PINES\*

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\*Note--Chapter 6, Water Conservation, added by Ord. No. 7730 (N.S.), effective 7-3-90; repealed by Ord. No. 8358 (N.S.), effective 3-17-94.

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#### CHAPTER 7. GROUNDWATER\*

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\*Editor's note--Chapter 7, Groundwater, consisting of Sections 67.701--67.703, 67.710, 67.711, 67.720--67.722 and 67.750, added by Ord. No. 7994 (N.S.), effective 11-15-91.

Cross reference(s)--Sewers and sewage disposal plants, § 68.101 et seq.

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#### ARTICLE 1. TITLE, PURPOSE AND DEFINITIONS

##### SEC. 67.701. SHORT TITLE.

This chapter shall be known as the San Diego County Groundwater Ordinance.

(Added by Ord. No. 7994 (N.S.), effective 11-15-91)

##### SEC. 67.702. PURPOSE AND INTENT.

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San Diego County overlies a complex groundwater resource that varies greatly throughout the entire County. This resource provides the only source of water for approximately 35,000 residents. Development has occurred and will continue to occur within this area, impacting the safe utilization of this valuable, finite and yet renewable resource. The purpose of this chapter is to establish regulations for the protection, preservation, and maintenance of this resource. It is not the purpose of this ordinance to limit or restrict agricultural activities, but to ensure that development will not occur in groundwater-dependent areas of the County unless adequate groundwater supplies are available to serve both the existing uses within the affected groundwater basin and the proposed uses. The economic, social, and environmental benefits of maintaining viable agriculture in San Diego County are expressly recognized in the adoption of this ordinance.

(Added by Ord. No. 7994 (N.S.), effective 11-15-91)

#### SEC. 67.703. DEFINITIONS.

The following words shall have the meaning provided in this section. These definitions are to be broadly interpreted and construed to promote maximum conservation and prudent management of the groundwater resources within San Diego County.

**Director:** The Director of Planning and Development Services.

**Groundwater Investigation:** A study that evaluates the geologic and hydrologic conditions and is prepared in accordance with standards approved by the Director. The study shall be prepared by a California State Professional (or Registered ) Geologist or Registered Civil Engineer and be approved by the Director. The Director may require the study to demonstrate the adequacy of the groundwater basin to serve both the project and the entire basin if developed to the maximum density and intensity permitted by the General Plan. For residential uses, the study shall assume an annual consumptive use of 0.5 acre-feet (163,000 gallons) of water per dwelling unit. ("Consumptive use" is the amount of groundwater lost due to human use, including evaporation and transpiration (plant use).

**Residual Drawdown:** The difference between the initial (static) water level before a well test is conducted and the water level after recovery. Projected residual drawdown indicates an aquifer of limited extent and the long-term well yield may be lower than what is indicated in a well test.

**Specific Capacity:** An expression of the productivity of a well, obtained by dividing the rate of discharge of water (in gallons per minute) from the well by the drawdown (in feet) of the water level in the well.

**Water Intensive Use:** Any land use that requires a permit listed in Section 67.711 and is not exempt from this ordinance, and that will require more water than 20 acre-feet per year or more than 20,000 gallons per day.

**Water Service Agency:** Any city, mutual or municipal water district, or any other private or public agency which provides water at retail from either: (1) groundwater resources, to

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two or more users; or (2) imported water resources. Such water service agency must be in existence prior to the date of submittal of any project relying on service from that agency.

Well Test: The production procedure, reviewed and approved by the Director, by which water is produced from a water well and resulting water levels are monitored. If the results of the testing are inconclusive or improperly conducted, additional testing will be required. (All wells must have a valid permit with the Department of Environmental Health and Quality well permit prior to construction.)

1. Residential Well Test: A test of a well on property with zoning which permits residential use, or which is for a residential project, shall be conducted by or under the direct supervision of a California State Professional (or Registered) Geologist, who shall conduct all analysis. The Residential Well Test shall meet or exceed all of the following minimum requirements unless the Director has first approved an alternate procedure:

a. Well production during the Residential Well Test must be maintained at a rate of no less than three gallons per minute.

b. The Residential Well Test must be conducted over a period of at least 24 hours, unless after eight hours of pumping, the measured specific capacity is equal to or greater than 0.5 gallons per minute per foot of drawdown, at which time pumping can be terminated. In addition, all Residential Well Tests must produce at least two full well bore volumes of water (a bore volume is that quantity of water which is stored within the saturated portion of the drilled annulus of the well).

c. The analysis of the Residential Well Test must indicate that no residual drawdown is projected (taking into account minor inaccuracies inherent in collecting and analyzing well test data).

d. The analysis of the Residential Well Test must also indicate that the amount of drawdown predicted to occur in the well after five years of continual pumping at the rate of projected water demand, will not interfere with the continued production of sufficient water to meet the needs of the anticipated residential use(s).

2. Nonresidential Well Test: A test of a well for a nonresidential project (such as a golf course) shall be in accordance with procedures approved by the Director and may be more extensive than those applicable to a Residential Well Test.

(Added by Ord. No. 7994 (N.S.), effective 11-15-91; amended by Ord. No. 9826 (N.S.), effective 3-2-07; amended by Ord. No. 10224 (N.S.), effective 10-25-12; amended by Ord. No. 10249 (N.S.), effective 3-1-13)

Cross reference(s)--Definitions, § 12.101 et seq.

## ARTICLE 2. GENERAL REGULATIONS

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**SEC. 67.710. DIRECTOR TO ENFORCE.**

The Director shall have the authority to enforce all the provisions of this Chapter. The Director may designate the County Groundwater Geologist as the employee responsible for implementing this Chapter, to:

1. Review and perform groundwater studies.
2. Conduct research on the groundwater resources of the County.
3. Review and make recommendations on all discretionary projects which fall under this ordinance.
4. Monitor and maintain files on the status of the resource.
5. Assist consultants, community groups, water service agencies and residents of the County in assessing groundwater concerns.
6. Identify groundwater impacted basins.
7. Prepare recommended revisions to the Groundwater Limitations Map.
8. Monitor and maintain records regarding groundwater use reduction measures described in Section 67.720.

(Added by Ord. No. 7994 (N.S.), effective 11-15-91; amended by Ord. No. 10249 (N.S.), effective 3-1-13)

**SEC. 67.711. APPLICATION.**

Prior to approval of any of the following discretionary land development applications for a project which proposes to use groundwater (hereinafter referred to as "Projects"), the applicant shall comply with the provisions of Article 3 below:

General Plan and Specific Plan Adoptions and Amendments

Administrative Permits

Density Bonus Program

Tentative Parcel Maps

Tentative Maps

Revised Tentative Parcel Maps and Revised Tentative Maps (Review shall exclude areas unaffected by the revisions proposed by the Revised Map)

Zoning Reclassifications Amending Use Regulations Applicable to Particular Property

Major Use Permits



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Minor Use Permits

Minor Use Permit Modifications

Site Plans

Site Plan Modifications

Major Use Permit Modifications (Review shall exclude areas unaffected by the proposed modifications)

Certificates Of Compliance filed pursuant to San Diego County Code Section 81.616.1 or 81.616.2 (excluding condominium conversions)

Lot Line Adjustments filed pursuant to San Diego County Code Section 81.901 et seq., on property zoned to permit residential use, if the Director determines that the Lot Line Adjustment will result in a lot which would potentially worsen existing or future groundwater conditions at the maximum density and intensity permitted by the General Plan and Zoning, taking into consideration long-term groundwater sustainability, groundwater overdraft, low well yield, and well interference. If the Director makes this determination, the Lot Line Adjustment shall comply with Section 67.722, but not Sections 67.720 or 67.721.

(Added by Ord. No. 7994 (N.S.), effective 11-15-91; amended by Ord. No. 9826 (N.S.), effective 3-2-07; amended by Ord. No. 10249 (N.S.), effective 3-1-13)

## ARTICLE 3. DEVELOPMENT CRITERIA

### SEC. 67.720. BORREGO VALLEY.

The following provisions apply to Projects that would extract or use groundwater resources in the Borrego Valley Exemption Area. This area is shown on the map entitled "Groundwater Limitations Map", approved by the Board of Supervisors on May 5, 2004 (Item 15), on file with the Clerk of the Board of Supervisors.

A. A Project listed in Section 67.711 that will extract or use at least one acre-foot (325,851 gallons) of groundwater per year shall include one or more groundwater use reduction measures listed in subsection B below. The groundwater use reduction measures shall fully offset the amount of groundwater that the proposed project will use and shall result in "no net increase" in the amount of groundwater extracted from the Borrego Valley Exemption Area. The groundwater use reduction measures shall be implemented within the Borrego Valley Exemption Area as shown on the "Groundwater Limitations Map."

B. One or more of the following groundwater use reduction measures may be used:

1. In accordance with the following provisions, grant an easement to the County of San Diego on off-site land that is being actively irrigated:

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a) The easement shall permanently and completely prohibit the use, extraction, storage, distribution or diversion of groundwater on the property subject to the easement, except for:

i. The use of a maximum of one acre-foot of groundwater per year for a single-family residence; or

ii. A subsequent project on the land subject to the easement that would require discretionary approval by the County if groundwater use reduction measures are implemented that fully offset the amount of groundwater that the proposed project would use. Groundwater use reduction measures that may be used for these projects include the measures listed in subsections 67.720.B.1 (this subsection) and 67.720.B.2.

b) The amount and evidence of historic groundwater use and the terms and conditions of the easement shall be subject to the approval of the Director. Evidence of historic groundwater use on the land subject to the easement may include, but is not limited to, a survey by a California Professional Land Surveyor or Professional Engineer, historical aerial photographs, and a written description of the historical water use.

c) The use of the water on the land subject to the easement shall have started by January 1, 2008 and shall have continued at least to the date the proposed easement is submitted to the Department of Planning and Development Services.

d) The quantity of water available for offset shall be based on the total groundwater consumptive use for each vegetation type on the land subject to the easement as determined by the values in the following table:

Vegetation Type	Groundwater Consumptive Use Per Acre (acre-foot/acre/year)
Citrus (all types)	4.9
Nursery plants	4.5
Palms (all types)	3.7
Tamarisk	1.7
Turf (warm season)	5.1
Turf (winter cool/ summer warm)	5.6
Potatoes	0.8

To determine the groundwater consumptive use for each vegetation type within the easement area, the acreage of irrigated land for a particular vegetation type is multiplied by

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the "Groundwater Consumptive Use Per Acre" as listed in the table above. The "Groundwater Consumptive Use Per Acre" value for any vegetation types not listed in the table above shall be determined by the Director.

e) Submit the easement to the Department of Planning and Development Services for review, approval and recordation.

2. Water credits issued by the Borrego Water District that comply with the Memorandum of Agreement between the Borrego Water District and the County of San Diego regarding Water Credits and any amendments thereto, on file with the Clerk of the Board of Supervisors.

3. Provide evidence to the satisfaction of the Director that all (or a portion of) the on-site water use occurring prior to the date of permit application will be permanently eliminated as a result of the Project.

4. Any other legally enforceable mechanism that achieves permanent water savings, subject to approval by the Director.

(Added by Ord. No. 7994 (N.S.), effective 11-15-91; amended by Ord. No. 9644 (N.S.), effective 6-4-04; amended by Ord. No. 10249 (N.S.), effective 3-1-13)

#### SEC. 67.721. GROUNDWATER IMPACTED BASINS.

A. Identification and Mapping. Areas within the County which are characterized by one or more of the following groundwater problems shall be known as Groundwater Impacted Basins and shall be identified and mapped:

1. Low yielding wells having an overall average yield of less than 3 gallons per minute.
2. Basins with previously approved developments at a parcel size smaller than those stated in the table in paragraph A of Section 67.722 and in excess of available water resources.
3. Declining groundwater levels and measurable groundwater overdraft.

The Groundwater Impacted Basins shall be designated on a map known as the "Groundwater Limitations Map" which shall be adopted by the Board of Supervisors and kept on file with the Clerk of the Board of Supervisors. Prior to adding any area to said map or making any deletions from or revisions to said map, the Board of Supervisors shall hold a public hearing. Notice of such hearing shall be mailed at least 30 days in advance, to the owner (as shown on the latest equalized assessment roll) of any property proposed to be added to or deleted from said map. The Director of Planning and Development Services shall annually review said map and may recommend such revisions as the Director finds appropriate.

B. Regulations. Any application listed in Section 67.711 for a project within a Groundwater Impacted Basin shall be accompanied by a Groundwater Investigation. In

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addition, a Well Test shall be performed for each lot proposed to be created by or included within the project. The application shall not be approved unless the approving authority finds that based upon the Groundwater Investigation, groundwater resources are adequate to meet the groundwater demands both of the project and the groundwater basin if the basin were developed to the maximum density and intensity permitted by the General Plan.

(Added by Ord. No. 7994 (N.S.), effective 11-15-91; amended by Ord. No. 10224 (N.S.), effective 10-25-12; amended by Ord. No. 10249 (N.S.), effective 3-1-13)

**SEC. 67.722. ALL OTHER PROJECTS.**

Any application listed at Section 67.711 for a project not subject to Section 67.720 or Section 67.721, which proposes the use of groundwater not provided by a Water Service Agency, for all or any portion of the project, shall comply with the following regulations:

**A. Residential Density Controls.**

Tentative maps, Tentative Parcel Maps, and Certificates of Compliance proposing parcels for single-family dwellings must comply with the minimum parcel sizes set forth in the following table. Adjustment Plats on property zoned to permit residential use shall also comply with these minimum parcel sizes, except that an existing parcel smaller than the applicable minimum parcel size need not be made to conform to the minimum, so long as it is not further reduced in size by the Adjustment Plat:

Mean Annual Precipitation	Minimum Parcel Size**
Precipitation* (inches)	(Gross Acres)
Less than 9	20
9 to 12	15
12 to 15	11
15 to 18	8
18 to 21	5
More than 21	4

\* Mean annual precipitation is to be determined from the County of San Diego map entitled "Groundwater Limitations Map" on file with the Clerk of the Board of Supervisors as Document No. 195172.

\*\* Compliance with the minimum parcel size does not guarantee project approval; site-specific characteristics may indicate that either larger parcel sizes are required or that the project should not be approved in individual cases.

**B. Groundwater Investigations.** Any application listed in Section 67.711 and not subject to Sections 67.720, 67.721 or Paragraph A above, shall be accompanied by a Groundwater

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Investigation. The application shall not be approved unless the approving authority finds, based upon the Groundwater Investigation or other available information, either: (1) for a water intensive use, that groundwater resources are adequate to meet the groundwater demands both of the project and the groundwater basin if the basin were developed to the maximum density and intensity permitted by the General Plan; or (2) for all other projects, that groundwater resources are adequate to meet the groundwater demands of the project.

C. Well Tests. For any application for a Tentative Map, Specific Plan or Specific Plan Amendment, Tentative Parcel Map, Adjustment Plat or a Certificate of Compliance, well tests shall be performed for the number of lots shown in the following table. Tests shall be on lots which appear to have the least access to a viable groundwater supply as determined in advance of testing by the Director, who shall also specify nearby wells to be monitored while the testing is being conducted. If any well does not pass the requirements for Well Tests stated in Section 67.703 above, the Director may require additional well tests beyond what is required in the following table:

Number of Proposed Lots*	Number of Required Well Tests
1 through 10	1
11 through 20	2
21 through 30	3
31 through 40	4
Greater than 40	5

\* Excluding remainder parcels and "not a part" areas

(Added by Ord. No. 7994 (N.S.), effective 11-15-91; amended by Ord. No. 9644 (N.S.), effective 6-4-04; amended by Ord. No. 9826 (N.S.), effective 3-2-07; amended by Ord. No. 10167 (N.S.), effective 10-14-11)

#### SEC. 67.750. EXEMPTIONS.

(a) A proposed subdivision which pursuant to the terms of Government Code Section 66424 or 66426 is exempt from the requirement to file a Tentative Map or Tentative Parcel Map is not subject to this ordinance unless it also involves an application for a General Plan or Specific Plan adoption or amendment, a zoning reclassification, or a Major Use Permit or modification thereof.

(b) The following Major Use Permits or Major Use Permit modifications are exempt from this ordinance:

(1) Those involving the construction of agricultural and ranch support structures used in the production, storage, or processing of food, fiber, and flowers, including but not limited to roadside stands, barns, sheds, packing houses, and greenhouses, except that this exception does not apply to feed lots.

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(2) Those involving new or expanded agricultural land uses, including but not limited to changes in commodities produced on the property, operations performed upon such commodities, and development of additional irrigated acreage on the property unless accompanied by subdivision.

This agricultural exemption does not supersede or limit the application of any law or regulation otherwise applicable to the above-listed categories of agricultural support activities including the California Environmental Quality Act. For purposes of this exemption, "agricultural and ranch support structures" do not include the commercial exportation of groundwater for purposes of resale outside the basin.

(c) The Director may grant an exemption from the requirement for a Groundwater Investigation imposed by Section 67.721 or 67.722.B, the requirement for Well Tests imposed by Section 67.721 or 67.722.C, or the requirement for minimum parcel sizes imposed by Section 67.722.A, upon a finding that existing data clearly demonstrate that the finding required by Section 67.722.B can be made without additional study. Such data may include a recent history (minimum of five years) of groundwater withdrawals or streamflow data and other geomorphic evidence which indicates that replenishment of groundwater resources is rapid and reliable, and is controlled primarily by infiltration of streamflow rather than on-site recharge.

{Added by Ord. No. 7994 (N.S.), effective 11-15-91; amended by Ord. No. 9826 (N.S.), effective 3-2-07; amended by Ord. No. 10249 (N.S.), effective 3-1-13}

## CHAPTER 8. WATERSHED PROTECTION, STORMWATER MANAGEMENT AND DISCHARGE CONTROL\*

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\*Editor's note--Repealed and new Chapter, Stormwater and Discharge Control, §§ 67.801-67.825, added by Ord. No. 9424 (N.S.), effective 2-20-02; Chapter 8 amended (with new title Watershed Protection, Stormwater Management and Discharge Control) by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16.

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### SEC. 67.801. PURPOSE AND INTENT.

(a) The purpose of this Chapter is to protect water resources and to improve water quality by controlling the stormwater conveyance system and receiving waters; to cause the use of management practices by the County and its citizens that will reduce the adverse effects of non-stormwater and polluted stormwater discharges to the stormwater conveyance system and receiving waters; to secure benefits from the use of stormwater as a resource; and to ensure the County is compliant with applicable state and federal law and California Regional Water Quality Control Board Order No. R9-2013-0001, National

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Pollutant Discharge Elimination System (NPDES) No. CAS0109266 as amended by Order Numbers R9-2015-0001 and R9-2015-0100, also known as the San Diego Regional Municipal Separate Storm Sewer System (MS4) Permit, referred to hereinafter as "MS4 Permit".

(b) The requirements of this Chapter are specifically intended to implement a Jurisdictional Runoff Management Program in accordance with California Regional Water Quality Control Board Order No. R9-2013-0001, NPDES No. CAS0109266. To the extent necessary to ensure compliance with this order, this Ordinance shall require the following:

(1) Prohibit non-stormwater discharges to the stormwater conveyance system and receiving waters unless otherwise authorized by this Chapter.

(2) Establish requirements to prevent and reduce pollution to water resources.

(3) Establish requirements for development project site design to prevent non-stormwater discharges to the stormwater conveyance system and reduce stormwater pollution and erosion.

(4) Establish requirements for the management of stormwater flows from development projects to prevent erosion and to protect and enhance existing water-dependent habitats.

(5) Establish standards for the use of off-site facilities, when permissible, for stormwater management to supplement on-site practices at new development sites.

(6) Establish notice procedures and standards for adjusting stormwater and non-stormwater management requirements, where necessary.

(Added by Ord. No. 9424 (N.S.), effective 2-20-02; amended by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.802. DEFINITIONS.

Unless a different meaning is clearly intended and more protective of water quality under the circumstances, terms used in this Chapter shall have the same meaning as the same or equivalent term when defined in Attachment C of California Regional Water Quality Control Board amended Order No. R9-2013-0001, NPDES No. CAS0109266. For purposes of this Chapter subject to the foregoing limitation, the following definitions shall apply:

"Authorized enforcement official" means the Director of Public Works, the Director of Planning and Development Services, the Director of the Department of Environmental Health and Quality, the Director of Environmental Health, the Agricultural Commissioner, Department of Agriculture/Weights and Measures, or their designees.

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"Active/Passive Sediment Treatment" means using mechanical, electrical or chemical means to flocculate or coagulate suspended sediment for removal from runoff from construction sites prior to discharge.

"Authorized non-stormwater discharge" means a discharge allowed to enter the stormwater conveyance system or receiving waters in accordance with a permit under the National Pollutant Discharge Elimination System (NPDES) or as specifically authorized by this Chapter.

"Best management practices (BMPs) means schedules of activities, prohibitions of practices, training and education, maintenance procedures, and other management practices to prevent or reduce the discharge of pollution to waterways to the maximum extent practicable. BMPs include, treatment requirements, operating procedures and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs also include standard industry practices for controlling stormwater and non-stormwater runoff established by the California Stormwater Quality Association and Caltrans.

"Biofiltration" means practices that use vegetation and amended soils to detain and treat runoff from impervious areas. Treatment is through filtration, infiltration, adsorption, ion exchange, and biological uptake of pollutants.

"BMP Design Manual" means the plan developed by the County in accordance with the NPDES Permit which outlines the minimum standards required to eliminate, reduce, or mitigate the impacts of water runoff from development projects and existing development.

"Caltrans Standards" means the BMPs included in the most recent iteration of the Caltrans Construction Site Best Management Practices Manual.

"CASQA Standards" means the BMPs included in the most recent iteration of the California Stormwater Quality Association ("CASQA") Construction BMP Handbook.

"Construction General Permit (CGP)" means the General Permit for Stormwater Discharges associated with Construction and Land Disturbance Activities issued by the State Board, Order 2022-0057-DWQ, as it currently exists or may be amended. The Construction General Permit covers, in part, construction or demolition activity that results in soil or land disturbance of equal to or greater than one acre. The Construction General Permit is available from the State Board and may be accessed on the County's website.

"Detention" means the temporary storage of storm run-off in a manner that controls peak discharge rates and provides some gravity settling of pollutants.

"Detention facility" means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface run-off and gradual release of stored water at controlled rates.

"Development project" means any construction, rehabilitation, redevelopment, land disturbance activity, or reconstruction of any public improvement projects or private projects.



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"Discharge", when used as a verb, means to allow pollutants to directly or indirectly enter stormwater, or to allow stormwater or non-stormwater to directly or indirectly enter the stormwater conveyance system or receiving waters, from an activity or operations which one owns or operates. When used as a noun, "discharge" means the pollutants, stormwater, or non-stormwater that are discharged.

"Discharger" means any person or entity engaged in activities or operations or owning facilities, from which an allowed non-stormwater discharge to the stormwater conveyance system may or does originate or which will or may result in pollutants entering stormwater, the stormwater conveyance system, or receiving waters or the owners of real property on which such activities, operations or facilities are located, except that a local government or public authority is not a discharger as to activities conducted by others in public rights-of-way.

"Enforcement response plan" means the plan for enforcement of violations of this chapter developed in accordance with the MS4 Permit and included in the County of San Diego Jurisdictional Runoff Management Plan (JRMP).

"Environmentally sensitive area" or "ESA" means impaired water bodies, as defined by the federal Clean Water Act Section 303(d), areas designated as Areas of Special Biological Significance or with the RARE beneficial use by the SWRCB in the Water Quality Control Plan for the San Diego Basin (1994 and amendments) and areas designated as preserves for species- protection purposes by the State of California or a local government.

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, and technological factors as determined in the sole discretion of the County. Feasibility may be limited in this Chapter to eliminate consideration of economic, environmental and other factors as, for example, where feasibility is specifically defined as technological feasibility.

"Flow-thru treatment control BMPs" mean structural, engineered facilities that are designed to remove pollutants from stormwater runoff using treatment processes that do not incorporate significant biological methods. Examples include dry extended detention basins, sand filters, media filters, and vegetated swales.

"Illicit connection" means any man-made conveyance or drainage system through which non-stormwater or pollutants in water, not authorized by an NPDES permit or the NPDES Order are discharged or may be discharged to the stormwater conveyance system.

"Impervious surface area" means the ground area covered or sheltered by an impervious surface, measured in plan view. For example, the "impervious surface area" for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

"Industrial General Permit" means the General Permit for Stormwater Discharges Associated with Industrial Activities issued by the State Water Resources Control Board, Order No. 2014-0057-DWQ, as it currently exists or may be amended. The Industrial

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General Permit is available from the State Board and may be accessed on the County's website.

"Infiltration" in the context of low impact development means the percolation of water into the ground. Infiltration is often expressed as a rate (inches per hour), which is determined through an infiltration test.

"Infiltration BMPs" mean structural measures that capture, store, and infiltrate stormwater runoff. These BMPs are engineered to store a specified volume of water and have no design surface discharge (underdrain or outlet structure) until this volume is exceeded. Infiltration BMPs may also support evapotranspiration processes, but are characterized by having their most dominant volume losses due to infiltration. They are a type of retention BMP.

"Jurisdictional Runoff Management Program Document (JRMP)" A written description of the specific jurisdictional runoff management measures and programs that each Copermittee will implement to ensure that storm water pollutant discharges in runoff are reduced to the Maximum Extent Practicable (MEP) and do not cause or contribute to a violation of water quality standards. "Land disturbance activity" means any activity, whether or not a stormwater quality management plan or County permit or approval is required, that moves soils or substantially alters the land such as grading, digging, cutting, scraping, stockpiling or excavating of soil; placement of fill materials; paving, pavement removal, exterior construction; substantial removal of vegetation where soils are disturbed including but not limited to removal by clearing or grubbing; clearing or road-cutting associated with geotechnical exploration and assessment, percolation testing, or any other activity that is a condition of a permit application; or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse.

"Low impact development (LID)" means a stormwater management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions.

"Low Impact Development Best Management Practices (LID BMPs)" – LID BMPs include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States through storm water management and land development strategies that emphasize conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions. LID BMPs include retention practices that do not allow runoff, such as infiltration, rainwater harvesting and reuse, and evapotranspiration. LID BMPs also include flow-through practices such as biofiltration that may have some discharge of storm water following pollutant reduction.

"Maximum extent practicable" (MEP) means the technology-based standard established by Congress in CWA section 402(p)(3)(B)(iii) for storm water that operators of MS4s must meet: including implementation of all BMPs that are technically feasible (i.e., are likely to be effective), are not cost prohibitive, and adequately reduce or eliminate pollutant

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discharges from the stormwater conveyance system. MEP will generally require a combination of site design, source control and treatment control BMPs that emphasize pollution prevention and source control BMPs as the first line of defense and uses treatment control BMPs as a second line of defense. MEP also includes those practices considered or generally accepted as industry standards for the control of stormwater and non-stormwater runoff.

"Natural drainage" means a naturally occurring drainage consisting of native soils such as a natural swale or topographic depression which gathers or conveys run-off to a permanent or intermittent watercourse or water body.

"Natural System Management Practices" (NSMP) means stormwater practices implemented to restore and/or preserve predevelopment watershed functions in lieu of providing direct pollutant removal and hydromodification flow control. NSMPs may include structural or engineered elements, but these elements do not expressly provide pollutant removal. NSMPs include land restoration, land preservation and stream rehabilitation projects.

"Non-Stormwater" means all discharges to and from the stormwater conveyance system that do not originate from precipitation, including landscape irrigation runoff.

"NPDES Order" shall mean and refer to California Regional Water Quality Control Board, San Diego Region Order No. R9-2013-0001, NPDES No. CAS00109266, as the same may be amended, modified or replaced from time to time.

"Pollutant" means any agent that may cause, potentially cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated.

"Pollutant Control BMP" (PC-BMP) means any engineered system designed to remove pollutants from stormwater by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process. They are also known as treatment control BMPs.

"Pollution prevention" means the practices and processes that reduce or eliminate the generation of pollutants such as the use of smaller quantities of toxic materials or substitution of less toxic materials; changes to production processes to reduce waste; decreases in wastewater flows; recycling of wastes as part of the production process; segregation of wastes, and treatment of wastes on site to decrease volume or toxicity.

"Priority Development Projects" (PDPs) are new development and redevelopment projects that are subject to general, source control site design, pollutant control, and hydromodification management BMP requirements, and other requirements as identified in the BMP Design Manual and MS4 Permit. Priority Development Projects must demonstrate compliance through the development and implementation of a Stormwater Quality Management Plan (SWQMP) to be approved by the County.

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"Public improvement projects" means any project for the erection, construction, alteration, repair or improvement of any public structure, building, road, or other public improvement of any kind.

"Rainy season" means from October 1 through April 30.

"Receiving waters" shall mean waters of the United States.

"Redevelopment" means creation, addition, or replacement of impervious surface on an already developed site. Examples include the expansion of building footprints, road widening, the addition or replacement of a structure, and creation or addition of impervious surfaces. Replacement of existing impervious surfaces includes any activity that is not part of a routine maintenance activity where impervious material(s) are removed exposing underlying soil during construction. Redevelopment does not include trenching and resurfacing associated with utility work, resurfacing existing roadways, new sidewalk construction, pedestrian ramps, or bike lane on existing roads; and routine replacement of damaged pavement, such as pothole repair.

"Residential discharger" means the occupant, owner, manager, caretaker, or owner's association that owns, occupies or has responsibility for a discharge from a single-family dwelling, a multiple-family dwelling, mobile home park, condominium complex, board-and-care house, or other housing structure or portion of a residential development from which the discharge originated.

"Regional Water Quality Control Board" or "RWQCB" means the California Regional Water Quality Control Board for the San Diego Region (Region 9).

"Source control BMP" means land use or site planning practices, or structural or nonstructural measures that aim to prevent runoff pollution by reducing the potential for contamination at the source of pollution. Source control BMPs minimize the contact between pollutants and runoff.

"Standard Development Projects" (SDPs) are all development projects, not otherwise defined as a Priority Development Project, which must incorporate general-source control site design, low-impact development BMPs to the maximum extent practicable, and other requirements as identified in the BMP Design Manual. Standard development projects must demonstrate compliance with the requirements through the development and implementation of a stormwater quality management plan approved by the County.

"Stormwater" means storm water runoff, snowmelt runoff and surface runoff and drainage. Surface runoff and drainage pertains to runoff and drainage resulting from precipitation events.

"Stormwater conveyance system" means private and public drainage facilities other than sanitary sewers within the unincorporated area of San Diego County by which water runoff may be conveyed to receiving waters, and includes but is not limited to roads, streets, constructed channels, aqueducts, storm drains, pipes, street gutters, inlets to storm drains or pipes, or catch basins.

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"Stormwater maintenance agreement" means an agreement prepared to the satisfaction of the County and executed on behalf of the County by the Director, by and between the County and the owner of any priority development project and designed to identify, preserve, and ensure the proper maintenance and operation of all stormwater BMPs in perpetuity.

"Stormwater pollution prevention plan" (SWPPP) means an approved site-specific plan that (1) identifies and evaluates sources of pollutants associated with activities that may affect the quality of stormwater discharges, (2) eliminates non-stormwater discharges, and (3) identifies and implements site-specific BMPs to reduce or to prevent pollutants in stormwater or retain non-stormwater discharges.

"Stormwater Quality Management Plan (SWQMP)" means a plan, submitted on a County form or in a County approved format with an application for a County permit or other County approval, identifying the measures that will be used for stormwater and non-stormwater management for a development project. There are two types of SWQMPs: a Standard SWQMP and a PDP SWQMP. A PDP SWQMP is required for all Priority Development Projects. Standard SWQMPs are required for all other development projects.

"Structural BMPs" are a subset of BMPs which detain, retain, filter, remove, or prevent the release of pollutants and control runoff discharge rates to surface waters from development projects in perpetuity, after construction of a project is completed. These BMPs can satisfy the requirements for Pollutant Control BMPs and Hydromodification BMP requirements for Priority Development Projects.

"SUSMP" or standard urban stormwater mitigation plan for land development projects and public improvement projects means the SUSMP adopted by the County Board of Supervisors on November 13, 2002 pursuant to California Regional Water Quality Control Board Order No. 2001-01, as it may thereafter be revised by the Director, Department of Public Works. The County BMP Design Manual will supersede the SUSMP pursuant to the NPDES Order.

"Treatment control BMPs" are also known as a Pollutant Control BMPs (PC-BMPs).

"Tributary to an impaired water body" means any facility or activity that is a tributary to an impaired water body because urban run-off from that facility or activity enters (1) the stormwater conveyance system at a place and in a manner that will carry pollutants for which that water body is impaired to the impaired water body; (2) a flowing stream that will carry pollutants for which that water body is impaired to the impaired water body; or (3) an ephemeral stream that reaches the impaired water body during storm events and that will carry pollutants for which that water body is impaired during such storm events.

"Waste" As generally defined in CWC Section 13050(d) and for purposes of this Chapter, waste includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, or any discarded material of human origin in any form whether discarded intentionally or unintentionally, including recycling, yard waste, and organic waste.

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"Watercourse" means any surface water body (including any arroyo, canal, channel, conduit, creek, culvert, ditch, drain, gully, ravine, reservoir, river, stream, wash, waterway, or wetland) in which waters from a tributary drainage area of 100 acres or larger flow in a definite direction or course, either continuously or intermittently, and any area adjacent thereto which is subject to inundation from a 100-year flood. "Water quality standards" mean those regionally determined beneficial uses and water quality objectives in applicable water quality control and basin plans, together with anti-degradation policies that serve as water quality standards under the Clean Water Act.

"Watershed Management Areas" mean those areas identified in Table B-1 of the NPDES Order where the County is identified as a responsible Copermittee.

"Watershed Management Area Analysis" means the analysis completed pursuant to Section II.B.3.b.(4) of the NPDES Order.

"Water Quality Improvement Plans" mean the plans developed by the County in accordance with Section II.B. of the NPDES Order for the Watershed Management Areas.

(Added by Ord. No. 9424 (N.S.), effective 2-20-02; amended by Ord. No. 9518 (N.S.), effective 1-10-03; amended by Ord. No. 9589 (N.S.), effective 9-5-03; amended by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 9999 (N.S.), effective 9-4-09; amended by Ord. No. 10030 (N.S.), effective 1-13-10; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10224 (N.S.), effective 10-25-12; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 67.803. GENERAL PROVISIONS.

(a) Interpretation of this Chapter shall be consistent with the provisions of state and federal clean water laws and the NPDES Order. The requirements of this Chapter are not intended to interfere with, abrogate or annul any other ordinance, rule, regulation, statute, or terms of the NPDES Order that apply to the operation of the stormwater conveyance system. The requirements of this Chapter are minimum requirements, and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance (e.g., such as the County Subdivision Ordinance, Title 8, Division 1 of the San Diego County Code of Regulatory Ordinances, the County Grading Ordinance, Title 8, Division 7, Chapter 4, of the San Diego County Code of Regulatory Ordinances, or Part 3, commencing with Section 3000 of the San Diego County Zoning Ordinance regulating animal care), rule, regulation, statute, Stormwater Quality Management Plan, the BMP Design Manual, or the NPDES Order, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.

(b) Except as set forth in Section 67.805, this Chapter shall apply to any development project in the County, whether or not a permit or other approval is required.

(c) If the authorized enforcement official identifies a discharge or category of facility or activity that is a source of a non-stormwater discharge in excess of what is allowed by this

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Chapter or of pollutants in stormwater or non-stormwater to the stormwater conveyance system or receiving waters, the discharger may be ordered by the authorized enforcement official to install, implement and maintain additional source control, structural or other BMPs to prevent or reduce the pollutant discharges to the MEP and non-stormwater discharges to the extent necessary to bring the discharge into compliance with this Chapter. Any such order shall specify a reasonable date by which those BMPs must be put in place. Failure to install, implement, or maintain additional BMPs as required by such order, is a violation of this Chapter.

(d) Areas within which facilities and sources will be presumed to be tributary to an impaired water body are identified on the most current listing in the Clean Water Act, Section 303(d). The presumption that a discharge is tributary to an impaired water body can be overcome for a particular discharge based on specific facts and analysis presented by a discharger. In making a site-specific determination as to whether a discharge is tributary to an impaired water body, consideration may be given to the amount of water and pollutant discharged; to whether the pollutant for which the water body is impaired is a suspended or dissolved pollutant; to whether the pollutant is volatile or degradable; and to whether the pollutant is substantially removed during transport by any natural or man-made features (sinks, infiltration areas, ponds or impoundments, vegetated swales or wetlands, media filtration devices, etc.) located between the site and the impaired water body. Any such analysis must consider common mechanisms for pollutant mobilization, remobilization, and transport over time.

(e) An authorized enforcement official may modify any requirement imposed by this Chapter to allow the on-site collection and use of stormwater, or the collection of stormwater for delivery to and use at County-designated sites, provided the modified requirements are enforceable, consistent with the NPDES Order and provide equivalent environmental protection.

(Added by Ord. No. 9424 (N.S.), effective 2-20-02; amended by Ord. No. 9518 (N.S.), effective 1-10-03; amended by Ord. No. 9589 (N.S.), effective 9-5-03; amended by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.804. DISCHARGE PROHIBITIONS.

It is unlawful for any person to:

(a) Discharge or cause the discharge of pollutants or non-stormwater directly or indirectly into the stormwater conveyance system or receiving waters, except as set forth in Section 67.805 or as otherwise authorized by law;

(b) Cause or permit landscape irrigation water to enter the stormwater conveyance system;

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(c) Construct, use or maintain a connection to the stormwater conveyance system that discharges any matter other than stormwater, except as set forth in Section 67.805(a). This Section expressly supersedes any previously issued permit or authorization granted by the County and expressly prohibits any previously legal non-conforming connection;

(d) Throw, deposit, leave, abandon, maintain, or keep materials or wastes on public or private lands in a manner and place where they may result in a discharge;

(e) Discharge stormwater containing sediments in amounts in excess of the sediments that would have been discharged from the site in an undisturbed condition;

{Added by Ord. No. 9424 (N.S.), effective 2-20-02; amended by Ord. No. 9589 (N.S.), effective 9-5-03; amended by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16}

#### SEC. 67.805. EXEMPTIONS FROM DISCHARGE PROHIBITIONS.

The following are exempt from the prohibitions in Section 67.804:

(a) Any discharge or connection regulated under a valid facility-specific NPDES permit or non-stormwater discharges exempted pursuant to Section II.E.2. of the NPDES Order, provided that the discharge or connection is in compliance with all relevant permit conditions and the requirements of the NPDES Order to the satisfaction of the County or Regional Water Quality Control Board.

(b) Discharges of non-stormwater to the stormwater conveyance system covered by or meeting the exception criteria under NPDES Permit No. CAG919003 (Order No. R9-2015-0013, as it may be amended or reissued) for discharges to surface waters within the San Diego Region meeting the requirements enumerated below are allowed unless determined by the County or RWQCB to be a source of pollutants to receiving waters:

(1) Uncontaminated pumped ground water;

(2) Discharges from foundation drains if the system is designed to be located at or below the groundwater table to actively or passively extract groundwater during any part of the year;

(3) Water from crawl space pumps; and

(4) Water from footing drains if the system is designed to be located at or below the groundwater table to actively or passively extract groundwater during any part of the year.

(c) Non-stormwater discharges from water line flushing and water main breaks to the stormwater conveyance system are allowed provided the discharge is covered by NPDES Permit No. CAG679001 (Order No. R9-2010-0003, as it may be amended or reissued) or NPDES General Permit No. CAG140001 (Order 2014-0194-DWQ, as it may be amended or reissued) unless determined by the County or RWQCB to be a source of pollutants to



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receiving waters. This exemption does not cover discharges from recycled or reclaimed water lines unless covered by a separate NPDES permit.

(d) Discharges of non-stormwater to the stormwater conveyance system meeting the requirements enumerated below are allowed unless determined by the County or RWQCB to be a source of pollutants to receiving waters:

- (1) Diverted stream flows;
- (2) Rising ground waters;
- (3) Uncontaminated ground water infiltration to stormwater conveyance system;
- (4) Springs;
- (5) Flows from riparian habitats and wetlands;
- (6) Discharges from potable water sources;

(7) Discharges from foundation drains where the system is designed to be located above the groundwater table at all times of the year, and the system is only expected to discharge non-stormwater under unusual circumstances; and

(8) Discharges from footing drains where the system is designed to be located above the groundwater table at all times of the year, and the system is only expected to discharge non-stormwater under unusual circumstances.

(e) Discharges of non-stormwater to the stormwater conveyance system as enumerated below are allowed unless determined by the County or RWQCB to be a source of pollutants to receiving waters:

- (1) Air conditioning condensation

(A) Whenever feasible, the discharge of air conditioning condensation shall be directed to landscaped areas, pervious surfaces, or to the sanitary sewer.

- (2) Individual residential vehicle washing at a residence in accordance with Section 67.807(b)

(A) Whenever feasible, the discharge of wash water shall be directed to landscaped areas or other pervious surfaces; and

(B) The amount of water, washing detergent and other vehicle wash products used shall be the minimum amount necessary to completely wash the vehicle. This requirement shall be deemed violated if visible soap scum, oil sheen, or other by-products of residential vehicle washing reach the gutter or other drainage conveyance device in front of the residence where the vehicle is being washed.

- (3) Dechlorinated swimming pool discharges

(A) Residual chlorine from swimming pools and fountains must be eliminated prior to discharging to the stormwater conveyance system or receiving waters;

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(B) Filter backwash, acid-wash water (pH < 7.2 and > 8.0), and algaecide-treated pool water shall be prohibited from discharge to the stormwater conveyance system or receiving water; and

(C) The discharge of saline swimming pool water must be directed to the sanitary sewer, landscaped areas, or other pervious surfaces that can accommodate the volume of water, unless the saline swimming pool water can be discharged via a pipe or concrete channel directly to a naturally saline water body (e.g. Pacific Ocean).

(f) Firefighting discharges to the stormwater conveyance system are only prohibited if determined to be a significant source of pollutants to receiving waters by the County or RWQCB. Firefighting discharges to the stormwater conveyance system not identified as a significant source of pollutants to receiving waters are allowed provided they meet the following requirements:

(1) Non-emergency firefighting discharges

(A) Building fire suppression system maintenance discharges (e.g. sprinkler line flushing) to the stormwater conveyance system are prohibited unless BMPs are implemented to prevent pollutants associated with such discharges from entering the stormwater conveyance system.

(B) Non-emergency firefighting discharges (i.e., discharges from controlled or practice blazes, firefighting training, and maintenance activities not associated with building fire suppression systems) must be addressed by a program developed and implemented by the County, to reduce or eliminate pollutants in such discharges from entering the stormwater conveyance system.

(2) Emergency firefighting discharges

(A) The development and implementation of BMPs to reduce or eliminate pollutants in emergency firefighting discharges to the stormwater conveyance system and receiving waters is encouraged, but not required. Notwithstanding the foregoing, the County may require the use of BMPs for firefighting discharges when determined by the authorized enforcement official to be necessary to eliminate or reduce the discharge of pollutants to the stormwater conveyance system or receiving waters. As applicable, required BMPs may include those described in Sections 67.806 and 67.808. Any BMPs that interfere with immediate emergency response operations or impact public health and safety need not be used.

(g) In the event that any non-stormwater discharge identified in Section 67.805 (a) through (f) is determined to be a source of pollutants to receiving waters, it may only be allowed to continue within an applicable Watershed Management Area if controls set forth by the County in the corresponding Water Quality Improvement Plan are implemented to the satisfaction of the RWQCB.

(h) Discharges exempted from compliance by operation or law; any permits, orders or decisions issued by the RWQCB; and any waivers, or renewals of waivers issued by the

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RWQCB such as those covered by Regional Board Order No. R9-2014-0041, adopted June 26, 2014.

(i) Discharges of critical coarse sediment necessary to comply with Section 67.811(b)(5)(C).

(Added by Ord. No. 9424 (N.S.), effective 2-20-02; amended by Ord. No. 9518 (N.S.), effective 1-10-03; amended by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.806. GENERAL BEST MANAGEMENT PRACTICE REQUIREMENTS.

The following requirements apply to all dischargers:

(a) All dischargers must perform and maintain the following BMPs:

(1) Prior to the rainy season, except as required to maintain critical coarse sediment supply pursuant to Section 67.811(b)(5)(C), remove or secure any significant accumulations of eroded soils from slopes previously disturbed by landscaping, clearing or grading, if those eroded soils could otherwise enter and impact the stormwater conveyance system or receiving waters during the rainy season.

(2) Implement, as practicable, those stormwater pollution prevention practices that are generally recognized in that discharger's industry or business as being effective and economically advantageous.

(3) Implement, where feasible, low impact design practices to the Maximum Extent Practicable.

(4) Implement industry standard pollution prevention practices to the Maximum Extent Practicable.

(5) Eliminate illicit connections.

(6) Except as required to maintain critical coarse sediment supply pursuant to Section 67.811(b)(5)(C), protect from erosion those slopes that have been disturbed by clearing, grading, or landscaping and are more than three feet in height or steeper than 3:1 (run-to-rise). Slope protection shall occur prior to the first rainy season following the clearing, grading or landscaping of the slope and continuously thereafter.

(7) Except as required to maintain critical coarse sediment supply pursuant to Section 67.811(b)(5)(C), locate, configure, and manage stockpiles of soil, green waste and compost to prevent the release of materials to the stormwater conveyance system or receiving waters.

(8) Store all materials and wastes with the potential to pollute stormwater in a manner that prevents contact with rainfall, run-on, run-off and wind dispersal.

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(9) Use all materials with the potential to pollute run-off, such as outdoor cleaning and maintenance products, fertilizers, pesticides and herbicides in accordance with label directions. No such product may be disposed of or rinsed into receiving waters or the stormwater conveyance system.

(10) Use dry methods such as sweeping, vacuuming, raking, and application of absorbents to cleanup pollutants, unless wet cleanup methods are otherwise allowed in this Chapter.

(11) Wastewater.

a. It is unlawful for any person to cause, suffer or permit the disposal of sewage, human excrement or other liquid wastes, in any place or manner except through and by means of an approved plumbing and drainage system and an approved and properly installed and maintained sewage disposal system. "Approved sewage disposal system" means a system that is functioning satisfactorily by disposing of all sewage in accordance with all applicable laws and regulations.

b. Temporary Sewage Disposal Facility.

i. Every person must dispose of sewage, human excrement and other liquid wastes in plumbing or drainage system that complies with all local, State, and Federal requirements.

ii. Any person who places, allows, or causes to be placed, a temporary sewage disposal facility on property that person owns or controls must pump and remove all sewage from the temporary sewage disposal facility at an interval no greater than 45 days, and maintain the facility in a manner that prevents leaks, spills, or the creation of a condition of pollution or nuisance, including at a minimum, the following:

(A) The temporary sewage disposal facility must have secondary containment features to control runoff from accidental leaks or spills;

(B) The temporary sewage disposal facility must be located more than 50 feet away from any body of water, inlet, drainage channel, or other stormwater conveyance feature.

(12) Recreational Vehicles. No person may allow or cause solid and liquid waste from a recreational vehicle or trailer to discharge to any portion of the stormwater conveyance system, or otherwise cause or contribute to water pollution or a condition of nuisance.

(b) BMPs shall be maintained to function as intended and designed. BMPs which fail shall be repaired or replaced as soon as it is safe or practicable. If BMPs fail notwithstanding their intent or design, the BMPs shall be modified or upgraded to prevent any further failure in the same or similar circumstances.

(c) Notwithstanding the provisions of this Chapter, an authorized enforcement official may require a discharger to prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) for approval by the authorized enforcement official as follows:

(1) If the discharger fails to comply with any applicable requirement of this Chapter after one or more written notifications or other enforcement actions have been taken

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because BMPs have been determined to be inadequate or are not being adequately maintained.

(2) The activity at issue is considered a significant source of pollutants or a source of a non-stormwater discharge in excess of what is allowed by this Chapter to the stormwater conveyance system or receiving waters. Any discharger required to submit and to obtain approval of a SWPPP shall install, implement and maintain the BMPs specified in the approved SWPPP.

(3) The SWPPP shall identify the BMPs or corrective measures that will be used by the discharger to prevent or control pollution of stormwater to the MEP and bring the non-stormwater discharge into conformance with the requirements of this Chapter. If a facility discharges non-stormwater to ground water, the facility shall obtain an RWQCB permit as required by the State Water Code and shall describe the requirements of that permit in the SWPPP.

(d) Notification of Spills, Releases and Illegal Discharges.

(1) Spills, releases, or discharges of pollutants or non-stormwater in excess of what is allowed by this Chapter to receiving waters or to the stormwater conveyance system shall be reported by the discharger as required by all applicable state and federal laws.

(2) Any such spills, releases or discharges with the potential to endanger health, safety or the environment shall be reported to the Director, Department of Public Works, within 24 hours after discovery of the spill, release or discharge. Spills that have been completely contained and cleaned up on-site are not considered significant unless they pose a threat to human health or safety.

(3) If safe to do so, necessary actions shall be taken to contain and minimize the spill, release or discharge of any pollutants to the MEP and bring any allowed discharge of non-stormwater into compliance with this Chapter.

(e) Sampling, Testing, Monitoring, and Reporting.

(1) Dischargers shall perform the sampling, testing, monitoring and reporting required by this Chapter.

(2) An authorized enforcement official may order a discharger to conduct testing or monitoring and to report the results to the County if one or more of the following occurs:

(A) The authorized enforcement official determines that testing or monitoring is needed to determine whether BMPs are effectively preventing or reducing pollution in stormwater to the MEP or necessary to allow for the continued discharge of non-stormwater under the limited circumstances permitted by this Chapter.

(B) Testing or monitoring is needed to determine whether the facility is a significant source of pollutants or of otherwise prohibited non-stormwater discharges to receiving waters or the stormwater conveyance system.

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(C) The authorized enforcement official determines that testing or monitoring is needed to assess the impacts of a discharge on the public's health, safety or the environment.

(D) A discharge has not been eliminated after written notice by an authorized enforcement official.

(E) The RWQCB requires the County to provide any information related to the discharger's activities.

(3) Sampling, testing or monitoring ordered pursuant to this Section may include one or more of the following:

(A) Visual monitoring of dry weather flows, wet weather erosion, discharge points or conditions of BMPs.

(B) Visual monitoring of premises for spills or discharges.

(C) Laboratory analyses of discharges for pollutants.

(D) Background or baseline monitoring or analysis.

(E) Monitoring of receiving waters or sediments that may be affected by pollutant discharges by the discharger or by a group of dischargers including the discharger.

(4) The authorized enforcement official may direct the manner in which the results of required testing and monitoring are reported, and may determine that sampling, testing or monitoring may discontinue.

(Added by Ord. No. 9424 (N.S.), effective 2-20-02; amended by Ord. No. 9518 (N.S.), effective 1-10-03; amended by Ord. No. 9589 (N.S.), effective 9-5-03; amended by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.807. ADDITIONAL MINIMUM BEST MANAGEMENT AND POLLUTION PREVENTION PRACTICES FOR RESIDENTIAL ACTIVITIES AND USES.

Residential dischargers shall install and maintain BMPs and implement pollution prevention practices, as follows:

(a) Motor Vehicle or Boat Repair and Maintenance.

(1) All repair and maintenance activities shall be performed under a permanent roof or other permanent cover, where feasible.

(2) All maintenance and repair activities conducted without cover or without BMPs to prevent discharges are prohibited during times of precipitation.

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(3) Any release of fluids, including boat bilge water, during repair or maintenance shall be promptly contained and cleaned up. Any absorbent materials used shall be disposed of as required by law.

(4) Degreasing or pressure washing of engines and other parts is prohibited unless the liquid wastes are contained and properly disposed of as required by law.

(5) Automotive and boat materials and wastes shall be stored indoors, under cover, or in secure and watertight containers.

(b) Residential Motor Vehicle Washing.

(1) Individual motor vehicles shall be washed over porous surfaces such as lawns and gravel areas where feasible.

(2) Unused detergent solutions shall not be disposed of directly or indirectly into the stormwater conveyance system or receiving waters. Disposal to the sanitary sewer, such as a sink, toilet or floor drain or to a porous surface, where allowed by this Chapter, is required.

(3) The use of "hose off" or single use engine degreasing chemicals is prohibited, unless captured and disposed of properly.

(4) Motor vehicle washing other than individual residential motor vehicle washing is prohibited.

(5) Degreasing or pressure washing of engines and other parts is prohibited unless the liquid wastes are contained and properly disposed of as required by law.

(c) Motor Vehicle Parking.

(1) Residential dischargers shall remove excessive accumulations of oil and grease deposited by vehicles they own from parking areas, using dry clean-up methods such as absorbents, scraping, vacuuming, sweeping, mop and bucket.

(2) Residential dischargers shall move vehicles from streets when notified to allow street cleaning.

(d) Home and garden care activities and product use.

(1) Residential dischargers or their contractors shall adjust irrigation systems to avoid run-off that causes discharges to the stormwater conveyance system or receiving waters.

(2) Residential dischargers or their contractors shall clean up and properly dispose of spills from gardening chemicals, fertilizers or soils to non-porous surfaces.

(3) Lawn and garden care products shall be stored in closed, labeled containers, such as in covered areas, off the ground, or under protective tarps, and in a manner that will not lead to a discharge.

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(4) Disposal of household hazardous waste directly or indirectly to the trash or to the street, gutter or storm drain is prohibited.

(e) Home care and maintenance.

(1) Cleaning of painting equipment in or over streets, sidewalks, gutters, or yard drains is prohibited.

(2) Action shall be taken to minimize and contain all spills of hazardous materials, if it is safe to do so.

(3) Household hazardous materials shall be stored indoors or under cover, and in closed and labeled containers.

(f) Manure and pet waste management.

(1) Where practicable, all areas where livestock, horses or other large animals are confined, shall be bermed or curbed to contain animal waste where it is produced or managed to prevent discharge of waste or waste byproducts to the stormwater conveyance system or receiving waters. If compliance is not practicable, manure shall be cleaned up at least twice weekly and must be composted or properly stored prior to disposal.

(2) Wastes from small animals (e.g., dogs and cats) shall be cleaned up and properly disposed of at least weekly.

(3) Areas used for storing or composting manure shall be located, configured or managed to prevent run-off to stormwater conveyance system or receiving waters.

(g) Private sewer laterals and on-site wastewater systems.

(1) Private sewer laterals shall be cleaned, maintained and when necessary replaced to prevent seepage and spills. On-site wastewater systems shall be pumped, maintained and when necessary modified or replaced to prevent spills.

(2) Spills from private sewer laterals and on-site wastewater systems shall be contained and cleaned-up in a manner that minimizes any release of pollutants to the stormwater conveyance system or receiving waters.

(3) Any release from a private sewer lateral that enters the stormwater conveyance system or receiving waters shall be immediately reported to the County.

(4) Failed on-site wastewater systems shall be repaired or replaced.

(Added by Ord. No. 9424 (N.S.), effective 2-20-02; amended by Ord. No. 9589 (N.S.), effective 9-5-03; amended by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)



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**SEC. 67.808. ADDITIONAL MINIMUM BEST MANAGEMENT AND POLLUTION PREVENTION PRACTICES FOR INDUSTRIAL, COMMERCIAL AND MUNICIPAL FACILITIES AND ACTIVITIES.**

The following requirements apply to all industrial, commercial and municipal facilities and activities:

(a) The owner or operator shall install and maintain BMPs and implement a pollution prevention program appropriate to the activity, as specified in the following areas and manner:

(1) Stormwater BMP training

(A) Provide stormwater BMP training at least annually to all operators, employees, and workers with responsibility for activities that could result in unauthorized discharges of pollution or non-stormwater.

(B) Training shall address the pollution and non-stormwater generating activities conducted at the facility, the pollutants or risk of non-stormwater discharge associated with those activities, and the BMPs or pollution prevention practices used to minimize or eliminate the discharge of non-stormwater and pollutants.

(C) The following BMP categories shall be included in training, where applicable:

- i. Preventive maintenance.
- ii. Good housekeeping.
- iii. Proper waste disposal.
- iv. Non-stormwater disposal alternatives.
- v. Equipment/vehicle maintenance and repair.
- vi. Spill response, containment, and recovery.
- vii. Recycling, re-use, and volume reduction in materials, water consumption and wastes.
- viii. BMP maintenance.

(2) Where required to implement a SWPPP, retain on site a copy of a current, complete, site-specific SWPPP and make it available for review by the authorized enforcement official, upon request.

(3) Review the operations and procedures relating to protecting the stormwater conveyance system and receiving waters from pollutants and prohibited, non-stormwater discharges at least annually.

(4) Implement pollution prevention methods or those stormwater pollution prevention practices that are generally recognized in that discharger's industry or business

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to eliminate or reduce pollutants in run-off to the MEP and eliminate the discharge of non-stormwater in an amount or manner beyond what is allowed by this Chapter.

(5) Housekeeping.

(A) The property on which the business activity is located shall be inspected for accumulations of debris, litter, waste, organic matter, such as leaves or cut grass or other materials. Such accumulations shall be removed, transported and disposed of in accordance with this Chapter.

(B) Areas where work is being actively conducted shall be cleaned daily using dry clean-up methods such as sweeping, wiping, vacuuming, or raking. Wet clean-up methods such as hosing may only be used if precautions have been taken to prevent the discharge of wash water or other materials to the stormwater conveyance system or receiving waters.

(6) Liquid waste management

(A) Wet clean-up or cleaning methods such as hosing, steaming or pressure washing are prohibited except where adequate precautions have been taken to prevent the discharge of wash water and pollutants into the stormwater conveyance system or receiving waters.

(B) Disposal of slurries to the stormwater conveyance system or receiving waters is prohibited.

(C) Rinse water shall be confined to a designated area such as a sanitary sewer, dead-end sump, process treatment system, or hole where water percolates or evaporates and solids are removed for collection and disposal. Rinse water and solids shall be re-used, recycled, or disposed of in accordance with this Chapter.

(D) Wash water shall be directed to an approved sanitary sewer or landscaped locations.

(E) Wash racks.

i. Wash rack areas shall have perimeter control and be properly sloped to a grated floor drain.

ii. Wash rack areas shall drain to the sanitary sewer or to a holding tank, except that wash racks for animals may drain to the ground in accordance with this Chapter.

(F) Disposal of wastewater to the stormwater conveyance system, receiving waters, or the ground, is prohibited.

(G) If provided, pump-out services for boats, portable toilets, or other holding tanks shall be conducted in a manner that prevents the release of sewage to the stormwater conveyance system or receiving waters.

(H) Wastewater shall be disposed to the sanitary sewer at the job site or to a holding tank. Disposal of wastewater contained in holding tanks shall be disposed of to the sanitary sewer at the business's company headquarters or at an approved facility.

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(I) Discharging backwash wastewater to the stormwater conveyance system or receiving waters is prohibited. Backwash wastewater may be disposed to the sanitary sewer; to a holding tank or settling pond; or where allowed by this Chapter, by infiltration to the soil.

(J) Under the limited circumstances allowed by this Chapter, pool and spa water intended for discharge to the stormwater conveyance system shall be dechlorinated or debrominated prior to discharge.

(K) Under the limited circumstances allowed by this Chapter, pool and spa water discharged after acid washing shall be neutralized to a pH of 7.2 - 8.0.

(L) If rinse water from the cleaning of portable sanitary toilet closets cannot be properly disposed of to the sanitary sewer at a job site, it shall be contained prior to disposal at the service facility or other approved facility.

(M) Wash and rinse water from building and pavement washing that cannot be properly disposed of at the job site shall be collected and contained for recycling, reuse, or proper disposal.

(N) Where irrigation tail-water return ponds are used, the ponds shall be designed with the appropriate vertical separation between the base of the pond and the seasonal high groundwater mark and must be lined or managed to prevent the movement of water-soluble chemicals to the groundwater and to stormwater flows.

(7) Materials and waste management.

(A) Spill prevention and response.

i. Materials and equipment necessary for spill response shall be maintained and kept readily accessible.

ii. All operators, employees, and workers conducting potential discharge activities shall be trained in their proper use.

iii. Spills and leaks shall be promptly cleaned up and the generated waste disposed of in accordance with the applicable federal, state and local laws and regulations.

(B) Hazardous materials and hazardous wastes.

i. Hazardous materials and wastes shall be stored, managed, and disposed in accordance with applicable federal, state and local laws and regulations.

ii. Hazardous materials and wastes shall be stored above the ground. Where practicable, provide overhead coverage for all outside hazardous materials or waste storage areas. If overhead coverage is not available, stored materials shall be covered with an impervious material such as a tarp or other similar method.

iii. Paints, coatings, thinners, and other materials shall be disposed of in accordance with this Chapter.

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iv. Secondary containment of hazardous materials or waste shall be provided around storage areas if the authorized enforcement official has determined that a significant potential exists to discharge materials or wastes to the stormwater conveyance system or receiving waters.

v. Hazardous waste storage areas shall be inspected by the owner or operator, at least once prior to the rainy season and monthly during the rainy season.

vi. Pesticides and other chemical products shall be used, stored, and disposed of in accordance with applicable federal, state, and local laws and regulations.

vii. The outdoor application of fertilizers and pesticides is prohibited during rainfall.

viii. Pesticide use shall be reduced whenever practical in areas where recurring applications of pesticides are performed.

(C) Solid, non-hazardous materials and waste.

i. Trash storage and disposal areas shall be kept clean and free of debris.

ii. Dumpsters, grease bins, grease traps, and interceptors, and other containers shall be maintained in a clean and leak-proof condition and shall be kept securely closed when not in use.

iii. Materials and equipment necessary for the clean-up of trash and debris shall be maintained and kept readily accessible.

iv. Loose aggregate, mortar, and dust shall be routinely cleaned up using dry clean-up methods such as sweeping or vacuuming. Wet methods may be used only if necessary to adequately clean equipment for reuse, or where water must be used to lubricate and flush a cut, but only if performed in accordance with this Chapter.

v. All areas where livestock, horses or other large animals are confined shall be bermed or curbed in a manner that avoids a discharge of manure to the stormwater conveyance system or receiving water. If berms or curbs are not practicable, manure shall be cleaned up at least twice weekly and must be composted or properly stored prior to disposal.

vi. Wastes from small animals (e.g., dogs and cats) shall be cleaned up and properly disposed of at least weekly.

(D) Loading and unloading.

i. Storm drain inlets located within or down-gradient of loading or unloading areas shall be covered or otherwise protected during loading and unloading activities to prevent the entry of pollutants and prohibited non-stormwater discharges into the stormwater conveyance system or receiving waters.

ii. Equipment and supplies stored in loading and unloading areas shall be properly maintained to prevent leaks and spills to the stormwater conveyance system or receiving waters, and to prevent their contact with rainfall and run-on.

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(E) Storage.

i. Outdoor storage areas of materials and equipment shall be configured using berms, dikes, or other diversion structures or other measures that elevate stored materials and equipment from site surfaces.

ii. Containers shall be kept in a leak-proof condition, securely closed when not in use, and stored in a manner that protects them from contact with precipitation or surface waters.

iii. Storage of cement and masonry materials shall be above ground and covered.

iv. Except as required to maintain critical coarse sediment supply pursuant to Section 67.811(b)(5)(C), placement of stock piles within any drainage system is prohibited.

v. Stockpiles and bulk materials, such as soil, fertilizer, and potting mixture shall be covered during windy and rainy conditions where practicable. Prior to the onset of predicted rain, stockpiles shall be covered and bermed to prevent contact with stormwater.

(8) Vehicles and equipment.

(A) All vehicles and equipment shall be properly maintained and inspected to ensure their proper functioning to prevent discharges.

(B) Vehicles and equipment shall not be washed in areas where wash water or rinse water will drain to the stormwater conveyance system or receiving waters.

(C) Infiltration of wash or rinse water to pervious surfaces is allowed with a minimum of 10 feet separation between the groundwater and the pervious surface, except that wash or rinse water generated from cleaning engines, mechanical parts, or heavy equipment shall not infiltrate a pervious surface.

(D) The use of hose-off or single-use engine degreasing chemicals is prohibited, unless captured and properly disposed.

(E) Maintenance and repair equipment shall be kept clean to avoid the build-up of grease and oil.

(F) Fluids shall be drained from any retired vehicles or equipment stored on site.

(G) Vehicle and equipment maintenance and repair work such as body work shall be conducted indoors or under cover, where practicable. If work cannot be conducted indoors or under cover, other BMPs shall be implemented to prevent the discharge of pollutants into the stormwater conveyance system or receiving waters. Discharge of non-stormwater to the stormwater conveyance system is prohibited.

(H) Major repair and maintenance work on boats over or in the water is prohibited. Touch-up painting, tune ups, or other similar activities are not considered major repair or maintenance work, but may only be conducted over or in the water if adequate precautions have been taken to prevent the entry of pollutants into the water.

(9) Outdoor areas - housekeeping and grounds keeping practices.

(A) Storm drain inlets located within or down gradient of the activity shall be covered or otherwise protected from the entry of pollutants and non-stormwater during the work activity.

(B) Landscaping, grounds keeping and agriculture unless exempt pursuant to Section 67.805(h).

i. Except as required to maintain critical coarse sediment supply pursuant to Section 67.811(b)(5)(C), exposed slopes shall be stabilized as soon as possible.

ii. Paved surfaces such as sidewalks shall be cleaned regularly using dry clean-up methods such as sweeping or vacuuming. Hosing is permissible only after surfaces have previously been cleaned using dry methods, and only if precautions have been taken to prevent the discharge of run-off to the storm drain.

iii. Business, industrial and municipal facilities owners and their contractors shall clean-up and properly dispose of spills from any pesticides, herbicides and fertilizers to non-porous surfaces. These materials shall be stored in closed, labeled containers, such as in covered areas, off the ground, or under protective tarps, and in a manner that will not lead to a discharge. Disposal of pesticides, herbicides and fertilizers to the stormwater conveyance system and receiving waters is prohibited.

(C) Parking lots and vehicle storage areas.

i. Wet clean-up methods may only be used where adequate precautions have been taken to prevent the entry of wash water and pollutants into the stormwater conveyance system or receiving waters.

ii. Vehicle maintenance and repair operations with the potential to release non-stormwater or pollutants are prohibited at commercial parking lots and storage facilities.

(D) Rooftops.

i. Materials which may contaminate stormwater shall not be stored on rooftops unless adequate precautions have been taken to prevent their contact with stormwater.

ii. Equipment such as emergency generators, HVAC systems and other similar items located on rooftops shall be inspected and preventive maintenance conducted to prevent leaks and spills.

iii. Substances such as bird droppings, grease, leaves, that have accumulated on rooftops shall be removed, as practicable, to prevent or reduce the discharge of contaminants directly or indirectly to the stormwater conveyance system or receiving waters.

iv. Where feasible, roof downspouts shall be routed away from work areas and toward pervious areas such as lawns, except where required under Section 67.811.

(b) Other requirements.

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(1) Any commercial, industrial, or municipal facility or activity operating under the statewide Industrial General Permit shall provide the following documents for on-site review by the authorized enforcement official as applicable, and if requested:

(A) The Notice of Intent letter or a Waste Discharge Identification Number issued by the SWRCB.

(B) A SWPPP satisfying the requirements of the Industrial General Permit.

(C) A monitoring program satisfying the requirements of the Industrial General Permit.

(D) Training records satisfying the requirements of the Industrial General Permit.

(2) Any discharger whose facilities or activities are not in compliance with this Chapter, or any discharger or category of dischargers determined to pose a significant threat to water quality, may be required to implement additional controls as determined by the authorized enforcement official. The authorized enforcement official may require dischargers to maintain, on site, written documentation of these additional requirements, and to provide such documentation upon request.

(Added by Ord. No. 9424 (N.S.), effective 2-20-02; amended by Ord. No. 9518 (N.S.), effective 1-10-03; amended by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.809. ADDITIONAL REQUIREMENTS FOR CONSTRUCTION PROJECTS.

(a) All owners of land on which a construction project is performed and all persons performing the work, including without limitation any construction projects involving land disturbance activities, except that a local government or public authority is not a discharger for purposes of land disturbance activities conducted by others in connection with a private construction project in public rights-of-way, shall ensure that the following additional types of BMPs shall be installed, implemented, and maintained year round:

(1) Project planning;

(2) Good site management "Housekeeping", including waste management;

(3) Non-stormwater management;

(4) Erosion control;

(5) Sediment control;

(6) Run-on and run-off control; and

(7) Active/passive sediment treatment systems, where applicable.

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(8) BMPs must be site specific, seasonably appropriate, and construction plan appropriate. Dry season BMPs must plan for and address unusual rain events that may occur during the dry season (May 1 through September 30th).

(b) Prior to obtaining any permit that allows for commencement of a construction project that includes land disturbance activities that can potentially generate pollutants in stormwater runoff, the owner of the property on which the land disturbance activities are performed or the person performing the work shall submit, to the satisfaction of the Director of Public Works or the authorized enforcement official, the following:

(1) A plan describing the pollution control strategies to be implemented on-site that complies with local ordinances and the NPDES Order. The plan submittal shall include the following information:

(A) The name, address, phone number and email for the owner and person performing the work;

(B) Basic site information including the address, hydrologic subarea, Waste Discharge Identification Number (WDID), if applicable, and approximate area of disturbance;

(C) Whether the site is considered a high threat to water quality pursuant to the NPDES Order;

(D) The project's estimated start and completion dates; and

(E) Identification of seasonally appropriate and effective BMPs and management measures as described in Section 67.809(a).

(c) BMPs shall be inspected routinely by the person performing the land disturbance activity or construction project and the property owner to ensure the BMPs are maintained and continue to function as intended. In addition, BMPs shall be inspected and maintenance, repair or replacement performed following every rain event to ensure the BMPs continue to function as intended.

(Added by Ord. No. 9424 (N.S.), effective 2-20-02; amended by Ord. No. 9518 (N.S.), effective 1-10-03; amended by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

SEC. 67.810. [RESERVED.]

(Added by Ord. No. 9424 (N.S.), effective 2-20-02; amended by Ord. No. 9518 (N.S.), effective 1-10-03; amended by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; repealed by Ord. No. 10410 (N.S.), effective 2-26-16)



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**SEC. 67.811. ADDITIONAL PLANNING, DESIGN AND POST-CONSTRUCTION REQUIREMENTS FOR DEVELOPMENT PROJECTS (AFTER EFFECTIVE DATE OF BMP DESIGN MANUAL).**

(a) Requirements for all Development Projects: All new development and significant redevelopment projects must be designed, constructed, and maintained to employ post-construction BMPs, consistent with the BMP Design Manual, including, but not limit to the following:

(1) Any person performing construction work in the County, regardless of whether a permit is required for such work, must effectively prohibit pollutants from entering the stormwater conveyance system by complying with all applicable local ordinances, and the County's current BMP Design Manual and JRMP. Projects proposing to add or replace 10,000 square feet (or more) of impervious surfaces must prepare a Priority Development Project Stormwater Quality Management Plan and construct all BMPs per Section 67.811(b).

(2) Prior to the issuance of a permit for any new development or significant redevelopment, the project applicant must prepare and submit project plans for review and approval, including submit a SWQMP and supporting technical documentation, BMP Plan Sheet, Erosion and/or Pollution Control Plan, drainage management area exhibit and any other required plans, identifying the measures that will be used for stormwater and non-stormwater management for the project consistent with the County BMP Design Manual. Plans must describe the manner in which BMPs required by this chapter will be implemented and maintained.

(3) The owner of a new development or significant redevelopment project, or upon transfer of the property, its successors and assigns, must implement and adhere to the terms, conditions and requirements imposed on the new development or significant redevelopment pursuant to this section and any Stormwater Maintenance Agreement associated with the project. This includes, but is not limited to, ongoing maintenance of all post-construction BMPs. Failure by the owner of the property or its successors or assigns to implement and adhere to the terms, conditions and requirements imposed pursuant to this section and/or any Stormwater Maintenance Agreement associated with the project constitutes a violation of this chapter.

(4) Follow as applicable the approach and criteria described in the State Water Resources Control Board General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities.

(5) General Requirements. BMPs shall be designed, constructed and maintained as follows:

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(A) Onsite BMPs must be located so as to remove pollutants from runoff prior to its discharge to any receiving waters, or to the stormwater conveyance system, be located as close to the source as possible;

(B) Structural BMPs may not be constructed in receiving waters; and

(C) Onsite BMPs must be designed and implemented with measures to avoid the creation of nuisance or pollution associated with vectors (e.g., mosquitos, rodents, or flies).

(6) Source Control BMPs for all development projects must:

(A) Prevent illicit discharges into the stormwater conveyance system;

(B) Stencil and mark all storm drains in accordance with the BMP Design Manual;

(C) Protect all outdoor material storage areas from rainfall, run-on, runoff, and wind dispersal including the following:

- Storage areas must be paved and sufficiently impervious to contain leaks and spills.
- The storage area shall be sloped towards a sump or another equivalent measure that is effective to contain spills.
- Runoff from downspouts/roofs must be directed away from storage areas.
- The storage area must have a roof or awning that extends beyond the storage area to minimize collection of storm water within the secondary containment area. A manufactured storage shed may be used for small containers.
- Use other methods approved by the County.

(D) Protection of materials stored in outdoor work areas from rainfall, run-on, runoff, and wind dispersal including the following:

- Create an impermeable surface such as concrete or asphalt, or a prefabricated metal drip pan, depending on the size needed to protect the materials.
- Cover the area with a roof or other acceptable cover.
- Berm the perimeter of the area to prevent water from adjacent areas from flowing on to the surface of the work area.
- Directly connect runoff to sanitary sewer or other specialized containment system(s), as needed and where feasible. Approval for this connection must be obtained from the appropriate sanitary sewer agency.
- Locate the work area away from storm drains or catch basins.
- Use other methods approved by the County.

(E) Protection trash storage areas from rainfall, run-on, runoff, and wind dispersal including the following:

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- Design trash container areas so that drainage from adjoining roofs and pavement is diverted around the area(s) to avoid run-on. This can include berming or grading the waste handling area to prevent run-on of storm water.
- Ensure trash container areas are screened or walled to prevent offsite transport of trash.
- Provide roofs, awnings, or attached lids on all trash containers to minimize direct precipitation and prevent rainfall from entering containers.
- Locate storm drains away from immediate vicinity of the trash storage area and vice versa.
- Post signs on all dumpsters informing users that hazardous material are not to be disposed.
- Use other methods approved by the County.

(F) Implement additional BMPs as the County determines necessary to minimize pollutant generation.

(7) Site Design Requirements. Where applicable and feasible, the following Site Design BMPs must be implemented at all development projects:

(A) Natural storage reservoirs and drainage corridors (including topographic depressions, areas of permeable soils, natural swales, and ephemeral and intermittent streams) must be maintained or restored;

(B) Buffer zones must be provided for natural water bodies whenever technically feasible. When buffer zones are technically infeasible, other buffers such as trees and access restrictions are required;

(C) Natural areas within the project footprint should be conserved whenever possible;

(D) Streets, sidewalks, and parking lot aisles shall be constructed to the minimum widths necessary consistent with public safety;

(E) The impervious footprint of the project shall be minimized;

(F) Soil compaction to landscaped areas shall be minimized where doing so does not create an excessive risk of slope failure or erosion;

(G) Impervious surfaces shall be disconnected by disturbed pervious areas that can be used to infiltrate runoff;

(H) Landscaped or other pervious areas shall be designed and constructed to effectively receive and infiltrate, retain, and/or treat runoff from impervious areas prior to discharging to the stormwater conveyance system;

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(I) Small collection strategies shall be located at, or as close as possible to, the source of the discharge;

(J) Permeable materials shall be used for projects with low traffic areas and appropriate soil conditions;

(K) Native or drought tolerant landscaping shall be used; and

(L) Precipitation shall be harvested and used for landscaping or other permitted use.

(b) Additional Requirements for Priority Development Projects. These requirements apply only to projects west of the Pacific/Salton Sea Divide. In addition to meeting the BMP requirements applicable to all other development projects as required by the NPDES Order and set forth above, the following are applicable to Priority Development Projects.

(1) Priority Development Projects include:

(A) New development projects that create 10,000 square feet or more of impervious surfaces (collectively over the entire project site), regardless of whether a permit is required for such work. This includes flat work and all commercial, industrial, residential, mixed-use, and public development projects on public or private land.

(B) Redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site on an existing site of 10,000 square feet or more of impervious surfaces). This includes commercial, industrial, residential, mixed-use, and public development projects on public or private land.

(C) New and redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site), and support one or more of the following uses:

i. Restaurants. This category is defined as a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812).

ii. Hillside development projects. This category includes development on any natural slope that is twenty-five percent or greater.

iii. Parking lots. This category is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.

iv. Streets, roads, highways, freeways, and driveways. This category is defined as any paved impervious surface used for the transportation of automobiles, trucks, motorcycles, and other vehicles.

(D) New or redevelopment projects that create and/or replace 2,500 square feet or more of impervious surface (collectively over the entire project site) and discharging directly to an ESA. "Discharging directly to" includes flow that is conveyed overland a distance of 200 feet or less from the project to the ESA, or conveyed in a pipe or open

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channel any distance as an isolated flow from the project to the ESA (i.e., not commingled with flows from adjacent lands).

(E) New development projects, or redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface, that support one or more of the following uses:

i. Automotive repair shops. This category is defined as a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.

ii. Retail gasoline outlets (RGOs). This category includes RGOs that meet the following criteria:

a. 5,000 square feet or more; or

b. A projected Average Daily Traffic (ADT) of 100 or more vehicles per day.

(F) New or redevelopment projects that result in the disturbance of one or more acres of land and are expected to generate pollutants post construction.

(2) The following projects shall not be considered priority development projects:

(A) New or retrofit paved sidewalks, bicycle lanes, or trails that meet the following criteria:

i. Designed and constructed to direct stormwater runoff to adjacent vegetated areas, or other non-erodible permeable areas; or

ii. Designed and constructed to be hydraulically disconnected from paved streets or roads; or

iii. Designed and constructed with permeable pavements or surfaces in accordance with USEPA Green Streets guidance.

(B) Retrofitting or redevelopment of existing paved alleys, streets or roads that are designed and constructed in accordance with the USEPA Green Streets guidance. Compliance with any Green Street guidance developed by the County shall be deemed to satisfy this requirement as long as that guidance is as protective of water quality as the USEPA Green Streets guidance. Green Streets projects are subject to County review and approval.

(3) Special considerations for redevelopment projects:

(A) Where redevelopment results in the creation or replacement of impervious surface in an amount of less than fifty percent of the surface area of the previously existing development, then the structural BMP performance requirements defined in the BMP Design Manual apply only to the creation or replacement of impervious surface, and not the entire development; or

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(B) Where redevelopment results in the creation or replacement of impervious surface in an amount of more than fifty percent of the surface area of the previously existing development, then the structural BMP performance requirements defined in the BMP Design Manual apply to the entire development.

(4) Priority Development Projects must submit a PDP Stormwater Quality Management Plan (PDP SWQMP), with an application for a County permit or other County approval, identifying the measures that will be used for stormwater and non-stormwater management for the project consistent with the County BMP Design Manual. If the overall project is determined to be a PDP, applicants that phase work must still satisfy applicable stormwater requirements identified in the project's approved SWQMP. Applicants cannot phase work to bypass PDP requirements and must design and plan stormwater and hydromodification controls for the project as per the project's approved SWQMP. All structural BMPs must conform to performance requirements described below:

(A) Each PDP must implement BMPs that are designed to retain (i.e., intercept, store, infiltrate, evaporate, and evapotranspire) onsite the pollutants contained in the volume of stormwater runoff produced from a 24-hour 85th percentile storm event (design capture volume); or

(B) If retaining the full design capture volume onsite is not technically feasible, biofiltration BMPs may be used. Biofiltration BMPs must be designed to have an appropriate hydraulic loading rate to maximize stormwater retention and pollutant removal, as well as to prevent erosion, scour, and channeling within the BMP, and must be sized to:

i. Treat 1.5 times the design capture volume not reliably retained onsite, or

ii. Treat the design capture volume not reliably retained onsite with a flow-thru design that has a total volume, including pore spaces and pre-filter detention volume, sized to hold at least 0.75 times the portion of the design capture volume not reliably retained onsite.

(C) If the County determines that biofiltration is not technically feasible, then a PDP may be allowed to utilize flow-thru treatment control BMPs to treat runoff leaving the site, AND mitigate for the design capture volume not reliably retained onsite pursuant to the requirements in Section 67.811(b)(6). Flow thru treatment control BMPs must be sized and designed to:

i. Remove pollutants from storm water to the MEP;

ii. Filter or treat either: 1) the maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour, for each hour of a storm event, or 2) the maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity (for each hour of a storm event), as determined from the local historical rainfall record, multiplied by a factor of two;

iii. Be ranked with high or medium pollutant removal efficiency for the PDP's most significant pollutants of concern. Flow-thru treatment control BMPs with a low removal

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efficiency ranking will only be approved by the County if a feasibility analysis has been conducted which exhibits that implementation of flow-thru treatment control BMPs with high or medium removal efficiency rankings are infeasible for the applicable portion of a PDP.

(5) Hydromodification Management BMP Requirements. Priority Development Projects must implement onsite BMPs to manage hydromodification that may be caused by stormwater runoff discharged from a project as follows:

(A) Hydromodification BMPs must be sized and designed such that post-project runoff conditions (flow rates and durations) will not exceed pre-development runoff conditions by more than 10 percent (for the range of flows that result in increased potential for erosion, or degraded instream habitat downstream of Priority Development Projects).

i. In evaluating the range of flows that results in increased potential for erosion of natural (non-hardened) channels, the lower boundary must correspond with the critical channel flow that produces the critical shear stress that initiates channel bed movement or that erodes the toe of channel banks.

(B) A Priority Development Project may be exempted from the hydromodification management BMP performance requirements where the project discharges stormwater runoff to:

i. Existing underground storm drains that discharge directly to water storage reservoirs, lakes, enclosed embayments, or the Pacific Ocean; or

ii. Conveyance channels whose bed and bank are concrete lined all the way from the point of discharge to water storage reservoirs, lakes, enclosed embayments or the Pacific Ocean; or

iii. An area identified by the County as appropriate for an exemption through a Watershed Management Area Analysis incorporated into a Water Quality Improvement Plan accepted by the RWQCB.

(C) PDP projects must avoid critical coarse sediment yield areas as identified by the County unless measures are implemented consistent with the BMP Design Manual that allow critical coarse sediment to be discharged to receiving waters, such that there is no net impact to the receiving water.

(6) A PDP may be allowed at the County's discretion to utilize offsite alternative compliance in lieu of complying with the storm water pollutant control and hydromodification BMP performance requirements in Section 67.811(b)(4)-(5). The PDP must mitigate for the portion of the pollutant load in the design capture volume not retained onsite and/or post-project runoff conditions not fully managed onsite consistent with a Water Quality Equivalency (WQE) Guidance Document accepted by the RWQCB. If a PDP is allowed to utilize offsite alternative compliance, flow-thru treatment control BMPs must be implemented to treat the portion of the design capture volume that is not reliably retained onsite. Flow-thru treatment control BMPs must be sized and designed in

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accordance with the requirements of Section 67.811(b)(4)(C). An offsite alternative compliance project for a private PDP may be partially or wholly located within the County Right-of-way upon approval of the Authorized Enforcement Officer. Any and all costs associated with the project shall be the sole responsibility of the applicant, including design and installation and the effective operation and maintenance in perpetuity of any and all treatment and hydromodification controls required under this Chapter. The County shall retain the authority to recoup as necessary any and all such costs.

(7) The following requirements apply to the use of infiltration BMPs:

(A) Infiltration BMPs shall not cause or contribute to an exceedance of applicable groundwater quality objectives as set out in the RWQCB "Basin Plan" for the San Diego area;

(B) Runoff must undergo pretreatment such as sedimentation or filtration prior to infiltration;

(C) Pollution prevention and source control BMPs must be implemented at a level appropriate to protect groundwater quality at sites where infiltration BMPs are to be used;

(D) Infiltration BMPs must be adequately maintained to remove pollutants in stormwater to the MEP;

(E) The vertical distance from the base of any infiltration BMP to the seasonal high groundwater mark must be at least 10 feet. Where groundwater basins do not support beneficial uses, this vertical distance criteria may be reduced, provided groundwater quality is maintained;

(F) The soil through which infiltration is to occur must have physical and chemical characteristics (e.g., appropriate cation exchange capacity, organic content, clay content, and infiltration rate) which are adequate for proper infiltration durations and treatment of runoff for the protection of groundwater beneficial uses;

(G) Infiltration BMPs must not be used for areas of industrial or light industrial activity, and other high threat to water quality land uses and activities as designated by the County, unless source control BMPs to prevent exposure of high threat activities are implemented, or runoff from such activities is first treated or filtered to remove pollutants prior to infiltration; and

(H) Infiltration BMPs must be located a minimum of 100 feet horizontally from any water supply wells and 25 feet from any septic system or as prescribed by County of San Diego Department of Environmental Health and Quality.

(8) A priority development project shall not receive a certificate of occupancy or other final approval allowing use of the project site or any portion thereof, until after all required structural BMPs have been constructed in accordance with the PDP SWQMP, BMP Design Manual, this Chapter, and the NPDES Order.

(c) Grandfathering under Previous Land Development Requirements. The requirements of Sections 67.811(a) and (b) apply to all development projects unless a prior lawful



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approval to proceed under the provisions of a prior MS4 Permit has been obtained from the County. The Authorized Enforcement Official may partially or wholly waive these requirements for any private or public development project meeting the conditions of either Section 67.811(c)(1) or (2) below.

(1) Previous land development requirements may be allowed to apply to any portion or phase of a development project for which the Authorized Enforcement Official determines the County lacks the land use authority or legal authority to require the project to implement the requirements of Sections 67.811(a) and/or (b).

(2) At its discretion, the Authorized Enforcement Official may allow the requirements of the immediately prior MS4 Permit to apply to any portion or phase of a Priority Development Project for which all of the conditions below have been satisfied.

(A) Initial Approvals. Prior to the effective date of the current MS4 Permit provisions, the applicant must have:

i. Obtained an approval of a design that incorporates the storm water drainage system for the Priority Development Project in its entirety, including all applicable structural and hydromodification management BMPs consistent with the requirements of the prior MS4 permit. For public projects, a design stamped by the County Engineer or engineer of record for the project is considered an approved design; and

ii. Been issued a project permit or approval that authorizes the commencement of construction activities based on the design approved in Section 67.811(c)(2)(A)i;

For purpose of Section 67.811(c), the effective date of the 2013 MS4 Permit provisions is February 26, 2016.

(B) Demonstrated to the County's satisfaction that construction activities have commenced on any portion of the Priority Development Project site within 365 days prior to, or 180 days after, the effective date of the current MS4 Permit provisions, where construction activities are undertaken in reliance on the permit or approval.

(C) Subsequent Approvals. Within five years of the effective date of the current MS4 Permit provisions, the applicant must have obtained all subsequent project permits or approvals that are needed to implement the design initially approved in conformance with Section 67.811(c)(2)(A)i. After that time, any portion or phase of a Priority Development Project for which subsequent approvals have not been obtained is required to meet the updated requirements of Section 67.811(a) and (b).

(D) Substantial Conformance. The storm water drainage system for the Priority Development Project in its entirety, including all applicable structural pollutant treatment control and hydromodification management BMPs must remain in substantial conformity with the design initially approved in conformance with Section 67.811(c)(2)(A)i. Any portion or phase of a Priority Development Project not maintaining substantial conformity with this design is required to meet the updated requirements of Sections 67.811(a) and (b).

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(Added by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**SEC. 67.812. MAINTENANCE OF STRUCTURAL BMPs, SIGNIFICANT SITE DESIGN BMPs AND NATURAL SYSTEM MANAGEMENT PRACTICES.**

(a) All existing and new development shall maintain the post-construction structural BMPs, significant site design BMPs, and natural system management practices (NSMP), relied upon to achieve and maintain compliance with this Chapter and NPDES Order. The owner of the land on which the BMPs and/or NSMPs are located or the person responsible for completing the BMPs and/or NSMPs as part of a development project shall implement, maintain, replace, or retrofit the pollutant control BMPs, hydromodification control BMPs and/or NSMPs as necessary to ensure pollutants are removed from stormwater to the MEP and all prohibited non-stormwater discharges are prevented from reaching the stormwater conveyance system or receiving waters. BMPs shall remain effective and function in the manner intended. All BMPs must be maintained to avoid the creation of nuisance or pollution associated with vectors (e.g. mosquitos, rodents, or flies).

(b) The owners and occupants of lands on which post-construction structural BMPs, significant site design BMPs, and/or NSMPs have been installed to meet the requirements of this Chapter and the NPDES Order shall ensure the maintenance and effective operation of those BMPs and/or NSMPs, and shall themselves maintain, replace, or retrofit those BMPs or NSMPs if other persons or entities who are also obliged to maintain those BMPs fail to do so. The owners and occupants shall provide documentation of such maintenance and effective operation annually and as requested by the authorized enforcement official.

(c) Primary responsibility to maintain post-construction structural BMPs, significant site design BMPs, and/or NSMPs may be transferred through a contract or other agreement. If that contract provides that it will be submitted to the County pursuant to this Chapter as part of a development permit application, and if that contract is so submitted, the person or entity accepting a maintenance obligation in such a contract or agreement will also be legally obliged to maintain that BMP or NSMP pursuant to this Chapter.

(d) For purposes of County enforcement, no contract or other agreement imposing an obligation to maintain a BMP or NSMP can relieve a person or entity of any obligation to maintain a BMP or NSMP imposed by this Chapter.

(e) Any developer or property owner who transfers ownership of land on which a post-construction, structural BMP, significant site design BMPs, and/or NSMP is located or will be located, or who otherwise transfers ownership of a post-construction structural BMP and/or NSMP or responsibility for the maintenance of such a BMP to another person or entity, shall provide clear written notice of the maintenance obligations associated with that BMP to the new or additional responsible party prior to that transfer. The developer or property owner must provide a copy of the written notice to the County within 30 days of the transfer. The notice shall clearly identify the location of the BMP(s), maintenance

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recommendations and requirements, and provide contact information for the County Watershed Protection Program.

(f) The proponents of any land development project for which post-construction structural BMPs, significant site design BMPs, and/or NSMPs are required must enter into a maintenance agreement for each practice. The maintenance agreement shall be provided to the County for review and approval prior to issuance of permits, and must include a plan for maintenance of all post-construction structural BMPs and NSMPs associated with the project. The plan shall specify the persons or entities responsible for maintenance activity, the persons or entities responsible for funding, schedules and procedures for inspection and maintenance of the BMPs, worker training requirements, and any other activities necessary to ensure BMP or NSMP maintenance. The plan shall provide for servicing of all post-construction structural BMPs and NSMPs at least annually and for the retention of inspection and maintenance records for at least three (3) years. Maintenance agreements must be recorded and shall run with the land.

(g) The proponents of any development project that requires a discretionary County permit shall provide to the County for review and approval prior to issuance of permits, an executed, permanent easement onto the land on which post-construction structural BMPs or NSMPs will be located, and across other lands as necessary for access, to allow inspection and maintenance of those practices.

(h) The proponents of any project that requires a discretionary County permit shall provide to the County prior to issuance of such permit, proof of a mechanism acceptable to the County which will ensure ongoing long-term maintenance of all post-construction structural BMPs and NSMPs associated with the proposed project. The proponents shall be responsible for maintenance, repair and replacement of BMPs and/or NSMPs unless and until an alternative mechanism for ensuring maintenance is accepted by the County and becomes effective.

(i) The County or another public entity may accept responsibility for maintenance of any post-construction structural BMP, significant site design BMP, or NSMP, under such conditions as the County or other public entity determines are appropriate. Where a maintenance obligation is proposed to be accepted by a public entity other than the County, the County shall be involved in the negotiations with that agency, and in negotiations with the resource agencies responsible for issuing permits for the construction or maintenance of the post-construction, structural BMP or NSMP. The County must be identified as a third-party beneficiary empowered to enforce any such maintenance agreement.

(Added by Ord. No. 9424 (N.S.), effective 2-20-02; amended by Ord. No. 9518 (N.S.), effective 1-10-03; amended by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

SEC. 67.813. INSPECTION/SAMPLING.

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(a) Authorized enforcement officials may inspect facilities, activities and residences subject to this Chapter at reasonable times and in a reasonable manner to carry out the purposes of this Chapter. If entry for a regulatory inspection is refused by the owner or operator, or by the occupant of a residence, an inspection warrant shall be obtained prior to inspection.

(b) When any new post-construction structural BMP is installed on private property as part of a project that requires a County permit, in order to comply with this Chapter, the property owner shall grant to the County an easement to enter the property at reasonable times and in a reasonable manner to ensure that the BMP is working properly. This includes the right to enter the property without prior notice once per year or as otherwise required by the NPDES Order for routine inspections, to enter as needed for additional inspections when the County has a reasonable basis to believe that the BMP is not working properly, to enter for any needed follow-up inspections, and to enter when necessary for abatement of a nuisance or correction of a violation of this Chapter.

(c) Inspections may include all actions necessary to determine whether any illegal discharges or illicit connections exist, whether the BMPs installed and implemented are adequate to comply with this Chapter, whether those BMPs are being properly maintained, and whether the facility or activity complies with the other requirements of this Chapter. This may include but may not be limited to sampling, metering, visual inspections, and records review. Where samples are collected the owner or operator may request and receive split samples. Records, reports, analyses, or other information required under this Chapter may be inspected and copied, and photographs taken to document a condition and/or a violation of this Chapter.

(Added by Ord. No. 9424 (N.S.), effective 2-20-02; amended by Ord. No. 9589 (N.S.), effective 9-5-03; amended by Ord. No. 9926 (N.S.), effective 4-11-08; amended by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.814. ENFORCEMENT.

(a) General. The authorized enforcement official and each agent or deputy thereof who is assigned to duties which include the enforcement of this Chapter in the San Diego County Code of Regulatory Ordinances, and any peace officer, are authorized to enforce the provisions of this Chapter, including the activities set forth in this Section below.

(b) Order to Stop, Repair Work and Bonds. Whenever the authorized enforcement official determines that any activity regulated by this Chapter causes or threatens to cause the discharge of pollutants in stormwater, the prohibited discharge of non-stormwater to the stormwater conveyance system or receiving waters, or otherwise violate a requirement of this Chapter, he or she may order work to be stopped and/or repairs, BMPs, pollution prevention practices or other corrections to be made, by serving written notice on the owner, permittee or any person engaged in the doing or causing such activity to be performed, and such persons shall immediately stop such work until authorized by the

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authorized enforcement official in writing to proceed. The authorized enforcement official may require performance and payment bonds for the full cost of any repair work in a form meeting the substantive requirement for bonds specified by the County Subdivision Ordinance.

(c) Notice of Violation. The authorized enforcement official may issue and enforce Notices of Violation and Notices of Ineligibility for Land Development, pursuant to this Chapter.

(d) Administrative Remedies, Fines and Liens. The authorized enforcement official may pursue the Administrative Remedies set forth at Division 8 of Title 1 of this Code, including the issuance of Administrative Citations pursuant to Chapter 1 (commencing with Section 18.101) of said Division 8. Unpaid administrative citations may be recorded against the property on which the violation occurred and may be foreclosed in any manner allowed by State law or County ordinance for the foreclosure of liens.

(e) Arrests and Citations. The authorized enforcement official shall have the power to make arrests for violations of this Chapter and State laws which he or she has a duty to enforce, and to issue citations for such violations. Any person so arrested who does not demand to be taken before a magistrate may instead be cited in the manner prescribed in Chapter 5C (commencing with Section 853.5) of Title 3, Part 2 of the Penal Code. The authorized enforcement official may arrest an owner without warrant whenever they have reasonable cause to believe that the person arrested has committed a violation of this Chapter, provided that the officer or employee making the arrest shall have completed a course of training that meets the minimum standards prescribed by the Commission on Peace Officer Standards and Training as prescribed by Section 832(a) of the Penal Code. An officer or employee making an arrest under this Section shall follow the citation-release procedures prescribed by the Penal Code.

(f) Non-Liability. The authorized enforcement official charged with the enforcement of this Chapter, acting in good faith and without malice for the County in the discharge of his duties, shall not thereby render himself or herself liable personally and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his duties. Any suit brought against the authorized enforcement official, because of such act or omission performed by him or her in the enforcement of any provisions of this Chapter, shall be defended by the legal department of the County until final termination of the proceedings.

(Added by Ord. No. 10096 (N.S.), effective 1-7-11; amended by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.815. VIOLATIONS - CRIMINAL PENALTIES.

(a) Any person violating any provision of this Chapter shall be deemed guilty of a misdemeanor, unless, in the discretion of the prosecutor, it is charged as an infraction. A

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person convicted of a third or subsequent such violation within two years from the date of the first conviction shall be deemed guilty of a misdemeanor.

(b) Any person convicted of an infraction under this Chapter shall be punished by a fine not exceeding one hundred dollars for the first violation, two hundred dollars for the second violation within one year, and five hundred dollars for each subsequent violation within one year. Any person convicted of a misdemeanor under this Chapter shall be punished by imprisonment in the County jail for a term not exceeding six months, or by a fine not exceeding one thousand dollars, or both.

(c) Each day or any portion of a day that any person violates or continues to violate provisions of this Chapter constitutes a separate offense and may be charged and punished separately without awaiting conviction on any prior offense. The penalties imposed by this Section are in addition to penalties imposed under other provisions of this Code and other County ordinances.

(d) Paying a fine or serving a jail sentence shall not relieve any owner or permittee from responsibility for correcting any condition which violates any provision of this Chapter.

(Added by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.816. VIOLATIONS - PUBLIC NUISANCE.

In addition to any penalty prescribed for violation of this Code, any discharge of pollutants in stormwater, prohibited discharge of non-stormwater to the stormwater conveyance system or receiving waters, or act done contrary to the provisions of this Chapter is unlawful and a public nuisance. Any work performed without a Standard SWQMP, PDP SWQMP, SWPPP or other plan required by this Chapter prior to commencement of work, regardless of whether such failure is due to neglect or refusal, shall be prima facie evidence that a public nuisance has been committed. A public nuisance may be abated 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, upon order of the Board of Supervisors, the County Counsel is authorized to commence necessary proceedings provided by law to abate, remove and/or enjoin such public nuisance.

(Added by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.817. VIOLATIONS - DENIAL OF SUBSEQUENT PERMITS AND OCCUPANCY.

Any work performed on a priority development project or land disturbance activities on a construction project performed without first obtaining a Standard SWQMP, PDP SWQMP, SWPPP or other plan required by this Chapter and any violation of one or more conditions contained in such a plan where the violation results in or threatens to result in the

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discharge of pollutants in stormwater or a prohibited, non-stormwater discharge to the stormwater conveyance system or receiving waters, shall be grounds for denying for five years all applications for grading permits, administrative permits, site plans, use permits, major and minor subdivisions, rezones, specific plans, specific plan amendments, general plan amendments and other land development applications proposed for the property on which the violation occurred. The "property" shall be deemed to include the lot or parcel on which the violation occurred, together with all adjacent parcels owned by the same person or entity or which are part of a common plan of development. The five-year period shall commence from the date of the violation, if documented, or from the date of discovery of the violation. The Board of Supervisors may waive the penalty imposed by this subsection, for good cause. Any such waiver, if granted, shall in no way relieve the owner or applicant for any such subsequent land development application, of their duty to include the environmental effects of the violation in any environmental analysis performed for the subsequent application, to restore or rehabilitate the site, implement such BMPs and/or pollution prevention practices as may be necessary to resolve the violation, and provide substitute or compensating resources, or perform other appropriate measures to mitigate the adverse effects of the illegal activity.

(Added by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.818. VIOLATIONS - INJUNCTIVE OR DECLARATORY RELIEF.

In addition to or in lieu of other remedies specified in this Chapter, any violation of this Chapter may be enforced by a judicial action for injunctive or declaratory relief.

(Added by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.819. VIOLATIONS - CIVIL PENALTIES.

(a) As part of a civil action filed by the County to enforce provisions of this Chapter, a court may assess a maximum civil penalty of \$2,500 per violation of this Chapter for each day during which any violation of any provision of this Chapter is committed, continued, permitted or maintained by such person(s).

(b) In determining the amount of any civil liability to be imposed pursuant to this Chapter, the superior court shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, whether any discharge caused by the violation is susceptible to cleanup or abatement, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, the extent of any advantage gained by an unfair business practice, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

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(Added by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.820. VIOLATIONS - COST RECOVERY.

In addition to other penalties and remedies permitted in this Chapter, the following may be awarded without monetary limitations in any civil action:

- (a) Costs to investigate, inspect, monitor, survey, or litigate;
- (b) Costs to place or remove BMPs; costs to correct any violation; and costs to end any adverse effects of a violation;
- (c) Compensatory damages for losses to the County or any other plaintiff caused by violations; and/or
- (d) Restitution to third parties for losses caused by violations.

(Added by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

#### SEC. 67.821. NOTICE OF INELIGIBILITY FOR LAND DEVELOPMENT.

(a) If the authorized enforcement official believes that work has been performed on a priority development project or land disturbance activities on a construction project have been performed without first obtaining a Standard SWQMP, PDP SWQMP, SWPPP or other plan required by this Chapter and any violation of one or more conditions contained in such a plan where the violation results in or threatens to result in the discharge of pollutants in stormwater or a prohibited, non-stormwater discharge to the stormwater conveyance system or receiving waters, he or she may deliver to the owner of the property upon which the activity occurred a Notice of Intent to File a Notice of Ineligibility for Land Development with the Departments of Planning and Development Services and Public Works. The notice of intent shall be either served upon the owner personally or be both mailed (via certified mail, return receipt requested) to the owner at the address shown on the most recent tax assessment records and posted on the property. The notice of intent shall state the authorized enforcement official's intention to file the Notice of Ineligibility for Land Development, and shall fix a location, time and date (which shall not be less than fifteen days after the delivery of the notice), at which the authorized enforcement official will hold a hearing at which the owner may submit to the authorized enforcement official written comments or reasons why a Notice of Ineligibility for Land Development should not be filed. The authorized enforcement official shall hold the hearing at the appointed time, shall consider any information provided by the owner, and shall determine whether a violation occurred, whether it has been remedied, and whether to file a Notice of Ineligibility for Land Development.



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(b) If the authorized enforcement official files a Notice of Ineligibility for Land Development, and for so long as said notice remains in effect, no application for a building permit, administrative permit, site plan, use permit, variance, tentative parcel map, tentative map, parcel map or final map or any other permit for the development of the subject property shall be approved. All such applications shall be denied, and the authorized enforcement official receiving such an application shall not be required to undertake further review of the application. The "subject property" shall be deemed to include the lot or parcel on which the violation occurred, together with all adjacent parcels owned by the same person or entity or which are part of a common plan of development. The Notice of Ineligibility for Land Development shall remain in effect until the authorized enforcement official files a "Release of Notice of Ineligibility for Land Development," which the authorized enforcement official shall file when the Standard SWQMP, PDP SWQMP, SWPPP or other plan as required by this Chapter has been obtained, and that all necessary BMPs, pollution prevention practices and other site conditions or activities have been inspected and approved in writing by the authorized enforcement official as being in compliance with the requirements of this Chapter.

(Added by Ord. No. 10385 (N.S.), effective 6-12-15; amended by Ord. No. 10410 (N.S.), effective 2-26-16)

## DIVISION 8. UNIFIED PROGRAM, SEWAGE AND SOLID WASTE DISPOSAL

### CHAPTER 1. SEWERS AND SEWAGE DISPOSAL PLANTS

#### ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS

##### SEC. 68.101. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

##### SEC. 68.102. DEFINITIONS.

The definitions in this article shall govern the construction of this chapter unless otherwise apparent from the context.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

##### SEC. 68.103. [DIRECTOR.]

"DIRECTOR" shall mean the Director of the Department of Public Works, County of San Diego or his authorized agent.

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(Amended by Ord. No. 2512 (N.S.), effective 4-5-63; amended by Ord. No. 4830 (N.S.), effective 2-17-77; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.104. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.105. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.106. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.107. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.108. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.109. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.110. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

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SEC. 68.111. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.112. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.113. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.114. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.115. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.116. [PUBLIC SEWER.]

"PUBLIC SEWER" means the main line sewer constructed in a street, highway, alley, place, right of way, or sewer easement dedicated for public use. "PUBLIC SEWER" does not include building sewer.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

SEC. 68.117. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.118. [RESERVED.]

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(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.119. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.120. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.121. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.122. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.123. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

## ARTICLE 2. SPECIFIC APPLICATIONS

SEC. 68.130. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.131. [RESERVED.]

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(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.132. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.133. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.134. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.135. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.136. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

### ARTICLE 3. PERMITS AND PLANS

SEC. 68.140. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.141. [RESERVED.]

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(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.142. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.143. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.144. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.145. SEWERS IN COUNTY HIGHWAY.

The Director shall, before granting any sewer permit for the construction, installation, repair or removal of any sewer, or appurtenance thereto which will necessitate any excavation or fill-in, upon or under any public highway in the County except State highways, first require the applicant to obtain a permit from the Department of Public Works, County of San Diego.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

Cross reference(s)--Excavations, fills and obstructions, § 71.301 et seq.

SEC. 68.146. SEWERS IN STATE HIGHWAY.

The person obtaining a sewer permit from the Director for the construction of a sewer in a State highway shall, before commencing work thereon, obtain a permit from the California Department of Transportation (Caltrans)

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

SEC. 68.147. MAIN LINE SEWERS.

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Before granting a permit for the construction of any main line sewer, with or without sewer service laterals, the Director shall check and approve the plans and specifications therefor as to their compliance with County, State and other governmental laws or ordinances, and as to conformity with the standards of design hereinafter established by this chapter.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.148. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.149. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.150. PUMPING AND TREATMENT PLANTS.

Before granting a permit for the construction of any sewage pumping plant or sewage treatment plants, the Director shall check and approve the plans and specifications therefor as to their compliance with County, State, and other governmental laws or ordinances and shall require that the facilities be adequate in every respect for the use intended.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

ARTICLE 4. FEES

SEC. 68.151. RECORD OF FEES.

The Director shall keep in proper books a permanent and accurate account of all fees received under this chapter, giving the names and addresses of the persons on whose accounts the same were paid, and the date and amount thereof, which books shall be open to public inspection. The Director shall pay all fees received by him into the County Treasury daily and take the Treasurer's receipt therefor.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

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**SEC. 68.152. DEPOSIT FOR CHECKING PLANS AND SPECIFICATIONS.**

With every request to the Director to check and approve plans and specifications, as required under this chapter, the applicant shall deposit a sum estimated by the Director to be sufficient to cover the cost of checking the plans and specifications including all overhead and other indirect costs.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

**SEC. 68.153. DEPOSIT FOR CHECKING RIGHTS OF WAY.**

Where the plans submitted to the Director for checking and approval provide for the construction of a main line sewer or sewer service lateral within a street, highway, alley, place, or right of way not dedicated or granted to the Sanitation District within which the line or lateral is to be located or to the County or the public, and such dedication or grant will be required prior to the connection of the sewer line or lateral to a sewer system, the applicant shall deposit a sum estimated by the Director to be sufficient to cover the cost of examining or preparing all documents required to accomplish such dedication or grant and investigating the title to the properties to be dedicated or granted; provided, however, the obligation of obtaining all necessary dedications and grants and the execution of all documents shall be that of the applicant.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

**SEC. 68.154. DEPOSIT FOR INSPECTION AND TESTING.**

Before granting any permit required by this chapter the applicant shall deposit with the Director a sum estimated by him to be sufficient to cover the costs of field inspection of the work and of making tests in accordance with the specifications, including all overhead, transportation, and other indirect costs.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

**SEC. 68.155. DEFICIENCY DEPOSITS AND REFUNDS.**

In the event the actual cost to the Director for checking plans, or inspecting construction, including all overhead, transportation and other indirect costs is more than the amount deposited by the applicant, the applicant shall deposit the deficiency. If the actual cost is less than the amount deposited by the applicant, the unused balance of the deposit shall be refunded after final acceptance of the work in the same manner as provided by law for the repayment of trust monies; provided, that no amount less than \$10.00 shall be refunded.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)



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#### SEC. 68.155.1. WAIVER OF SPECIFIED DEPOSITS AND FEES FOR FARM EMPLOYEE HOUSING AND FARM LABOR CAMPS.

Notwithstanding any other provision of this division, the deposit for checking plans and specifications specified in Section 68.152, the deposit for checking rights-of-way specified in Section 68.153, the deposit for inspection and testing specified in Section 68.154, the deficiency deposits specified in Section 68.155, the permit fees specified in Section 68.361, the project review fee specified in Section 68.361, and the examination fees specified in Section 68.361 shall be waived for:

(1) Any farm employee housing or farm labor camp project for which (i) a complete application for an Administrative Permit or a Minor Use Permit was filed between July 13, 1990, and January 13, 1991 pursuant to Ordinance No. 7768 (N.S.); or was filed between April 5, 1991 and October 5, 1991, pursuant to Ordinance No. 7875 (N.S.); or was filed between October 31, 1991 and June 30, 1993, pursuant to Ordinance No. 8086 (N.S.); or was filed between July 30, 1993 and June 30, 1994, pursuant to Ordinance No. 8271 (N.S.); or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8436 (N.S.); or was filed between September 15, 1995 and June 30, 1998, pursuant to Ordinance No. 8574 (N.S.); or was filed between May 14, 1999 and June 30, 2004, pursuant to Ordinance No. 9021 (N.S.) and (ii) the application was approved; or

(2) Any farm employee housing or farm labor camp project for which (i) Section 17021.5 or Section 17021.6 of the California Health and Safety Code is applicable; (ii) the Agricultural Commissioner has issued a certificate of active agricultural enterprise; (iii) the housing is not the subject of an active code enforcement action; (iv) the applicant has entered into the contract required by Section 6156 u.11 or Section 6906 d. of The Zoning Ordinance; and (v) the application was filed between July 30, 1993, and June 30, 1994, pursuant to Ordinance No. 8271 (N.S.); or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8436 (N.S.); or was filed between September 15, 1995 and June 30, 1998, pursuant to Ordinance No. 8574 (N.S.); or was filed between May 14, 1999 and June 30, 2004, pursuant to Ordinance No. 9021 (N.S.); or was filed between July 1, 2004 and June 30, 2009 pursuant to Ordinance No. 9647 (N.S.).

(Added by Ord. No. 7768 (N.S.), effective 7-13-90; amended by Ord. No. 7875 (N.S.), effective 4-4-91; amended by Ord. No. 7977 (N.S.), effective 10-31-91; amended by Ord. No. 8086 (N.S.), effective 7-16-92; amended by Ord. No. 8271 (N.S.), effective 7-30-93; amended by Ord. No. 8436 (N.S.), effective 9-2-94; amended by Ord. No. 8574 (N.S.), effective 9-15-95; amended by Ord. No. 9021 (N.S.), effective 5-14-99; amended by Ord. No. 9647 (N.S.), effective 6-18-04)

#### ARTICLE 5. INSPECTIONS

##### SEC. 68.156. INSPECTION BY DIRECTOR.

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All work done under the provisions of this chapter shall be subject to inspection by and shall meet the approval of the Director; provided, however, that approval by the Director shall not relieve the permittee or any other person from fully complying with all of the applicable provisions of Division 4 of Title 9 of this Code (County Plumbing Code) and no provision of this chapter supersedes, affects or modifies in any way the provisions of said Division 4 or any revision thereof or any ordinance which may hereafter be enacted regulating plumbing within the County. No facility constructed, altered or otherwise accomplished under the provisions of this chapter shall be used or placed in service by the permittee until the final approval and acceptance thereof by the Director has been obtained in writing. At any time during the progress of the work, however, the Director may, upon written notice to the permittee, take over and open to the public use the whole or part of any sewer or appurtenance thereto which has been substantially completed. Such use shall constitute a limited acceptance of that part of the work so taken over and utilized which shall relieve the permittee from responsibility for any damage to that part of the work which may be caused by the use of such part by the public. Such utilization, however, shall not relieve the permittee from responsibility for any defect, omission or faulty work, or for any damage caused by his subsequent operations at the site.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

#### SEC. 68.157. MATERIALS AND CONSTRUCTION.

All materials used in any work done under provisions of this chapter shall be new first-class material and shall conform to and the manner of construction shall meet, all the requirements prescribed by the "San Diego Area Regional Standard Drawings" and the "Standard Specifications for the Public Works Construction" referred to in Section 68.159, and any amendments thereto approved and adopted by the Board of Supervisors and filed in the office of said Clerk.

(Amended by Ord. No. 2098 (N.S.), effective 9-22-60; amended by Ord. No. 4830 (N.S.), effective 2-17-77)

#### SEC. 68.158. MAINTENANCE INSTRUCTIONS.

The Director may inspect as often as he deems necessary any sewage pumping plant and sewage treatment plant to ascertain whether such facilities are maintained and operated in accordance with the provisions of this chapter. All persons shall permit the Director to have access to all such facilities at all reasonable times.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

### ARTICLE 6. SEWER DESIGN STANDARDS

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SEC. 68.159. WORK AND PLANS SHALL CONFORM.

Except as provided in Article 8 of this chapter, all work performed and all plans and specifications required under the provisions of this chapter shall conform to the requirements prescribed by "The San Diego Area - Regional Standard Drawings" and "The Standard Specifications for Public Works Construction", copies of which are on file in the Office of the Clerk of The Board of Supervisors and any amendments thereto approved and adopted by the Board of Supervisors and filed in the Office of said Clerk.

(Amended by Ord. No. 2098 (N.S.), effective 9-22-60; amended by Ord. No. 4830 (N.S.), effective 2-17-77)

ARTICLE 7. GENERAL REGULATIONS

SEC. 68.160. DIRECTOR TO ENFORCE.

The Director shall enforce all the provisions of this chapter and for such purpose shall have the powers of a peace officer.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

SEC. 68.160.1. IMPLEMENTATION.

To assure that the provisions of this ordinance are carried out the Director shall promulgate such detailed regulations and other requirements as are necessary to fully implement this ordinance. The specific provisions of the ordinance may be supplemented by additional requirements established by the Director and separate ordinances establishing charges for use of the public sewerage facilities which will provide for the recovery of capital and operating costs of such facilities.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

SEC. 68.161. CONNECTING SEWER IN UNDEDICATED STREET.

It shall be unlawful to connect or cause to be connected any sewer which has been or may hereafter be constructed in any street, highway, alley, right of way, or other public place prior to the dedication and acceptance of such street, alley, right of way, or other public place by the Board of Supervisors on behalf of the public with any public sewer of the county, unless such sewer first mentioned shall have been laid under the supervision and to the satisfaction of the Director or the Board of Directors of the County Sanitation District in which said sewer is located in accordance with all provisions of this chapter.

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(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

**SEC. 68.161.1. PARCELS REQUIRING SEWER SERVICE FROM A SEWERING DISTRICT GOVERNED BY THE BOARD OF SUPERVISORS.**

(a) Any other provisions of this Title 6 to the contrary notwithstanding, parcels requiring sewer service from a sewer district governed by the Board of Supervisors shall conform to the following:

(1) Any parcel that is located on a public or private road easement more than one hundred (100) feet from the existing public sewer will extend the public sewer to the closest lot line of the parcel and grant necessary easements across the parcel for the public sewer extension, if the Director determines that additional upstream areas will require sewer service from the extended public sewer main.

(b) It is intended that the Director or his authorized Agent may grant an exception to this section and shall do so only if he finds that compliance with such provisions is impossible or impractical because of physical conditions of the area or that a health hazard could result by imposing the above provisions.

Exceptions because of immediate financial hardship may be granted only if an agreement is signed and recorded stating that the parcel ownership will:

1. Participate in the construction of a public sewer main at such time as adjacent upstream land area requires sewer service.
2. Connect existing lateral to future extended public sewer, thus eliminating long lateral.
3. Provide required easements for the public sewer extension.

(Added by Ord. No. 6554 (N.S.), effective 4-21-83; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

**SEC. 68.162. LIMITATIONS ON USE OF SEWER.**

It shall be unlawful to place, throw, or deposit, or cause or permit to be placed, thrown, or deposited, in any public or building sewer any dead animal, offal, or garbage, fish, fruit, or vegetable waste, or other solid matters, or materials or obstructions of any kind whatever of such nature as shall clog, obstruct, or fill such sewer, or which shall interfere with or prevent the effective use or operation thereof. No person shall cause or permit to be deposited or discharged into any such sewer any water or sewage or liquid waste of any kind containing chemicals, greases, oils, tars, or other matters in solution or suspension which may, by reason of chemical reaction or precipitation, clog, obstruct, or fill the same, or which may in any way damage or interfere with or prevent the effective use thereof, or which may necessitate or require frequent repair, cleaning out or flushing of such sewer to

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render the same operative or which may obstruct or cause an unwarranted increase in the cost of treatment of the sewage.

(Amended by Ord. 4830 (N.S.), effective 2-17-77)

SEC. 68.163. OPENING MAINTENANCE HOLE.

It shall be unlawful to open or enter, or cause to be opened or entered, any maintenance hole in any public sewer, to dispose of garbage or other deleterious substances or storm or surface water, or for any other like purpose.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

SEC. 68.164. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.165. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.166. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.167. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.168. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.169. [RESERVED.]

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(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.170. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.171. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.172. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

## ARTICLE 8. PUBLIC AGENCIES

SEC. 68.180. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.181. [RESERVED.]

(Amended by Ord. No. 2098 (N.S.), effective 9-22-60; amended by Ord. No. 2512 (N.S.), effective 4-5-63; amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.182. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.183. [RESERVED.]

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(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.184. [RESERVED.]

(Amended by Ord. No. 2512 (N.S.), effective 4-5-63; amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.185. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.186. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

SEC. 68.187. [RESERVED.]

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

## CHAPTER 2. CONNECTIONS TO SEWER

### SEC. 68.201. DEFINITIONS.

For the purpose of this Chapter the following definitions shall apply:

(a) "DEPARTMENT" means the Department of Public Works.

(b) "BUILDING SEWER" includes only sewer lines and facilities which are connected to a sewer service lateral or trunk line sewer.

(c) "SANITATION DISTRICT" means a district or service area formed pursuant to the Sanitation District Act of 1923, County Sanitation District Act, Sewer Maintenance District Act, Improvement Act of 1911, Community Services District Law, or the County Service Area Law and has by resolution of its governing body made this chapter applicable to the unincorporated territory of the County lying within said District or area.

(d) "SEWER SERVICE LATERAL" includes all that portion of building sewers located upon public property, highways or rights of way.

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(e) "TRUNK LINE SEWER" includes all sewer lines and facilities used to convey community sewage.

(f) "SEWER SERVICE LATERAL FEE" means the sum of fees and charges due the Sanitation District for construction and connection of sewer service laterals and related work as authorized by Section 68.204 herein.

(g) "BUILDING SEWER CONNECTION FEE" means the sum of fees and charges due the Sanitation District prior to issuance of a Wastewater Discharge Permit as authorized by Section 68.205 herein.

(h) "WASTEWATER DISCHARGE PERMIT" means the official document authorizing connection of a building sewer to the Sanitation District sewerage system.

(i) "PERMITTEE" means any person who has obtained a Wastewater Discharge Permit from the Department under the provisions of this chapter.

(Amended by Ord. No. 2512 (N.S.), effective 4-5-63; amended by Ord. No. 2950 (N.S.), effective 6-9-66; amended by Ord. No. 4830 (N.S.), effective 2-17-77; amended by Ord. No. 5406 (N.S.), effective 3-22-79), operative 3-23-79; amended by Ord. No. 9273 (N.S.), effective 12-15-00)

Cross reference(s)--Definitions, § 12.101 et seq.

#### **SEC. 68.202. CHAPTER APPLICABLE TO UNINCORPORATED TERRITORY IN SANITATION DISTRICTS.**

This chapter shall be applicable to the unincorporated territory of the County located within Sanitation Districts.

(Amended by Ord. No. 2628 (N.S.), effective 11-28-63; amended by Ord. No. 2950 (N.S.), effective 6-9-66; amended by Ord. No. 4830 (N.S.), effective 2-17-77)

#### **SEC. 68.203. ENFORCING AGENT.**

The Department is hereby authorized and empowered to make the inspections authorized by this chapter and to enforce the regulations contained in this chapter.

(Amended by Ord. No. 2512 (N.S.), effective 4-5-63; amended by Ord. No. 4830 (N.S.), effective 2-17-77)

#### **SEC. 68.204. PERSONS AUTHORIZED TO MAKE SEWER SERVICE LATERAL CONNECTIONS - FEES.**

It shall be unlawful for any person to make any connections to or construct any sewer service lateral connections with or to any trunk line sewer within the boundaries of a



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Sanitation District, or with or to any trunk line sewer which is the property of a Sanitation District, except an officer, employee or agent of the County or Sanitation District authorized to perform such construction or make such connection, or a person authorized by a permit issued pursuant to Chapter 1 of this Division 8 to perform such construction or make such connection. The Department is hereby authorized and directed to make such connections and construct such sewer service laterals and perform related work at the rates, lateral fees, and charges which are now or may hereafter be established by said Sanitation Districts, and said Department is hereby authorized and directed to collect such rates, lateral fees, and charges and to issue its receipts therefor.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

#### SEC. 68.205. PERMIT FOR MAKING BUILDING SEWER CONNECTIONS -- FEE.

(a) It shall be unlawful for any person other than a plumber or homeowner licensed by the County to make a connection between any sewer service lateral and any building sewer upon or within private property in a Sanitation District; and before any such licensed plumber or homeowner may make any such connection between a sewer service lateral and a building sewer within such Sanitation District he shall obtain a Wastewater Discharge permit authorizing the connection to be made. Any such connection must be made to the sewer prior to the installation of any plumbing fixtures discharging into the building sewer.

A plumber or homeowner desiring a permit to make a connection to a sewer service lateral or trunk line sewer shall file with the Department an application in writing on a form furnished and specified by said Department. The application shall include the name of the plumber or homeowner, the name of the owner of the premises on which the work is to be performed, the legal description of the property on which the work is to be performed, or in lieu of such legal description the official street and number of the premises; or, if there be no official street number, a street number recognized by the Department, a sketch or diagram showing the location of the premises. The applicant shall attach to the application a plat showing the location of existing trunk lines and laterals adjacent to the property upon which the work is to be done, and showing the place where it is desired to connect to the sewer service lateral or trunk line sewer.

Before a Wastewater Discharge permit shall be issued, all applicable fees, rates and charges imposed by the Sanitation District shall be paid to said Department, except as specified in subsection (b) below. No Wastewater Discharge permit shall be issued unless the application is first approved by said Department.

(b) Notwithstanding subsection (a) above, the payment of a Capital Facility Capacity Fee (as defined in Section 2.2 of Article 2 of Part I of Section IV of the San Diego County Uniform Sewer Ordinance, Ordinance No. 9103 N.S.) in connection with residential tracts and commercial building permits may be deferred and paid prior to or at the time of scheduling a final building inspection, if the applicant executes an agreement with the County for a fee deferral.

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(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 9975 (N.S.), effective 4-24-09; amended by Ord. No. 10163 (N.S.), effective 9-2-11; amended by Ord. No. 10321 (N.S.), effective 2-28-14; amended by Ord. No. 10407 (N.S.), effective 2-5-16; amended by Ord. No. 10420 (N.S.), effective 4-15-16)

**SEC. 68.205.1. [RESERVED.]**

(Added by Ord. No. 3681 (N.S.), effective 6-1-71; amended by Ord. No. 3772 (N.S.), effective 10-12-71; repealed by Ord. No. 3822 (N.S.), effective 2-24-72)

**SEC. 68.205.2. [RESERVED.]**

(Added by Ord. No. 4814 (N.S.), effective 1-27-77; amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 5168 (N.S.), effective 6-15-78)

**SEC. 68.205.3. [RESERVED.]**

(Added by Ord. No. 5065 (N.S.), effective 3-2-78; amended by Ord. No. 5346 (N.S.), effective 2-8-79; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5413 (N.S.), effective 3-29-79; amended by Ord. No. 5494 (N.S.), effective 5-24-79; amended by Ord. No. 5640 (N.S.), effective 12-13-79; amended by Ord. No. 5726 (N.S.), effective 5-8-80; amended by Ord. No. 5754 (N.S.), effective 6-12-80; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

**SEC. 68.205.4. [RESERVED.]**

(Added by Ord. No. 5587 (N.S.), effective 9-20-79; amended by Ord. No. 5641 (N.S.), effective 11-13-79; Ord. No. 5651 (N.S.), adopted 11-20-79, effective 12-20-79, supersedes Ord. No. 5641; repealed by Ord. No. 9273 (N.S.), effective 12-15-00)

**SEC. 68.206. INSPECTION OF SEWER CONNECTIONS.**

When connections are made to the trunk line sewers or sewer service laterals within a Sanitation District, all pipes shall be left exposed and all ditches left open until the connection with the trunk line sewer or sewer service lateral has been inspected and approved by an inspector of the Department.

In case a connection is made to the sewer where it crosses private property the plumber or homeowner shall install the pipe to the main sewer and shall uncover the main sewer line so that a saddle connection can be properly made by a person authorized pursuant to

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Section 68.204 and inspected by the inspector of the Department. The homeowner shall obtain all easements required for such installation.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

**SEC. 68.207. CONNECTIONS TO BE MADE OF SPECIFIED MATERIALS.**

All connections to or with trunk line sewers or sewer service laterals within the boundaries of a Sanitation District shall be made in accordance with the requirements of Chapter 1 of this Division 8.

All licensed plumbers and licensed homeowners engaged in any work provided for in this chapter shall be held responsible for the injury to any property and for all other damages.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

**SEC. 68.208. TAMPERING WITH MAINTENANCE HOLE COVERS PROHIBITED.**

It shall be unlawful for any person other than the duly authorized agents of the County or of the Sanitation District to remove, tamper with, or molest any maintenance hole cover to any maintenance hole of the trunk line sewers in a Sanitation District.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

**SEC. 68.209. THROWING REFUSE IN MAINTENANCE HOLES PROHIBITED.**

It shall be unlawful for any person to drop, throw, put or place any refuse, trash, rubbish or obstruction into the maintenance holes of the trunk line sewers in or owned by a Sanitation District.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

**SEC. 68.210. COST OF REMOVING OBSTRUCTION CHARGED TO PROPERTY OWNER IN CERTAIN CASES.**

When it is necessary to clean a sewer service lateral to relieve stop-ups and the obstruction is found to be due to waste matters which should not have been placed in the sewer, the owner of the property served by the lateral shall pay to the Department the cost of removal of such obstruction. When it is necessary to clean a building sewer in order to relieve a stop-up, whether the obstruction causing the stop-up be in the building sewer or the sewer service lateral, the owner of the building sewer shall pay to the Department the cost of cleaning such building sewer.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

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**SEC. 68.211. REVOCATION OF PERMITS AND DISCONNECTION OF FACILITIES.**

The Department may revoke the permit issued to any person in the event of a violation by the permittee of any provision of this chapter. The Department may disconnect from the public sewer any connection sewer, main line sewer, or other facility which is constructed, connected, or used without permit, or which is constructed, connected, or used contrary to the provisions of this chapter.

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77)

**SEC. 68.212. NOTICE.**

The Department shall make every reasonable effort to notify the owner or occupant of the premises affected by any proposed disconnection and may grant a reasonable time for elimination of the violation. Notifications shall be made by delivery of a notice in writing, either to the occupant of the premises or to the record owner of the property as shown upon the last equalized assessment roll of the County. Such notice shall be delivered either by first class mail, postage prepaid, or personal service.

{Amended by Ord. No. 4830 (N.S.), effective 2-17-77}

**SEC. 68.213. [RESERVED.]**

(Amended by Ord. No. 4830 (N.S.), effective 2-17-77; repealed by Ord. No. 5200 (N.S.), effective 8-10-78)

**CHAPTER 3. ON-SITE WASTEWATER TREATMENT SYSTEMS AND IMPROPER DISPOSAL OF SEWAGE\***

\*Note--Amended by Ord. No. 3061 (N.S.), effective 5-11-67; amended by Ord. No. 10136 (N.S.), effective 4-15-11.

**ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS**

**S CHAPTER 3. ONSITE WASTEWATER TREATMENT SYSTEMS AND IMPROPER DISPOSAL OF SEWAGE\***

\*Note--Amended by Ord. No. 3061 (N.S.), effective 5-11-67; amended by Ord. No. 10136 (N.S.), effective 4-15-11.

**SEC. 68.301. PURPOSE AND SCOPE.**

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In addition to authority afforded to counties in Article XI, section 7 of the California Constitution to protect public health and safety, and in Government Code section 25845 to abate nuisances, the County's local onsite wastewater treatment systems (OWTS) program is based on section 5410 et seq. of the California Health and Safety Code, sections 13002, 13290 to 13291.7 of the California Water Code and on California Code of Regulations, Title 23, Sections 2924 and 3991.1 implementing regulations. Those regulations adopt the State Water Resources Control Board's Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy), set baseline requirements for OWTS statewide, and provide for the implementation of those regulations by qualified local agencies. In accordance with the OWTS Policy, the County has prepared a Local Agency Management Program (LAMP) for OWTS permitting and regulation within the jurisdiction of San Diego County, and that program has been approved by the California Regional Water Quality Control Board for the San Diego Region.

This chapter is applicable to OWTS in the unincorporated areas of San Diego County and within a jurisdiction where authority has been delegated through specific municipal ordinance, memorandum of understanding, or another appropriate mechanism.

Water Code section 14877.2 allows a county to approve installation of a graywater system if that county determines the graywater system meets the standards of the State Department of Water Resources. Water Code section 14877.3 allows a county to adopt more restrictive standards for graywater systems.

The purpose of this chapter is to implement these State laws and regulations and implement additional standards for septic systems and graywater systems that are necessary to protect the health and safety of the San Diego County community. This chapter also prohibits the improper disposal of sewage and provides regulations authorizing the Director of Environmental Health, responsible for environmental health services and programs transferred from the local health officer for the County pursuant to Health and Safety Code section 101275, to protect public health from threats from sewage.

This chapter shall apply to the siting, design, construction, and permitting of new and replacement OWTS and to existing individual systems confirmed as defective that receive a maximum of 3,500 gallons per day of domestic strength sewage.

(Added by Ord. No. 10136 (N.S.), effective 4-15-11; amended by Ord. No. 10389 (N.S.), effective 7-24-15; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

(Added by Ord. No. 10136 (N.S.), effective 4-15-11; amended by Ord. No. 10389 (N.S.), effective 7-24-15; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

## SEC. 68.302. DEFINITIONS.

The following definitions shall apply to this chapter:

- (a) "Abandoned OWTS or other sanitation facilities" means an OWTS or component thereof, including a septic tank or seepage pit, holding tanks, or other sanitation facilities that

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has been disconnected from the drainage system or otherwise taken out of use for a period of 30 days or more shall be deemed abandoned.

(b) "Alternative toilet" means a holding tank, vault, composting, chemical toilet, or other approved means of sewage disposal for non-residential uses in isolated areas, such as campsites, parks or trails, when no public sewer is available and it is impracticable to connect water to the area where the toilet is to be located, or for temporary or occasional uses authorized by this chapter or other County Code.

(c) "Defective system" means an OWTS or other sanitation facilities that allows sewage, human excrement or other liquid wastes to be disposed of so that the waste is not confined underground or within its tank, or that constitutes a safety hazard. An OWTS that requires frequent pumping to remove accumulated wastes in order to confine sewage underground is also a defective system whether or not pumping the system allows waste to be confined underground. An OWTS that becomes inundated during a storm event such that wastewater rises to the surface is also a defective system. OWTS that are suspected of inundation, including based on nearby stormwater testing, are not considered defective until confirmed by testing of the individual OWTS. Testing may include dye testing, performance evaluation, or other approved methods.

(d) "Department" means the Department of Environmental Health and Quality.

(e) "Director" means the Director of the Department of Environmental Health and Quality and any person the Director hires or appoints to implement or enforce this chapter.

(f) "Drainage system" means the piping on property that connects all plumbing fixtures and appliances discharging sewage or other liquid wastes, to a public sewer or an on-site wastewater treatment system. The drainage system does not include the mains or laterals of a public sewer system.

(g) "Licensed installer" means a licensed General Engineering Contractor (Class A), General Building Contractor (Class B), Sanitation System Contractor (Specialty Class C-42), or Plumbing Contractor (Class C-36). Such licensed installer shall install all new and replacement OWTS in accordance with California Business and Professions Code Sections 7056, 7057, and 7058 and Article 3, Division 8, Title 16 of the California Code of Regulations.

(h) "Onsite wastewater treatment system" (OWTS) means a system on a property not connected to a public sewer, that treats and disposes of sewage and other wastes produced on the property where the system is located using a septic tank or other treatment component, subsurface, dispersal, and associated appurtenances.

(i) "Owner-Builder" means an individual or group of individuals who own the property on which they plan to construct, alter, repair, improve, or remodel a building or structure or appurtenance thereto in accordance with the requirements and limitations set forth in the Business and Professions Code, Section 7044. Business and Professions Code, section 7026.1 defines any person who acts as consultant to an owner-builder is a contractor.

(j) "Potable water" means water provided from a permitted public water system, as defined in section 116275(h) of the California Health and Safety Code, that meets state and federal standards for consumption, a state small water system, as defined in section 116275(n) of the

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California Health and Safety Code, that meets state standards for consumption, or groundwater from a permitted water well that is not part of a public water system or state small water system and that meets the following minimum water quality monitoring requirements: 1) at least one water sample obtained from the well within three months of submittal to DEHQ for review shall be negative for the presence of total coliform bacteria and fecal coliforms or *Escherichia coli* (*E. coli*); 2) at least one water sample obtained from the well and analyzed for Nitrate (as nitrogen) shall be less than the maximum contaminant level as specified in the California Code of Regulations, section 64431 (10 mg/L); 3) other sampling that may be required by the Director of Environmental Health based on known or suspected sources of pollution in the area that may affect the water quality of the well. The samples shall be analyzed by a laboratory certified by the State Water Resources Control Board for that analysis pursuant to California Health and Safety Code, Division 101, Part 1, Chapter 4, Article 3, commencing with section 100825.

(k) “Qualified professional” means an individual licensed or certified by a State of California agency to design OWTS and practice as professionals for other associated reports, as allowed under their license or registration. Depending on the work to be performed and various licensing and registration requirements, this may include an individual who possesses a registered environmental health specialist certificate or is currently licensed as a professional engineer or professional geologist.

(l) “Qualified service provider” means a person capable of operating, monitoring, and maintaining an OWTS in accordance with the OWTS Policy and local requirements. The individual must also be certified and/or competently trained by the manufacturer of an OWTS with supplemental treatment to install, maintain, service, and repair the specific model/type of OWTS.

(m) “Sanitation facilities” means the method used to collect, store, or dispose of sewage, human excrement, or other liquid wastes associated with human habitation or activities. Sanitation facilities include but is not limited to holding tanks and alternative toilets.

(Added by Ord. No. 10136 (N.S.), effective 4-15-11; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.303. DEPARTMENT OF ENVIRONMENTAL HEALTH AND QUALITY TO ENFORCE.

The Director shall implement and enforce this chapter. The Director of Environmental Health shall enforce the provisions related to the improper disposal of sewage in accordance with the provisions of Health and Safety Code section 5410 et seq. and this chapter.

(Added by Ord. No. 10136 (N.S.), effective 4-15-11; amended by Ord. No. 10389 (N.S.), effective 7-24-15; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.303.5. WATERSHED PROTECTION REQUIREMENTS.

For installation and repair projects in the unincorporated portion of the County, the Director or designee shall coordinate with the authorized enforcement officials listed in section 67.802 (a) to ensure compliance with Chapter 8 of Division 7 of Title 6 of this code.

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(Added by Ord. No. 10412 (N.S.), effective 2-26-16)

## ARTICLE 2. GENERAL REQUIREMENTS

### SEC. 68.310. DRAINAGE SYSTEM TO BE CONNECTED TO PUBLIC SEWER IF AVAILABLE.

(a) The drainage system of every building constructed or reconstructed, except for a graywater system, shall be connected to a public sewer if: (1) the property on which the building is located abuts a public sewer or a public sewer is located within 200 feet of the building, (2) annexation to the sewer district has been completed and (3) no easements through adjacent property are necessary to complete the public sewer connection. This provision does not apply to replacement OWTS that meet the requirements of this chapter and the LAMP where the connection fees and construction costs are greater than twice the total cost of the OWTS repair.

(b) When a public sewer is not available, because one or more of the conditions of subsection (a) have not been satisfied, the drainage system of a building shall be connected to an approved OWTS, or other sanitation facilities approved by the Director. For purposes of this chapter, a drainage system or OWTS shall only be considered approved if the system received all permits required by this code at the time the system was installed or modified. The property owner shall install a system based on the Director's determination of the type of system that is required after considering the area, soil porosity, ground water level, and population density in the area. The OWTS shall be designed to receive and dispose of all sewage and liquid waste from the building served.

(Amended by Ord. No. 8007 (N.S.), effective 12-26-91; amended by Ord. No. 8458 (N.S.), effective 11-17-94; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

(Amended by Ord. No. 8007 (N.S.), effective 12-26-91; amended by Ord. No. 8458 (N.S.), effective 11-17-94; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

### SEC. 68.311. IMPROPER DISPOSAL OF SEWAGE AND OTHER LIQUID WASTES PROHIBITED.

(a) It shall be unlawful for a person to cause or allow sewage, human excrement or other liquid wastes to be disposed of in any place or manner except through and by means of an approved drainage system into a public sewer system, an approved OWTS, or except as approved to other sanitation facilities authorized under this chapter, whichever is applicable, installed and maintained as provided in the County Plumbing Code and this chapter.

(b) It is unlawful for a property owner, tenant, or other person to knowingly operate or allow to be operated an OWTS or other sanitation facilities that allows sewage, human excrement or other liquid wastes to be disposed of so that the waste is not confined underground or within an approved holding tank, alternative toilet, or other approved sanitation facilities.



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(c) It is unlawful for any person to discharge sewage, human excrement, or other liquid wastes in any manner which will result in contamination or a nuisance

(d) A property owner shall take the necessary actions to abate an immediate health or safety hazard and shall promptly repair defective OWTS, holding tank, alternative toilet, or other sanitation facilities, or if public sewer is available, replace the OWTS, or other sanitation facilities, with a connection to the public sewer within the time period required by section the Director. No repair of a defective system shall be started without a permit from the Director. If a property owner elects to repair the defective system, the person shall complete the repairs within 30 days from the date the system became defective.

(e) It shall be unlawful for a person to connect a drainage line to an OWTS or other sanitation facilities unless the Director has approved that system.

(f) It shall be unlawful for a property owner or a person in control of a cesspool, septic tank, seepage pit, or other unsafe component used for sewage disposal, on premise of such person, to fail, refuse, or neglect to properly destroy under permit issued by the Director an unsafe or abandoned cesspool, septic tank, seepage pit or sanitation facility within 30 calendar days of disuse, disconnection from the drainage system, connection of drainage system to a public sewer, or notice by the Director. The property owner or person in control shall immediately secure any unsafe or hazardous sanitation facilities as soon as practicable.

(Amended by Ord. No. 3061 (N.S.), effective 5-11-67; amended by Ord. No. 9665 (N.S.), effective 8-14-04; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

### **SEC. 68.313. CONNECTION OF EXISTING BUILDINGS TO PUBLIC SANITARY SEWER SYSTEMS.**

The Director may require a property owner to connect to an available public sanitary sewer and discontinue using an OWTS or other sanitation facilities whenever the existing OWTS or other sanitation facilities becomes defective or whenever the Director determines that the public health and require connection to the public sanitary sewer.

(Amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

### **SEC. 68.314. DESTRUCTION OF ONSITE WASTEWATER TREATMENT SYSTEM.**

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A property owner shall obtain a permit and destroy any septic tank, holding tank seepage pit, or other sanitation facility within 30 days from the date the system or system component is deemed abandoned or is in violation of the requirements of this chapter and the LAMP.

(Added by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

**SEC. 68.315. DIRECTOR MAY AUTHORIZE ALTERNATIVE TOILETS IN.**

The Director may authorize use of an alternative toilet for use when no public sewer is available for a campsite, park, or trail, or for an approved temporary structure or use, or for occasional supplemental sewage disposal capacity for a commercial use, or for an extractive use or other industrial use in an isolated area, such as a facility that receives solid waste. Alternative toilets shall be approved, installed, and maintained in accordance with the standards in the LAMP. Alternative toilets shall not be approved where a water closet is required.

(Amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

**SEC. 68.316. TEMPORARY OCCUPANCY PERMITS.**

(a) The Director may issue an OWTS installation or repair permit for a specified period of time to a Qualified Installer or Owner-Builder property owner authorizing the installation or addition to an OWTS, or approve a connection to an existing OWTS, for sewage disposal from a building, structure, or vehicle issued a permit for temporary occupancy as authorized by the County Zoning Ordinance and section 52.201 et seq. of this code. The OWTS shall meet the requirements of this chapter and the standards in the LAMP.

(b) If the authorized need for the temporary occupancy ceases to exist, or if the property owner fails to maintain the permit issued for temporary occupancy or is in violation of the permit for temporary occupancy, the approval to discharge to an OWTS will terminate and such connection shall be removed by the owner.

(Amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

**SEC. 68.317. TEMPORARY ON-SITE WASTEWATER SYSTEMS.**

The Director may issue a permit for a specific period of time to a Qualified Installer or Owner-Builder authorizing construction of a temporary OWTS when the Director determines that it is highly probable that the property will have access to a public sewer within 24 months from the date of a permit application and owner is able to demonstrate the ability to install a permanent OWTS in accordance with provisions of this chapter.

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(Amended by Ord. No. 6049 (N.S.), effective 6-11-81; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

### ARTICLE 3. INSTALLATION OF SEWAGE HOLDING TANKS\*

\*Note--Title amended by Ord. No. 9273 (N.S.), effective 12-15-00.)

#### SEC. 68.320. TEMPORARY USE OF HOLDING TANKS.

The Director may issue a permit authorizing a property owner to temporarily install a holding tank in lieu of an on-site wastewater treatment system if: (a) public sewer is not available, (b) an OWTS is not practicable and (c) the Director determines that the property will be able to connect to a public sewer within 24 months of the permit application. The Director may issue a permit for a holding tank for up to 24 months and may grant one extension for up to an additional 12 months if the Director determines the property owner has been unable to connect with the sewer through no fault of the property owner. An annual operating permit is required to ensure proper maintenance of the system.

(Amended by Ord. No. 6049 (N.S.), effective 6-11-81; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

### ARTICLE 4. LAND DEVELOPMENT APPLICATIONS\*AND PERMIT REQUIREMENTS

\*Note--Title amended by Ord. No. 9273 (N.S.), effective 12-15-00.)

#### SEC. 68.325. PERMIT REQUIRED TO CONSTRUCT, MODIFY OR DESTROY AN ONSITE WASTEWATER TREATMENT SYSTEM.

No person shall install, construct, reconstruct, repair, add to, modify, connect to, or destroy an OWTS or other sanitation facilities authorized by this chapter without first obtaining a permit issued by the Director.

(Amended by Ord. No. 3061 (N.S.), effective 5-11-67; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

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**SEC. 68.326. APPLICATION FOR INSTALLATION PERMIT.**

(a) A Qualified Installer or Owner-Builder may apply for a permit to install, rebuild, repair, or add on to, or destroy an OWTS or other proposed sanitation facilities by submitting an application for a permit on a form provided by the Director. A separate application and permit are required for each installation, modification, or destruction. The applicant shall submit with the application a diagram drawn to scale that shows the components of the system to be installed and their proposed location on the property. The application shall be completed with sufficient information to demonstrate that the proposed OWTS or other sanitation facilities meets the requirements of this chapter and the LAMP. The Director may also require that the applicant and any person providing documentation of the site evaluation or OWTS siting or design to demonstrate their knowledge of San Diego County ordinances and the LAMP through a consultation with the Department.

(b) No permit shall be issued to install an OWTS unless the applicant provides proof that a site evaluation has been performed documenting the suitability of the site to support OWTS usage in accordance with the requirements of this chapter and the standards in the LAMP, that the applicant has potable water available from a public water purveyor or from an approved domestic water well, and the applicant has submitted an application for a building permit.

(c) No permit shall be issued for an OWTS until all grading on the property where the system is located or is to be located has been completed and the Director has inspected the grading.

(d) No permit shall be issued pursuant to this section if the Director determines that the location, area, soil porosity, ground water level, density of population in the area, the number of persons to be served or other conditions are not suitable for OWTS usage or would cause the operation of the OWTS or other sanitation facilities described in the application to contaminate an underground water supply or to create an unsanitary condition endangering public health.

(Amended by Ord. No. 2603 (N.S.), effective 10-17-63; amended by Ord. No. 3061 (N.S.), effective 5-11-67; amended by Ord. No. 3436 (N.S.), effective 1-1-70; amended by Ord. No. 4531 (N.S.), effective 7-31-75; amended by Ord. No. 5847 (N.S.), effective 9-11-80; amended by Ord. No. 6049 (N.S.), effective 6-11-81; amended by Ord. No. 6378 (N.S.), effective 7-29-82; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8007 (N.S.), effective 12-26-91; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

**SEC. 68.328. PERCOLATION TEST; PROFESSIONAL QUALIFICATIONS.**

(a) Prior to issuance of an OWTS installation permit, the Director may require the applicant to furnish a site evaluation report with results of soil profiles, groundwater testing, and soil percolation tests performed on the site of the OWTS, including the results of the tests. The Director may require additional testing, as needed to determine the site is suitable for OWTS usage. A permit for percolation testing is required.

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(b) Whenever the Director requires a site evaluation report, soil percolation testing, or other testing, the testing and the preparation of all plans or drawings required by this chapter shall be done by a Qualified Professional as allowed under their license or registration. The Director may also require that the Qualified Professional demonstrate their knowledge of San Diego County ordinances and the LAMP through consultation with the Department

(Amended by Ord. No. 6049 (N.S.), effective 6-11-81; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

#### SEC. 68.329. EXPIRATION OF PERMIT.

Unless issued for a specified shorter period of time, a permit issued pursuant to this chapter shall expire one year from the date it was issued. If a person has not completed the work before the expiration date, the person shall obtain a new permit before resuming work on the system.

(Amended by Ord. No. 10136 (N.S.), effective 4-15-11)

#### SEC. 68.330. REVOCATION OF PERMITS.

The Director may revoke a permit issued under this chapter if the permit was issued in error or on the basis of incorrect, inaccurate or incomplete information or in violation of this chapter or any other law or regulation. The Director may also revoke a permit when there is a change in circumstances or a change to the conditions of the applicant's property since the date of the application, which if those circumstances or conditions had existed at the time the permit was issued, would have been grounds for denial of the permit.

(Added by Ord. No. 5408 (N.S.), effective 2-20-79; Ord. No. 5416 (N.S.), adopted 2-27-79, effective 3-29-79, supersedes Ord. No. 5408; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 9858 (N.S.), effective 5-25-07; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

#### SEC. 68.331. INSPECTION AND APPROVAL REQUIRED BEFORE BACKFILLING.

(a) As soon as a permittee installs, rebuilds, repairs or adds on to, connects to, or destroys an OWTS or other sanitation facilities pursuant to the permit and is ready to backfill the work, the permittee shall notify the Director that the system is ready for inspection before the work is covered.

(b) No person shall backfill or cause another person to backfill OWTS or other sanitation facilities that has been installed, rebuilt, repaired, added on to, or destroyed before the Director inspects and approves the work, as provided in subsection (a). This subsection shall not prevent a property owner, engineer, contractor, or other person responsible for the work from taking actions to secure or abate unsafe conditions or protecting persons from injury at the site.

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(Amended by Ord. No. 6049 (N.S.), effective 6-11-81; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

#### SEC. 68.333. REINSPECTIONS.

A property owner whose OWTS or other sanitation facilities installation, rebuild, repair, connection, destruction, or addition does not pass inspection shall promptly correct the deficiency and have the system reinspected. The property owner shall be responsible for paying all reinspection fees. If the property owner fails to correct the deficiency or request reinspection within a reasonable period of time, the Director may revoke the permit and/or take other enforcement action pursuant to section 68.336.

(Amended by Ord. No. 3061 (N.S.), effective 5-11-67; amended by Ord. No. 3436 (N.S.), effective 1-1-70; amended by Ord. No. 4531 (N.S.), effective 7-31-75; amended by Ord. No. 5847 (N.S.), effective 9-11-80; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

#### SEC. 68.334. ANNUAL OPERATING PERMIT FOR ON-SITE WASTEWATER TREATMENT SYSTEMS REQUIRING MONITORING.

a) Where a property owner of an OWTS or other sanitation facilities is required to monitor the system, the property owner shall obtain an annual operating permit from the Director and have a valid operating permit in effect at all times.

(b) No person shall use or allow another person to use an OWTS or other sanitation facilities for which an annual operating permit is required if no operating permit is in effect at the time the system is used. A system that requires an annual operating permit, that is being operated without the permit being in force, shall be considered in violation of this chapter and subject to enforcement action pursuant to section 68.336.

(c) The Director may enter property during normal business hours to inspect an OWTS or other sanitation facilities that was approved subject to an annual operating permit requirement.

(d) The property owner shall comply with all conditions of a permit to install an OWTS subject to monitoring, including, but not limited to, obtaining an annual operating permit and any monitoring, maintenance, operation, and notification requirements.

(e) Prior to the issuance of the installation permit for an OWTS subject to monitoring, or a reserve OWTS subject to monitoring, the property owner shall record with the County Recorder's Office a Covenant and Agreement, or other equivalent document, with an acknowledgement of and promise to comply with the conditions of the installation permit for the OWTS. This document shall run with the land and shall be binding on any future owners, encumbrances, their successors, heirs, or assigns and shall continue in effect until DEHQ approves its termination. Termination shall occur when the use of the OWTS subject to monitoring has ceased in compliance with all applicable laws and regulations.

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(Amended by Ord. No. 3436 (N.S.), effective 1-1-70; repealed by Ord. No. 4531 (N.S.), effective 7-31-75; new Section 68.334 added by Ord. No. 9322 (N.S.), effective 5-4-01; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

#### SEC. 68.335. ANNUAL OPERATING PERMIT REVOCATION.

(a) Property owners of OWTS or other sanitation facilities that have not returned to compliance after being provided a notice of a violation of this chapter may be subject to the revocation of the annual operating permit for a system that requires monitoring by the Director. In addition to the revocation of the annual operating permit for an OWTS in violation of this chapter, the property owner may be subject to enforcement action pursuant to section 68.336.

(b) The Director may reinstate a permit that has been revoked under this section if the Director determines that the permittee has presented a plan for adequate repair, alteration, or maintenance of the system that will allow the system to operate properly. The Director may also allow a permit that was revoked for failure to comply with the terms of the permit, including the failure to allow inspection, if the Director receives adequate assurance from the permittee that the permittee will comply with terms of the permit. As a condition of the reinstatement process the permittee shall pay all of the Director's costs and expenses incurred to investigate and process the revocation and reinstatement of the permit, in addition to paying all fees established by the Board.

(Added by Ord. No. 9322 (N.S.), effective 5-4-01; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

#### SEC. 68.336. ABATEMENT ; ENFORCEMENT; APPEALS.

(a) Any violation of this chapter or the standards in the LAMP shall constitute a public nuisance subject to nuisance abatement under the provisions of Title 1, Division 6, Chapter 2 of this Code.

(b) In addition to the authority to abate nuisances, the Director may institute any other legal remedies available to the County, including the provisions of Title 1, Division 8 of this Code.

(c) The Director or authorized designee may inspect premises subject to this chapter at reasonable times and in a reasonable manner to carry out the purposes of this chapter. If entry for a regulatory inspection is refused by the owner or other person in control of the property, or by the occupant of a residence, an inspection warrant shall be obtained prior to inspection.

(d) Inspection may include all actions necessary to investigate and determine whether an OWTS or other sanitation facilities are installed, used, operated, maintained, destroyed, or functioning in compliance with this chapter and the standards in the LAMP. The Director may require the property owner to conduct testing of the OWTS or other sanitation facilities to determine the operational status of the system.

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(e) The Director shall recover all time, services, and materials costs associated with the abatement of violations of this chapter in accordance with fees established in Section 65.107 of this Code.

(f) The permit fee for any work conducted without obtaining the required permit or for failing to obtain or renew a required annual operating permit, shall be charged at two times the cost of the regular permit fee.

(g) Appeal of Enforcement Action. A person subject to enforcement action by the Department may appeal the enforcement action in accordance with the applicable procedures for the specific enforcement action being taken provided in Title 1, Division 6, and Division 8. If the violation poses an immediate threat to health and safety, the request for hearing shall be made within the number of days allowed in the Notice and Order to Abate.

(h) Appeal of Administrative Decision. An owner or septic professional who disagrees with an administrative decision by the Department may submit a request for a review hearing with the required fee on a form provided by the Department within 14 days of receiving an administrative decision related to an onsite wastewater treatment system, layout, permit or other requirement of this chapter. The Director shall schedule a hearing with a Department employee, at the supervisor level or higher, who was not involved in the decision. If the departmental review hearing does not resolve the issue, the person subject to the administrative decision by the Department may appeal to the Hearing Officer within 14 days of receiving notice of the decision of the Department review, in accordance with the procedures provided in Title 1, Division 6, Chapter 1 of this code.

(Added by Ord. No. 9322 (N.S.), effective 5-4-01; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

## ARTICLE 5. SPECIFICATIONS AND STANDARDS

### SEC. 68.340. STANDARDS FOR ONSITE WASTEWATER TREATMENT SYSTEMS.

Standards for the siting and design of OWTS and other sanitation facilities authorized by this chapter shall be as set forth in the County of San Diego's Local Agency Management Program for Onsite Wastewater Treatment Systems (LAMP). The Director shall maintain an official copy of the LAMP on the Department of Environmental Health and Quality website.

(Amended by Ord. No. 6049 (N.S.), effective 6-11-81; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 10136 (N.S.), effective 4-15-11; amended by Ord. No. 10389 (N.S.), effective 7-24-15; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

Cross reference(s)--Excavations, fills and obstructions, § 71.301 et seq.



**SEC. 68.341. REQUIREMENTS FOR ONSITE WASTEWATER TREATMENT SYSTEM INSTALLATION, EXPANSION , LAND DEVELOPMENT PROJECTS DIVISION OF PROPERTY, BUILDING PERMITS, AND GRADING.**

(a) An applicant for an OWTS or other sanitation facilities shall install a system authorized by this chapter that the Director determines meets the requirements in this chapter and the standards in the LAMP.

(b) No part of an OWTS shall be located on any lot other than the lot that is the site of the building or structure that will be served by the OWTS.

(c) Building Permits and Changes of Use and Occupancy. A property owner who is required to obtain: (1) a building permit for a new building structure, a building addition, or other remodeling of an existing building or to add another stand alone building on property, or (2) the building official's approval for a change of use or occupancy of an existing building, where an OWTS or other sanitation facilities authorized by this chapter is used or proposed to be used as the means for sewage disposal shall also obtain the Director's approval before a building permit or other approval shall be issued. If the addition, remodeling, or change of use or occupancy will likely result in a greater amount of sewage or other waste to flow into an OWTS, the property owner shall obtain a permit from the Director to expand the system to accommodate the additional waste that will exceed the capacity of the existing system.

(d) A property owner in subsection (c), as a requirement for the Director's approval, shall also demonstrate as part of the permitting or approval process, that the property has an OWTS that meets the current requirements of this chapter and the standards in the LAMP.

(e) Land Development Projects or Use Permits. A person applying for a project, such as a major or minor use permit, or a land development project, or to modify an existing use permit on property with an OWTS shall obtain the Director's approval as part of the application process. No use permit modification shall be granted without the Director's approval. The person shall submit an application requesting the Director's review on a form provided by the Director and shall submit any additional information or documents the Director requests. The application shall not be considered complete until the applicant submits all required documents. The Director shall notify the applicant in writing whether or not the Director approves the application and if the application is disapproved, the notice shall state the reasons for the disapproval.

(f) If the use permit's modification will result in a change in the wastewater characteristics or a greater amount of sewage or other waste to flow into an OWTS the applicant shall also be required to obtain a permit from the Director to expand the system to accommodate the additional waste and shall demonstrate as part of the approval process that the property has an OWTS that meets the current requirements of this chapter and the standards in the LAMP.

(g) Subdivisions of Land. A person applying to subdivide property shall demonstrate that an OWTS that complies with the requirements of this chapter and the standards in the LAMP is feasible to install on each lot proposed in the subdivision prior to the approval of the tentative map or the tentative parcel map. Where minimum lot sizes for a subdivision have been reduced based on the proposal to utilize OWTS with supplemental treatment for nitrogen reduction, the developer shall include a statement on the final map or parcel map acknowledging only OWTS with supplemental treatment for nitrogen reduction are approved to be installed on each lot.

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Where alterations to the design or location of an OWTS are proposed that differ from the design or location previously approved by the Director, the person applying to subdivide property shall demonstrate that the new design or location meets the requirements of this chapter and the standards in the LAMP is feasible to install on each lot prior to the approval of a final map or a parcel map. A person proposing to subdivide property where individual water wells are proposed shall provide proof to the Director that there is an adequate potable well water supply available to each lot or parcel before a final map or a parcel map is approved.

(h) Lot Line Adjustments. A person applying for a lot line adjustment shall demonstrate that the existing or a proposed OWTS on each lot proposed for adjustment complies with this chapter and the standards in the LAMP as part of the application process. Where an existing OWTS does not conform to the requirements of this chapter and the standards in the LAMP, the lot line adjustment shall not result in an expansion of the existing nonconformity of the OWTS.

(i) Grading Permits. An applicant for a grading permit to grade property where there is an existing or approved, but not installed, OWTS, shall obtain the Director's approval as part of the grading plan approval process prior to the issuance of the grading permit and shall demonstrate the proposed grading does not result in the elimination of features required to meet the requirements of this chapter and the standards in the LAMP or in the reduction of area needed for required water supply well or OWTS and reserve area.

(Amended by Ord. No. 10136 (N.S.), effective 4-15-11; amended by Ord. No. 10389 (N.S.), effective 7-24-15)

#### SEC. 68.351. DIRECTOR MAY MODIFY REQUIREMENTS.

(a) The Director may exercise discretion to modify the requirements of this chapter for an OWTS that could not otherwise be issued a permit if one of the following circumstances applies, and if the requirements in subsections (b), (c), and (d) of this section are met. The applicant shall pay any fees required for such a review.

(i) The applicant proposes a smaller size system than required that will have only limited or occasional use and the proposed system is adequate to accommodate the sewage flows the buildings on the lot will produce.

(ii) It is impracticable for an applicant to comply with requirements as to the length of leach trenches or chambers, but the proposed system is able to achieve the same practical effect as the requirements by modifying leach trenches or chamber dimensions.

(iii) It is impracticable for an applicant to comply with certain requirements related to the location of system components, but the applicant is able to prevent any adverse effects by the manner in which the applicant installs the system.

(b) The Director determines that modifying the requirements will not result in any adverse effects on an underground source of water or on the public health and safety.

(c) If the Department of Environmental Health and Quality is the lead agency for the project under the California Environmental Policy Act (CEQA), the Director determines that the project is exempt from CEQA and files a Notice of Exemption; or the Director determines that approval

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of the project will not have a significant effect on the environment, and adopts a Negative Declaration or a Mitigated Negative Declaration.

(d) If the Department of Environmental Health and Quality is a responsible agency for the project, the lead agency has determined that the project is exempt from CEQA or has adopted a Negative Declaration or Mitigated Negative Declaration for the project, and the Department has complied with the responsible agency requirements under CEQA.

(e) The Director may deny a permit for an OWTS that meets the requirements of this Chapter if the Director determines that the system will have any adverse effects on an underground source of water or on the public health and safety.

(Amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10136 (N.S.), effective 4-15-11; amended by Ord. No. 10389 (N.S.), effective 7-24-15; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.352. GRAYWATER SYSTEMS.

The Director shall issue a permit for the installation and operation of a graywater system in the unincorporated area of the county that complies with any Regional Water Quality Control Board Basin Plan requirements, and the standards contained of the County Plumbing Code.

(Added by Ord. No. 8007 (N.S.), effective 12-26-91; amended by Ord. No. 8458 (N.S.), effective 11-17-94; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10136 (N.S.), effective 4-15-11)

#### ARTICLE 7. MISCELLANEOUS PROVISIONS

##### SEC. 68.360. CROSS CONNECTIONS PROHIBITED.

No person shall install or allow to be installed an interconnection between a drinking water supply and any equipment or connection of any kind, class or description which may contain water or any liquid or substance that is unfit for human or domestic consumption. The Director may require a water purveyor to discontinue water service to any property that has an improper cross connection.

(Amended by Ord. No. 10136 (N.S.), effective 4-15-11)

##### SEC. 68.361. FEES.

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A person submitting an application pursuant to this chapter shall submit the fee established by the Board in section 65.107 for that application. An application shall not be considered complete until the applicant has paid the fee. If this chapter requires an inspection, re-inspection, consultation, examination, re-examination, test, re-test or any other action by the Director for which the Board has established a fee in section 65.107, the person requesting the action shall submit the fee to the Director at the time the person requests the Director take the action.

(Added by Ord. No. 10136 (N.S.), effective 4-15-11)

#### CHAPTER 4. DEFENSIBLE SPACE FOR FIRE PROTECTION ORDINANCE\*

\*Note--Chapter 4, Abatement of Weeds and Rubbish, Sections 68.410--68.419, added by Ord. No. 6998 (N.S.), effective 7-24-85; Ord. No. 7001 (N.S.) adopted 7-30-85, effective 8-29-85, supersedes Ord. No. 6998; amended (including title) by Ord. No. 9633 (N.S.), effective 4-23-04; amended (including title) by Ord. No. 10147 (N.S.), effective 6-9-11.

Cross reference(s)--Uniform public nuisance abatement procedure, § 16.201 et seq.; management of solid waste, § 68.501 et seq.

#### SEC. 68.401. FINDINGS.

The Board of Supervisors makes the following findings and declarations:

The accumulation of combustible materials on private property is hereby found to create a fire hazard that may be injurious to the health, safety, and general welfare of the public. These conditions constitute a public nuisance that may be abated in accordance with the provisions of this chapter. The requirements in this chapter shall apply in addition to any other regulating statutes and ordinances heretofore or hereafter enacted by the State, the County of San Diego, or any other legal entity or agency having jurisdiction, including the San Diego County Consolidated Fire Code (CFC), California Public Resources Code and California Food and Agricultural Code. In the event of a conflict between the CFC and this chapter, this chapter shall prevail.

(Amended by Ord. No. 9633 (N.S.), effective 4-23-04; amended by Ord. No. 10147 (N.S.), effective 6-9-11; amended by Ord. No. 10750 (N.S.), effective 11-18-21)

Cross reference(s)--Uniform public nuisance abatement procedure, § 16.201 et seq.

#### SEC. 68.402. DEFINITIONS.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section:

(a) "CLERK" means the Clerk or Secretary of the Board of Supervisors or Board of Directors of the Enforcing Agency.

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(b) "COMBUSTIBLE MATERIALS" means materials that will readily ignite, burn and transmit fire from the item to any structure or other material, including, but not limited to:

- i. Combustible vegetation, as defined herein.
- ii. Dead, dying, or diseased trees, which includes, but is not limited to, pest or pathogen infested trees, abandoned or neglected groves or other trees in a dying condition or no longer living.
- iii. Green waste, which means organic material that includes, but is not limited to, dry grass, brush, weeds, yard trimmings, plant waste, manure, untreated wood wastes, paper products, natural fiber products, mulch and compost.
- iv. Rubbish, which means waste material including, but not limited to, waste paper and debris from construction or demolition. For the purposes of this chapter, the term "rubbish" does not include putrescible material, or material that is rapidly decomposable by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(c) "COMBUSTIBLE VEGETATION" means material that in its natural state will readily ignite, burn and transmit fire from native or landscape plants to any structure or other vegetation. Combustible vegetation does not include vegetation that is well pruned and maintained so as to effectively prevent the risk of fire ignition or transmission between vegetation and/or structures.

(d) "DEFENSIBLE SPACE" is an area either natural or man-made, where combustible materials have been treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur. Except where otherwise indicated, defensible space shall be measured on a horizontal plane.

(e) "ENFORCING AGENCY" means the fire protection or municipal water district having authority to administer and enforce this chapter through enactment of a district ordinance adopting this chapter by reference.

(f) "FIRE CODE OFFICIAL" means the Fire Warden of the enforcing agency or his/her authorized representative, or other person designated by law, appointment or delegation and charged with the administration and enforcement of this chapter.

(g) "IMPROVEMENT" means any building or structure, permanent or temporary, that requires a permit and is erected for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. For purposes of this chapter, "improvement" shall not include sheds less than 120 square feet that do not require a construction permit, gazebos, freestanding open-sided shade structures and similar accessory structures less than 250 square feet and 30 feet or more from a dwelling, and fences more than 5 feet from a dwelling.

(h) "PARCEL" means any contiguous quantity of land in the possession of, or owned by, or recorded as the property of, the same person or entity.

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(i) "RESPONSIBLE PARTY" includes, but is not limited to, any person, firm, partnership or corporation owning, renting, leasing, occupying, or otherwise controlling any parcel subject to this chapter.

(Amended by Ord. No. 7186 (N.S.), effective 9-12-86; amended by Ord. No. 9633 (N.S.), effective 4-23-04; amended by Ord. No. 10147 (N.S.), effective 6-9-11; amended by Ord. No. 10750 (N.S.), effective 11-18-21)

Cross reference(s)--Definitions, § 12.101 et seq.

#### SEC. 68.403. APPLICABILITY OF THIS CHAPTER.

(a) This Chapter shall be referred to as the County of San Diego Defensible Space Ordinance. The requirements of this Chapter, including all applicable enforcement procedures, have been moved to the 2023 Consolidated Fire Code adopted by the San Diego County Fire Protection District.

(Amended by Ord. No. 7186 (N.S.), effective 9-12-86; amended by Ord. No. 9633 (N.S.), effective 4-23-04; amended by Ord. No. 10147 (N.S.), effective 6-9-11; amended by Ord. No. 10750 (N.S.), effective 11-18-21; amended by Ord. No. 10835 (N.S.), effective 4-13-23)

#### SEC. 68.404. DEFENSIBLE SPACE REQUIREMENTS.

(a) Defensible Space for Improvements. Each responsible party shall maintain 100 feet of defensible space extending from the exterior perimeter of any improvement, pursuant to the requirements outlined in the table below. In addition, each responsible party shall maintain vertical clearance around any improvement, including removing any overhanging tree branches, shrubs, or other plants, and clearing combustible materials from rooftops and gutters.

Zone	Feet from Improvement	Vegetation Types	Vegetation Density	Trees	Plant Limbing	Firewood
1	0' - 5'	Drought and Fire-Resistant	Sparse	Prohibited	Not applicable	Prohibited
2	5' - 50'	See Zone 1	Moderate	Min. 10' horizontal distance between tree crowns*, or any between tree crowns	For vegetation greater than 18' tall, branches must be	Min. 30' from all improvements; min 10' from property lines;

				and chimneys, stovepipes, or improvements.	limbed and maintained up to 6'. For vegetation shorter than 18' tall, branches must be limbed and maintained to 1/3 of the height of the vegetation.	stacking under tree canopies prohibited.
3	50' - 100'	See Zone 1	No more than 50% of square footage	See Zone 2	See Zone 2	See Zone 2

\*Tree crowns means the primary and secondary branches growing out of the main stem of a tree, together with twigs and foliage.

(b) Defensible Space along Roads and Driveways. Each responsible party shall maintain a minimum of 10 feet of defensible space from each side of a driveway or a public or private road adjacent to the parcel, though up to 20 feet may be required by the Fire Code Official. If more than 10 feet of defensible space is required, the Fire Code Official shall notify the responsible party in writing and provide the basis for the requirement. In addition, all fire apparatus access roads shall have unobstructed vertical clearance of not less than 13.5 feet.

(c) Defensible Space for Liquid Petroleum Gas Tanks or Containers. Each responsible party shall maintain a minimum of 10 feet of defensible space from all liquid petroleum gas tanks or containers with a greater than 50 lbs, or 11.4-gallon, capacity. For the purposes of this chapter, liquid petroleum gas shall mean a material composed predominantly of one or more of the following hydrocarbons: propane, propylene, butane (normal butane or isobutane) and butylenes.

(d) Additional Defensible Space. The Fire Code Official may determine additional defensible space beyond the requirements of subsections (a), (b), and (c) of this section is necessary to protect property or the health, safety and welfare of residents of the vicinity. If the Fire Code Official determines additional defensible space is required, the Fire Code Official shall notify the responsible party in writing and provide the basis for the requirement.

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(Amended by Ord. No. 9633 (N.S.), effective 4-23-04; amended by Ord. No. 10147 (N.S.), effective 6-9-11; amended by Ord. No. 10750 (N.S.), effective 11-18-21)

**SEC. 68.405. REMOVAL OF COMBUSTIBLE VEGETATION.**

(a) The removal of combustible vegetation shall be done using methods such as mowing, cutting, grazing and trimming that leave the plant root structure intact to stabilize the soil and prevent erosion. Removed trees shall have the stumps cut no higher than eight inches above the ground. Any chipping of trees or vegetation that is done onsite may be allowed to remain so long as it is dispersed over an area not to exceed six inches in depth. If the Fire Code Official determines that difficult terrain, danger of erosion, or other unusual circumstances make strict compliance with this section undesirable or impractical, enforcement thereof may be suspended and reasonable alternative measures shall be provided.

(b) Areas where combustible vegetation is removed may be re-planted with single specimens of trees, fire-resistant ornamental shrubbery, and other fire-resistant planting materials or cultivated ground covers which do not form a means of rapidly transmitting fire from native or landscape plants to any improvement or other vegetation, to the Fire Code Official's satisfaction. Re-planting may be required for erosion control.

(c) The removal of combustible vegetation shall be carried out in conformance with all federal, state and local environmental laws, regulations and agreements including, but not limited to, the Endangered Species Act, the Memorandum of Understanding between the Fish and Wildlife Service of the United States Department of the Interior, the California Department of Fish and Wildlife, the California Department of Forestry and Fire Protection, the San Diego County Fire Chief's Association, and the Fire District's Association of San Diego County and the San Diego County regulations regarding grading, clearing and watercourses found in Division 7 of Title 8 of the San Diego County Code.

(Amended by Ord. No. 7141 (N.S.), effective 6-26-86; amended by Ord. No. 9633 (N.S.), effective 4-23-04; amended by Ord. No. 10147 (N.S.), effective 6-9-11; amended by Ord. No. 10750 (N.S.), effective 11-18-21)

**SEC. 68.406. [RESERVED.]**

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86; new Sec. 68.406 added by Ord. No. 9633 (N.S.), effective 4-23-04; amended by Ord. No. 10147 (N.S.), effective 6-9-11; repealed by Ord. No. 10750 (N.S.), effective 11-18-21)

**SEC. 68.407. [RESERVED.]**

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)



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SEC. 68.408. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

SEC. 68.409. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

SEC. 68.410. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

SEC. 68.411. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

SEC. 68.412. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

SEC. 68.413. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

SEC. 68.414. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

SEC. 68.415. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

SEC. 68.416. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

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SEC. 68.417. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

SEC. 68.418. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

SEC. 68.419. [RESERVED.]

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

**CHAPTER 5. MANAGEMENT OF SOLID WASTE, RECYCLABLE MATERIALS, ORGANIC WASTE, CONSTRUCTION AND DEMOLITION DEBRIS\***

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\*Note--Repealed and reenacted by Ord. No. 3410 (N.S.), effective 10-2-69; repealed and reenacted by Ord. No. 5018 (N.S.), effective 12-29-77; repealed and reenacted by Ord. No. 5363 (N.S.), effective 3-1-79; repealed and reenacted by Ord. No. 6875 (N.S.), effective 1-3-85; repealed and reenacted by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10729 (N.S.), effective 6-4-21.

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**ARTICLE I. GENERAL PROVISIONS AND DEFINITIONS**

**SEC. 68.501. PURPOSE.**

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, processing, and disposing of solid waste, recyclable materials, organic waste, and construction and demolition debris, which is kept, accumulated, or produced within the unincorporated area of the County.

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

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determines that these goals may best be accomplished by issuance of non-exclusive franchise agreements and recyclable materials collector certificates to persons collecting materials to regulate solid waste, recyclable materials, organic materials, and construction and demolition debris collection, transportation, processing, and disposal, and to regulate a comprehensive system for storage, collection, removal, transport, and recovery of marketable recyclable materials, organic waste, and construction and demolition debris. This chapter shall be construed to achieve this purpose.

(Amended by Ord. No. 7551 (N.S.), effective 11-22-88; amended by Ord. No. 7608 (N.S.), operative 7-21-89; amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8060 (N.S.), effective 5-28-92; amended by Ord. No. 8191 (N.S.), effective 2-4-93; amended by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9269 (N.S.), effective 12-15-00; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 9666 (N.S.), effective 8-14-04; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.502. DEFINITIONS.

The definitions listed below shall apply to this chapter. Where a definition is derived from a State or federal law or regulation, the definition shall be interpreted in accordance with the definition in the State or federal law or regulation as it currently exists or may subsequently be amended, unless authority is provided to the County to develop and apply its own definition, in which case the definition that best promotes the purposes of this chapter as determined by the Director shall apply:

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

"Approved C&D collection site" means properties where construction and demolition work is performed as evidenced by County issuance of a land clearing, building, or demolition permit, or from a non-permitted municipal project.

"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.

"Back-haul" means generating and transporting solid waste, recyclable materials, organic waste, C&D, or recovered materials to a destination owned and operated by the owner, occupant, or operator of a premises using the owner's, occupant's, or operator's own employees and equipment.

"Bin" means a metal or plastic container with hinged lid(s) and, in some cases, with wheels serviced by a front-end loading collection vehicle with a container capacity of one

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(1) to six (6) cubic yards, including bins with compactors attached to increase the capacity of the bin. Bins are also known as dumpsters.

"Biohazardous waste" has the same meaning as the term "biohazardous waste" in California Health and Safety Code section 117690.

"C&D" means construction and demolition debris.

"C&D collector" means an approved C&D collector defined in accordance with section 68.512(e) of the County Code.

"C&D recyclable materials" means any of the following materials: asphalt, concrete, dirt, land clearing vegetation, sand, gravel, rock, metal, wood, green material, cardboard, and other recyclable materials generated at construction and demolition debris sites. For the purposes of this definition, "green materials" means any material related to land development such as yard trimmings, trees, brush, and construction and demolition wood waste and does not include food material, bio-solids, wood containing lead-based paint or wood preservatives, mixed construction debris, or mixed demolition debris. Notwithstanding the foregoing, "green materials" shall be defined in section 68.512(x) of the County Code.

"California Code of Regulations" or "CCR" means the State of California Code of Regulations. References to "14 CCR" refer to Title 14 of the CCR; references to "27 CCR" refer to Title 27 of CCR, etc.

"Cardboard" means post-consumer wastepaper grade, corrugated cardboard (#11), kraft (brown) paper bags, or solid fiber boxes that are discarded, and can later be reclaimed for collection and recovery for recycling.

"Certified recyclable materials collector" (CRMC) means a person who has a valid certification with the County as a certified recyclable materials collector to operate an enterprise within the unincorporated area of the County to collect certain types and quantities of recyclable materials, green materials (excluding wood waste), food waste, and pallets that are defined in the certification and to subsequently arrange for transport, reuse, salvage, recycling, and/or processing of such materials.

"Collect" or "Collection" means the act of taking physical possession of discarded materials at residential or commercial premises within the unincorporated County, and transporting it to a facility for reuse, salvage, recycling, processing, composting, transfer, disposal, or transformation.

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"Collector" means any person who has a valid NEFA with the County, that is not suspended or revoked, to operate an enterprise to collect and subsequently arrange for transport, processing, and/or disposal of discarded materials generated within the unincorporated area of the County.

"Collector type(s)" means single-family collector, multi-family/commercial collector, and/or C&D collector. The collector is approved for the collector types in accordance with a NEFA as identified on the cover page of the collector's NEFA.

"Commercial" means of, from, or pertaining to a business, including, but not limited to, a firm, partnership, proprietorship, joint-stock company, corporation, or association that is organized as a for-profit or nonprofit entity, strip mall (e.g., property complex containing two or more commercial entities), industrial facility, institutional facility, hospitality facility, school, school district, California State University, community college, University of California, special district or a federal, State, County, local, or regional agency or facility.

"Commercial edible food generator" includes a tier one or a tier two commercial edible food generator as defined in this section 68.502. For the purposes of this definition, food recovery organizations and food recovery services are not commercial edible food generators pursuant to 14 CCR section 18982. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Community composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR section 17855(a)(4). Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Compost" means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream, or that are separated at a centralized facility as specified in 14 CCR section 17896.2(a)(4).

"Compostable plastics" or "compostable plastic" means plastic materials that meet the ASTM D6400 standard for compostability.

"Construction and demolition debris" means nonhazardous waste, building material, inert material, soil, packaging, green material, rubble, and other used or discarded materials resulting from excavation, grading, construction, or demolition. For the purposes of this definition, "green materials" means any material related to land development such as yard trimmings, trees, brush, and construction and demolition wood waste and does not include food material, bio-solids, wood containing lead-based paint or wood preservatives, mixed construction debris, or mixed demolition debris. Notwithstanding the foregoing, the definition of "construction and demolition debris" shall be defined in section 68.512(k) of the County Code and this term the definition of "green materials" shall be defined in section 68.512(x) of the County Code.

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"Container" means a receptacle for temporary storage of discarded materials. Containers include, but are not limited to, bins, carts, roll-off boxes, compactors, cans, buckets, bags, or other storage instruments.

"CRMC" means a certified recyclable materials collector.

"Customer" means the person who voluntarily subscribes to the collector's or CRMC's collection services and whom the collector or CRMC submits its billing invoice to and collects payment from for collection services provided to a premises. The customer may be either the occupant, owner, or operator of the premises.

"Densely-populated areas" mean geographic areas of the unincorporated County that are not covered by low-population waiver(s) issued by the State pursuant to 14 CCR section 18984.12.

"Designated organic materials" means those organic materials that are required to be recycled or processed by applicable law or regulations. Prior to October 1, 2021, designated organic materials shall include: (i) green materials for single-family premises and multi-family premises in the densely-populated areas and sparsely-populated areas; and, (ii) green materials and food waste for commercial premises in the densely-populated areas and sparsely-populated areas that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the state).

As of October 1, 2021, designated organic materials shall include: (i) green materials and food waste for all premises in the densely-populated areas; (ii) green materials for single-family and multi-family in the sparsely-populated areas; and, (iii) green materials and food waste for commercial premises in sparsely-populated areas that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the state).

"Designated recyclable materials" means materials that are required to be reused, salvaged, recycled, or processed by applicable law or regulations or as designated by the Director. Designated recyclable materials include aluminum, glass bottles and jars, paper products, printing and writing paper, rigid plastics, tin and bi-metal cans, and white goods for residential and commercial customers.

"Director" means the Director of Public Works of the County and any person to whom the Director delegates authority to administer or enforce this chapter.

"Discarded materials" means solid waste, recyclable materials, organic materials, bulky items, and construction and demolition debris discarded by the generator or customer.

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

"Disposal site" means any permitted solid waste handling facility or facilities where the final disposal of solid waste occurs.

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"Diversion" (or any variation thereof including "divert") means activities which reduce or eliminate discarded materials from disposal including, but not limited to, reuse, salvage, recycling, and composting.

"Diversion service level ratio" means the proportion of weekly container capacity available for recyclable materials and organic materials to the total weekly container capacity for recyclable materials, organic materials, and solid waste. The diversion service level ratio, which shall be reported as a percentage, shall be calculated as the sum of the weekly cubic yards of recyclable materials and organic materials collection service capacity provided by collector and/or CRMC to generator divided by the sum of the total weekly cubic yards of recyclable materials, organic materials, and solid waste collection service capacity provided by collector and/or CRMC to generator.

"Edible food" means food intended for human consumption. Edible food is not considered discarded materials if it is recovered and not discarded. Nothing in this chapter requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Excluded waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile waste, corrosive waste, medical waste, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the County and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in the County's, or its designee's reasonable opinion, would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the County, or its designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in single-family or multi-family discarded materials after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with sections 41500 and 41802 of the California Public Resources Code. Excluded waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the County's or collector's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by the County or its collector.

"Facility(ies)" means any plant or site used for the purposes of handling discarded materials including, but not limited to, disposal sites, material recovery facilities, and transfer, recycling, composting, and processing facilities.

"Food distributor" means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

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"Food facility" has the same meaning as in Section 113789 of the California Health and Safety Code. Notwithstanding the foregoing, this term shall be defined as in 14 CCR Section 18982.

"Food recovery" means actions to collect and distribute edible food for human consumption which otherwise would be discarded. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Food recovery organization" means an entity that engages in the collection or receipt of edible food from commercial edible food generators that distributes the edible food to the public for food recovery either directly or through other entities, including, but not limited to:

- (1) A food bank as defined in section 113783 of the California Health and Safety Code;
- (2) A nonprofit charitable organization as defined in section 113841 of the California Health and Safety Code; and,
- (3) A nonprofit charitable temporary food facility as defined in section 113842 of the California Health and Safety Code.

Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Food recovery service" means a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Food service provider" means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations or others based on contractual arrangements with these types of organizations. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Food waste" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells; food-soiled paper (including paper that has come in contact with food or liquid, such as, but not limited to, paper plates, paper towels, paper coffee cups, napkins, pizza boxes, and milk cartons); tea bags; coffee grounds; and paper coffee filters. Food waste excludes fats, oils, and grease when such materials are source separated from other food waste. No discarded materials shall be considered food waste unless such materials are separated from other organic waste (except that food waste does not need to be separated from and may be combined with other organic materials for collection if collector's collection program allows for combining of the organic materials), recyclable materials, and solid waste.

"Generator" means any person whose act first causes discarded materials to become subject to regulation under this Chapter 5 of the County Code or under federal, State, or local laws or regulations.

"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



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packaging or bottling, including container glass designated redeemable under the California Beverage Container Recycling and Litter Reduction Law, California 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 non-container glass such as drinking glasses, ceramics, light bulbs, window pane glass, and similar glass products.

"Green materials" means leaves, grass, weeds, wood materials from trees and shrubs (including holiday trees and similar materials generated at the premises), and wood waste.

"Hauling service" means a service provided by a person or entity in which discarded materials are removed from the generator's premises and transported to other locations for the purposes of reuse, salvage, recycling, composting, processing, or disposal. Hauling service excludes self-hauling activities.

"Hazardous waste" means any substance defined as acutely hazardous waste, extremely hazardous waste, or hazardous waste in California Health and Safety Code sections 25110.02, 25115, and 25117; any waste which meets the definitions set forth in 22 CCR section 66261.3, et seq., and is required to be managed; any substance listed as hazardous waste in 42 USC Sec. 6901 et seq.; and, any substance identified or listed now or in the future as hazardous waste by any State or federal agency.

"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.

"Inert materials" shall be defined in accordance with section 68.512(z) of the County Code.

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

"Medical waste" has the same meaning as the term "medical waste" as provided in California Health and Safety Code (H & S Code) sections 117690, 117695, and 117700 and also includes "biohazardous waste". 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.

"Mixed paper" means paper products and printing and writing paper.

"Multi-family" or "multi-family dwelling unit" means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-family premises do not include hotels, motels, or other transient occupancy facilities. References to "multi-family dwelling unit" refer to an individual residential unit of the multi-family premises.

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"Multi-family/commercial collector" means a collector that has been authorized to provide collection services and other related services to multi-family and commercial premises in accordance with a NEFA.

"Non-exclusive franchise agreement" (NEFA) means a non-exclusive franchise agreement entered into between a collector and the County where the collector agrees to collect discarded materials and subsequently transport, transfer, process, and/or dispose of the discarded materials, as appropriate for the material type, that the collector has collected in the unincorporated area of the County.

"Organic materials" means green materials and/or food waste, whether individually or in combination, set aside, handled, packaged, or offered for collection in a manner different from solid waste for the purpose of processing. Organic materials are a subset of organic waste.

"Organic materials container" shall be used for the purpose of storage and collection of organic materials.

"Organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, green materials, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing papers, manure, biosolids, digestate, and sludges. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Paper products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, and hanging files, corrugated boxes, tissue, and toweling. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, religious group, county (other than the County of San Diego), city and county, city, municipal corporation, district or other political subdivision, or any other group or combination acting as a unit.

"Premises" means a tract of land with or without habitable buildings or appurtenant structures.

"Printing and writing papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white woven envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Process, processed, or processing" means the controlled separation, recovery, volume reduction, conversion, or recycling of solid waste and/or other discarded materials including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of

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conveyor belts, sorting lines, or volume reduction equipment. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Prohibited container contaminants" means the following: (i) discarded materials placed in the recyclable materials container that are not identified as designated recyclable materials or that are not identified as acceptable materials by the collector or CRMC; (ii) discarded materials placed in the organic materials container that are not identified as designated organic materials or that are not identified as acceptable materials by the collector or CRMC; (iii) discarded materials placed in the solid waste container that are acceptable recyclable materials and/or acceptable organic materials to be placed in collector's recyclable materials container and/or organic materials container; and, (iv) excluded waste placed in any container.

"Putrescible waste" includes wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, gases, or other offensive conditions, and includes materials such as, but not limited to, food waste, offal, and dead animals. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 17402.

"Radioactive material" is defined in accordance with California Health and Safety Code section 114710, to mean any material or combination of materials that spontaneously emits ionizing radiation.

"Radioactive waste" is defined in accordance with California Health and Safety Code section 114710, to mean any radioactive material that is discarded as nonusable.

"Recyclable" means a material which can be processed into a form suitable for reuse through re-processing or re-manufacture consistent with the requirements of the California Integrated Waste Management Act of 1989 (PRC section 40000, et seq.).

"Recyclable materials" or "recyclables" means materials, by-products, or components of such materials set aside, handled, packaged, or offered for collection in a manner different from solid waste for the purpose of recycling.

"Recyclable materials container" shall be used for the purpose of storage and collection of source separated recyclable materials.

"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 includes processes identified as landfill reduction pursuant to 14 CCR sections 18983.1(b) and 18983.2. Recycling does not include transformation as defined by PRC section 40201.

"Refuse" means any mixture of putrescible and non-putrescible solid and semi-solid wastes, including garbage, trash, residential solid waste, commercial solid waste, vegetable, or animal solid and semi-solid wastes, and other solid waste destined for disposal sites.

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"Regulated entity" means a single-family, multi-family, or commercial owner, occupant, generator, or operator, self-hauler, collector, CRMC, tier one commercial edible food generator, tier two commercial edible food generator, food recovery organization, food recovery service, and other persons or entity that is subject to provisions in this chapter.

"Remote monitoring" means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of recyclable materials containers, organic materials containers, and solid waste containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of prohibited container contaminants.

"Removal" means the act of taking discarded materials from the place of generation.

"Residential" means of, from, or pertaining to single-family and multi-family premises used for human shelter, irrespective of whether such dwelling units are rental units or are owner-occupied, excluding hotels, motels, or other transient occupancy facilities.

"Residential service" means collection of all types of discarded materials generated in single-family premises or multi-family residential facilities.

"Residual materials" means those materials which, after processing, are disposed rather than recycled, composted, processed, or reused due to either the lack of markets for materials or the inability of the processing facility to capture and recover the materials.

"Rigid plastics" means plastic materials marked 1-7 (as indicated in the figure below) including, but not limited to: (a) all plastic beverage containers labeled "CA redemption value" or "CA cash refund", (b) food and beverage containers for milk, soda, water, salad dressings, cooking oil, etc., (c) jars and canisters for peanut butter, mayonnaise, aspirin, etc., (d) cleaning product containers such as detergents, bleach, soap, shampoo, drain cleaners, etc., (e) automotive and yard product containers for motor oil, antifreeze, herbicide, plant pots, etc., and, (f) any other plastic items such as toys, tools, utensils, etc. Rigid plastics do not include PVC pipe, expanded polystyrene foam (EPS) food containers, compostable plastics, plastic film, or bags.



"Roll-off box" means an open-top metal container or closed compactor box serviced by a roll-off truck and with a container capacity of 10 to 50 cubic yards. Roll-off boxes are also known as drop boxes or debris boxes.

"Rubbish" means non-putrescible solid waste.

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"Salvageable material" means an object or material that can be reused again, either for its original purpose or for a similar purpose, without significantly altering the physical form of the object or material.

"Self-haul" means the hauling performed by a self-hauler.

"Self-hauler" means a person who hauls solid waste, recyclable materials, organic waste, C&D, or recovered material he or she has generated to another person. Self-hauler also includes a person who back-hauls and includes landscapers.

"Single-family" means of, from, or pertaining to any residential premises with less than five (5) residential units.

"Single-family collector" means a collector that has been authorized to provide collection services and other related services to single-family premises in accordance with a NEFA.

"Solid waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction and demolition debris, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically-fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid waste, and other discarded solid and semi-solid wastes. Solid waste does not include any of the following wastes: hazardous waste, as defined in PRC section 40141; radioactive waste; medical waste except medical waste that has been treated and deemed to be solid waste. For the purpose of this chapter, solid waste does not include recyclable materials, organic materials, construction and demolition debris, manure, and/or salvageable materials if such materials have been source separated by the generator for the purpose of recycling, composting, processing, salvage, or reuse.

"Solid waste container" shall be used for the purpose of storage and collection of solid waste.

"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.

"Source separated" means the generator, property owner, property owner's employee, property operator, or property operator's employee has separated materials into different containers or placed separately for the purpose of collection such that recyclable materials, organic wastes, construction and demolition debris, manure, and/or salvageable materials are separated from solid waste for the purposes of collection, recycling, salvage, reuse, and/or processing.

"Sparsely populated areas" mean geographic areas of the unincorporated County covered by low-population waivers issued by the State pursuant to 14 CCR section 18984.12(a).

"Storage" means the interim containment of discarded materials.

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

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"Tier one commercial edible food generator" means a commercial edible food generator that is one of the following:

(1) Supermarket, where supermarket means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items. Notwithstanding the foregoing, supermarket shall be defined as in 14 CCR section 18982.

(2) Grocery store with a total facility size equal to or greater than 10,000 square feet, where grocery store means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments. Notwithstanding the foregoing, grocery store shall be defined as in 14 CCR section 18982.

(3) Food service provider, where food service provider means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations. Notwithstanding the foregoing, food service provider shall be defined as in 14 CCR section 18982.

(4) Food distributor, where food distributor means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores. Notwithstanding the foregoing, food distributor shall be defined as in 14 CCR section 18982.

(5) Wholesale food vendor, where wholesale food vendor means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination. Notwithstanding the foregoing, wholesale food vendor shall be defined as in 14 CCR section 18982.

Notwithstanding the foregoing, tier one commercial edible food generator shall be defined as in 14 CCR section 18982.

"Tier two commercial edible food generator" means a commercial edible food generator that is one of the following:

(1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet, where restaurant means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption. Notwithstanding the foregoing, restaurant shall be defined as in 14 CCR section 18982.

(2) Hotel with an on-site food facility and 200 or more rooms, where hotel has the same meaning as in section 17210 of the State Business and Professions Code. Notwithstanding the foregoing, hotel shall be defined as in 14 CCR section 18982.

(3) Health facility with an on-site food facility and 100 or more beds, where health facility has the same meaning as in section 1250 of the California Health and Safety Code. Notwithstanding the foregoing, health facility shall be defined as in 14 CCR section 18982.

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(4) Large event, where large event means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. Notwithstanding the foregoing, large event shall be defined as in 14 CCR section 18982.

(5) Large venue, where large venue means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this chapter, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site, is a single large venue. Notwithstanding the foregoing, large venue shall be defined as in 14 CCR section 18982.

(6) A local education agency facility with an on-site food facility.

Notwithstanding the foregoing, tier two commercial edible food generator shall be defined as in 14 CCR section 18982.

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

"Transfer station" or "transfer facility" means a facility that receives, handles, separates, converts, or otherwise processes discarded materials or transfers discarded materials directly from one container or vehicle to another for transport or for storage.

"Transformation" has the same meaning as the term "transformation" in PRC section 40201.

"Vector" has the same meaning as the term "vector" in 27 CCR section 20164.

"White goods" mean major kitchen appliances or other large appliances.

"Wood waste" means lumber and wood products as defined in H&S Code Section 25230.1, and does not include "treated wood" or "treated wood waste".

(Amended by Ord. No. 7551 (N.S.), effective 11-22-88; amended by Ord. No. 7608 (N.S.), operative 7-21-89; amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8060 (N.S.), effective 5-28-92; amended by Ord. No. 8191 (N.S.), effective 2-4-93; amended by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9269 (N.S.), effective 12-15-00; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 9666 (N.S.), effective 8-14-04; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

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Cross reference(s)--Definitions, § 12.101 et seq.

**SEC. 68.503. UNLAWFUL TO DEPOSIT DISCARDED MATERIALS 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 discarded materials as defined in section 68.502, 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 collector-provided container, CRMC-provided, or generator-provided container that is designated for temporarily depositing discarded materials prior to collection by collector or CRMC or prior to self-hauling and the discarded materials are properly deposited in such container. It shall also be unlawful and a public nuisance for the owner or occupier of private property who knows that discarded materials have been unlawfully placed, deposited, or buried on property they own or occupy to allow the discarded materials to remain on that property.

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

(Amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 9666 (N.S.), effective 8-14-04; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10224 (N.S.), effective 10-25-12; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

Cross reference(s)--Uniform public nuisance abatement procedure, § 16.201 et seq.

**SEC. 68.504. UNLAWFUL TO PLACE DANGEROUS MATERIALS IN CONTAINERS.**

(a) No person shall place or deposit in any container used for collection of discarded materials the following: any waste classified as hazardous, universal, electronic, biohazardous, radioactive, or any narcotics or controlled substances, hypodermic needles, poisons, liquid or dry caustics, or acids, flammable or explosive materials, pesticides, or similar substances dangerous to discarded materials collection, processing and disposal personnel.

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

(Amended by Ord. No. 7551 (N.S.), effective 11-22-88; amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8060 (N.S.), effective 5-28-92; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended



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by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

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

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

(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 waste pursuant to State, federal or County law or regulation. No person shall deposit, dump, spill, place, or otherwise allow untreated medical waste to be disposed of in, or on, a solid waste facility.

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

(Amended by Ord. No. 7551 (N.S.), effective 11-22-88; amended by Ord. No. 7608 (N.S.), operative 7-21-89; amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8060 (N.S.), effective 5-28-92; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.506. TRANSPORTATION OF SOLID WASTE AND OTHER DISCARDED MATERIALS.

(a) No person shall convey or transport solid waste and other discarded materials on or along any public highway in the County unless the material 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 discarded materials, however, may allow a collection vehicle transporting such material to be uncovered while picking up such material where the collection stops are separated by less than one mile. When traveling between pick-up stops and a transfer or disposal area, all loads of discarded materials shall be completely covered.

(b) All vehicles and equipment used in the collection and transport of any form of discarded materials shall be kept clean. No person shall allow liquid to drain from any vehicle that transports any form of discarded materials on any road, highway, or on any other land in a manner as to create an unsanitary condition. Persons hauling discarded materials on the public highways shall completely empty the discarded materials from all vehicles and containers at transfer, processing, or disposal sites in order to prevent litter from residue from scattering on the return trip.

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

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(Amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

**SEC. 68.507. UNLAWFUL TO REMOVE SOLID WASTE, OTHER DISCARDED MATERIALS, OR OTHER SALVAGEABLE MATERIALS WITHOUT AUTHORITY.**

(a) Where discarded materials 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, other than the generator, person supplied with a container from a collector or CRMC with regard to the contents of the container, collector, or facility owner in the case of a solid waste facility, or the designated representative of one of these persons, to take or remove any separated discarded materials or other salvageable material from any curb, street, designated pick-up location, storage area, storage container, a solid waste facility, or any other public or private property.

(2) A person to disturb, tamper with, or remove from its location, a container that is intended for storage of discarded materials or salvageable material or to disturb, tamper with, or remove the contents of the container without authorization from the person to whom the collector or CRMC provided the container or from the collector or CRMC or the owner of the container.

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

(Amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

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

**SEC. 68.511. PURPOSE.**

The purpose of this article is to establish the Construction and Demolition Debris (C&D) Diversion Program in the unincorporated area of the County. This program is intended to increase diversion of C&D from landfills, conserve landfill capacity, extend the useful life of local landfills, support construction and demolition project compliance with waste diversion requirements of the State green building standards, and avoid potential consequences to the County if it fails to comply with State waste diversion requirements.

(Added by Ord. No. 9840 (N.S.), effective 4-20-07; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10657 (N.S.), effective 3-13-20)

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#### SEC. 68.512. DEFINITIONS.

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

(a) "Addition" means an extension or increase in floor area of an existing building or structure.

(b) "Alteration" means any construction or renovation to an existing structure, other than repair, for the purpose of maintenance or addition, including tenant improvements.

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

(d) "Applicable project" means an excavation, grading, construction, or demolition project pursuant to the applicable project definition provided in section 68.513.

(e) "Approved C&D collector" means a collector that has been approved to provide C&D collection services to approved C&D collection sites in accordance with a Non-Exclusive Franchise Agreement (NEFA). In the event no C&D collectors are approved through a valid NEFA, an "Approved C&D collector" means any collector that provides C&D collection services and agrees to (i) deliver C&D to approved C&D processing facilities; and, (ii) maintain records and submits reports pursuant to sections 68.514(c)(2)(v) and 68.519(f).

(f) "Approved C&D processing facility" means a facility that receives C&D for processing or for transfer to a processing facility for mixed C&D recycling and that has been approved or certified by: (i) the County; (ii) a city in the County using a method approved by the County; or, (iii) a third party using a method approved by the County. If the County does not define a process for County approval of C&D processing facilities, or if the County has not developed a list of approved C&D processing facilities, approved C&D collector or Debris Management Plan (DMP) permittee may select a C&D processing facility provided the facility allows such party to comply with requirements of this chapter.

(g) "C&D" means construction and demolition debris.

(h) "C&D recycling facility" means a facility that receives only C&D that has been source separated for reuse or recycling prior to receipt at the facility, provided such facility receives each type of C&D material separately and reuses or recycles the materials and does not dispose of the materials.

(i) "Chipping and grinding operation" shall be defined in accordance with California Code of Regulations, Title 14, Section 17852(a)(10).

(j) "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.

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(k) "Construction and demolition debris" means nonhazardous waste, building material, inert material, soil, packaging, green material, rubble, and other discarded materials resulting from excavation, grading, construction, or demolition.

(l) "Conversion rate" means a rate in the standardized conversion rate table approved by the DPW Director pursuant to this article for use in estimating the volume or weight of materials identified in a DMP or Debris Management Report (DMR).

(m) "Debris management plan" (DMP) means a plan prepared by an applicant before commencement of the project documenting types and estimated quantities of C&D for an applicable project and the planned method for diverting the C&D from an applicable project as required by section 68.514.

(n) "Debris management report" (DMR) means a report prepared by a DMP permittee after conclusion of the project evidencing the types and quantities of C&D diverted or disposed and diversion method(s) for an applicable project as required by section 68.514.

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

(p) "DMP compliance official" means County staff responsible for implementing any element of this article.

(q) "DMP permittee" means a person who is required to divert C&D from an applicable project under this article and who has an approved DMP, or, in the case of a Class 3 applicable project, means a person who is required to divert C&D from an applicable project under this article and who is self-certifying compliance.

(r) "Diversion/Divert" means activities that reduce or eliminate discarded materials from disposal in a landfill, including, reuse, salvage, recycling, and composting.

(s) "Diversion requirement(s)" means the requirement(s) in section 68.516 to divert a minimum percentage of C&D generated by an applicable project.

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

(u) "Excavation" means any act by which soil, sand, gravel, or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated and shall include the conditions resulting therefrom; and, for the purposes of this Article, is performed for applicable projects as defined by 68.513(a)(1), 68.513(a)(2), or 68.513(a)(3).

(v) "Fill" means deposits of soil, sand, gravel, rock, or other materials placed by a person or contractor; and, for the purposes of this Article, is performed for new construction, additions, and alteration projects that are applicable projects pursuant to section 68.513(a)(1), 68.513(a)(2), or 68.513(a)(3).

(w) "Grading" means excavation or filling of material or combination thereof; and, for the purposes of this Article, includes clearing, which is defined as removal or destruction of natural vegetation by any means, including brushing and grubbing.

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(x) "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.

(y) "Green material processing operation" means a facility or center that processes green material through composting, chipping, or grinding operations, in-vessel digestion operation or facility, or other facility, operation, or use identified by the State as an acceptable form of organic material landfill disposal reduction and when green material is not subsequently sent to landfill for disposal.

(z) "Inert materials" mean soil, concrete, asphalt, rock, brick, and other non-liquid solid waste, provided that such material does not contain hazardous waste or soluble pollutants at concentrations in excess of water-quality objectives established by a regional water board pursuant to Division 7 (commencing with Section 13000) of the California Water Code and does contain not more than 1% putrescible materials by volume calculated on a monthly basis and the putrescible wastes shall not constitute a nuisance, as determined by the County enforcement agency.

(aa) Multi-phase project means a tract home project, master plan project, or other multi-building project that is built in multiple phases.

(bb) "Project" means any excavation, grading, construction, or demolition project that requires a grading, building, or demolition permit or any similar permit. For the purposes of this definition, each phase of a multi-phase project, as determined by a DMP compliance official, shall be deemed a single project.

(cc) "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 gasification, pyrolysis, transformation as defined by State Public Resources Code Section 40201, or other processes that use solid waste for conversion to energy.

(dd) "Reuse" means further or repeated use of C&D either for its original purpose or for a similar purpose, without significantly altering the physical form of the object or material.

(ee) "Salvage" means removal of an object or material that can be reused again, either for its original purpose or for a similar purpose, without significantly altering the physical form of the object or material.

(ff) "Universal waste" shall be identified as provided in California Code of Regulations, Title 22, Division 4.5, Chapter 11.

(Added by Ord. No. 9840 (N.S.), effective 4-20-07; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10657 (N.S.), effective 3-13-20)

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**SEC. 68.513. DEFINITION OF APPLICABLE PROJECTS.**

(a) Applicable projects include the following types of projects when such projects are required to obtain grading permits (excluding agricultural grading permits), building permits, or demolition permits:

- (1) All new construction projects;
- (2) Non-residential building additions and building alteration projects;
- (3) Residential additions and alterations that increase a building's footprint, volume, or size;
- (4) Demolition projects associated with new construction, additions, and alterations covered by subsections (a)(1), (a)(2), and (a)(3) above;
- (5) Non-residential excavation and grading projects associated with new construction, additions, and alterations projects covered by subsections (a)(1) and (a)(2) above; and,
- (6) Residential excavation and grading projects associated with new construction, additions, and alterations projects covered subsections (a)(1) and (a)(3) above that require major grading permits as defined by section 87.208 of this Code.

(b) For the purposes of defining the County's C&D diversion compliance requirements and performance guarantee requirements, applicable projects are categorized as Class 1, 2, or 3 projects. All project classes must comply with applicable diversion requirements specified in section 68.516. Subject to conditions in subsections (c) through (h) below, applicable project classes are defined as follows:

(1) Class 1 Projects - For demolition projects, Class 1 projects are applicable projects in which the square footage of the demolition work is greater than 5,000 square feet. For construction, addition, and alteration projects, Class 1 projects are applicable projects in which the square footage of the new construction, addition, and alteration work is greater than 5,000 square feet. For excavation and grading projects, Class 1 projects are applicable projects with major grading permits as defined section 87.208 of this code.

(2) Class 2 Projects - For demolition projects, Class 2 projects are applicable projects in which the square footage of the demolition work is equal to or greater than 1,000 square feet and equal to or less than 5,000 square feet. For construction, addition, and building alteration projects, Class 2 projects are applicable projects in which the square footage of the construction addition and building alteration work is equal to or greater than 1,000 square feet and equal to or less than 5,000 square feet.

(3) Class 3 Projects - Class 3 projects are all applicable projects that do not fit into the Class 1 or 2 project categories.

(c) For the purpose of classifying projects under subsection (b) above, the square footage of a project is the sum of the square footage for each floor of all building(s) and

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structure(s) in the project with the exception of multi-phase projects described in subsection (d) below.

(d) For the purpose of classifying the project type for each phase of a multi-phase project under subsection (b) above, the square footage shall be the sum of the square footage for all phases of the multi-phase project.

(e) All excavation, grading, construction, and demolition projects conducted by the County shall be subject to the requirements of this article if the project meets the applicable project definitions established by this article even if a permit is not issued for the project. For applicable County projects, the County or the County's contractor shall comply with the applicable project requirements of this article.

(f) All applicable projects shall comply with the requirements of this article including but not limited to diversion requirements in section 68.516.

(g) The following project types are exempt from the requirements of this article:

(1) Projects exempt from compliance with diversion requirements under the Green Building Standards Code, California Code of Regulations, Title 24, Part 11 ("CALGreen Code") and the 2016 California Building Code, Part 2, Volume 1, Section 105.2, as they may be amended periodically, shall be exempt from the requirements of this Article.

(2) Emergency demolition projects, if the projects are required to protect public health or safety.

(3) Residential projects that qualify for diversion infeasibility exemptions pursuant to section 68.517.

(4) Residential and non-residential excavated soil and land clearing projects that are not defined as applicable projects in section 68.513(a).

(Added by Ord. No. 9840 (N.S.), effective 4-20-07; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10657 (N.S.), effective 3-13-20)

#### SEC. 68.514. REQUIREMENTS FOR DEBRIS MANAGEMENT PLAN AND REPORT.

(a) General requirements.

(1) Class 1 projects shall demonstrate to the County compliance with the diversion requirements stated in section 68.516 using the enhanced compliance method described in section 68.514(b).

(2) Class 2 projects are required to self-certify compliance in the same manner as Class 3 projects until December 31, 2020. Commencing January 1, 2021, Class 2 projects shall demonstrate to the County compliance with the diversion requirements stated in section 68.516 using the enhanced compliance method described in section 68.514(b) or the approved collector compliance method described in section 68.514(c).

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(3) Class 3 projects are required by the County to self-certify their compliance with the diversion requirements stated in section 68.516 through the following steps: (i) acknowledging and documenting C&D diversion requirements stated in section 68.516 on project documents and/or drawings; (ii) diverting C&D through the methods specified in section 68.516; and (iii) maintaining documentation at the project site of the types and quantities of materials diverted and disposed and diversion methods used as required by section 68.518 to demonstrate compliance to the County with the diversion requirements stated in section 68.516.

(b) Enhanced compliance method.

(1) The enhanced compliance method allows Class 1 and Class 2 applicants and DMP permittees to plan and demonstrate compliance with the diversion requirements using one or more of the allowable diversion methods specified in section 68.516(h).

(2) The enhanced compliance method involves the following steps:

i. Applicant submits a DMP to the County for review by the DMP compliance official pursuant to this section 68.514(b) prior to the beginning of any excavation, grading, construction, or demolition activities at the applicable project site with a separate DMP provided for planned excavation and grading under the project's grading permit(s), planned demolition under project's demolition permit(s), and planned construction under the project's building permit(s);

ii. Applicant submits a performance guarantee with the DMP pursuant to section 68.515;

iii. DMP compliance official reviews the DMP and approves it if the DMP compliance official determines all of the following conditions have been met: DMP is complete; planned C&D material types, quantities, and diversion methods are reasonable; and planned C&D quantities and diversion methods meet the diversion requirements;

iv. DMP compliance official reviews the performance guarantee submitted for compliance with the performance guarantee requirements and accepts the guarantee or notifies applicant of deficiencies;

v. DMP permittee diverts C&D during the excavation, grading, construction, or demolition activities to comply with the diversion requirements using allowable diversion methods specified in section 68.516(h);

vi. DMP permittee maintains documentation pursuant to section 68.518;

vii. DMP permittee submits a DMR documenting diversion of C&D performed pursuant to section 68.514(f), no later than 180 days after the County issues a passed final inspection notice (or a certificate of occupancy). Separate DMRs are required no later than 180 days after final inspection notice (or certification of occupancy) following completion of excavation and grading under project's grading permit(s), completion of demolition work under project's demolition permit(s), and completion of construction under project's building permit(s). For multi-phase projects, the DMP permittee submits one DMR for each



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phase of the multi-phase project no later than 180 days after the County issues a passed final inspection notice (or a certificate of occupancy) for the final permit of each phase. If there are multiple grading, excavation, or building permits in a single phase, the date of the final inspection notice (or certificate of occupancy) on the final grading, excavation, or building permit will be used as the start date for the 180-day reporting period for all permits in that phase;

viii. DMP compliance official reviews the DMR and determines the DMP permittee's level of compliance with the diversion requirements; and,

ix. County remits some or all of the DMP permittee's performance guarantee, if warranted, in accordance with section 68.515.

(c) Approved collector compliance method.

(1) The approved collector compliance method allows class 2 applicants and DMP permittees to plan and demonstrate compliance with the diversion requirements using: (i) an approved C&D collector; (ii) on-site reuse of C&D; and/or, (iii) salvage of C&D for off-site reuse. Other diversion methods specified in section 68.516(h) are not allowable under the approved collector compliance method.

(2) The approved collector compliance method involves the following steps:

i. Applicant submits a DMP to the County for review by the DMP compliance official pursuant to this section 68.514(c) prior to the beginning of any excavation, grading, construction or demolition activities at the applicable project site with a separate DMP provided for planned excavation and grading under the project's grading permit(s), planned demolition under project's demolition permit(s), and planned construction under the project's building permit(s); and, such DMP shall include a signed contract between the applicant and an approved C&D collector;

ii. DMP compliance official reviews the DMP and approves it if the DMP is complete, and if estimated reuse and salvage material quantities and plans, if any, are reasonable;

iii. DMP permittee diverts C&D during the excavation, grading, construction, or demolition activities to comply with the diversion requirements through collection of C&D by the approved C&D collector, on-site reuse of C&D, or salvage of C&D for off-site reuse;

iv. DMP permittee maintains records of C&D reused on-site or salvaged for off-site reuse and reports quantities to the approved C&D collector pursuant to section 68.518;

v. The approved C&D collector that collected C&D from the approved project submits a report to a DMP compliance official documenting C&D diversion for the applicable project pursuant to requirements of the NEFA, no later than 180 days after the County issues a passed final inspection notice (or a certificate of occupancy). Separate reports are required no later than 180 days after final inspection notice (or certification of occupancy) following completion of excavation and grading under project's grading permit(s), completion of demolition work under project's demolition permit(s), and completion of construction under project's building permit(s). For multi-phase projects, the approved C&D collector

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submits one DMR for each phase of the multi-phase project no later than 180 days after the County issues a passed final inspection notice (or a certificate of occupancy) for the final permit of each phase. If there are multiple grading, excavation, or building permits in a single phase, the date of the final inspection notice (or certificate of occupancy) on the final grading, excavation, or building permit will be used as the start date for the 180-day reporting period for all permits in that the phase;

vi. DMP compliance official reviews the approved C&D collector's diversion report and determines the DMP permittee's compliance with the diversion requirements; and,

vii. If diversion requirements are not achieved, County may: (i) investigate the approved C&D collector's compliance with the NEFA diversion requirements and pursue remedies under the NEFA (or in the event no C&D collectors are approved through a valid NEFA, investigate the approved C&D collector's and the DMP permittee's records and diversion performance and take enforcement actions against DMP permittee under section 68.519), (ii) in the case of reporting by DMP permittee of material reuse and salvage, investigate the DMP permittee's diversion records and reporting of reuse and salvage, if any, and, (iii) take enforcement actions against DMP permittee under section 68.519.

(3) A DMP permittee that uses the approved collector compliance method may change to the enhanced compliance method described in section 68.514(b) at any time during the project, provided the DMP permittee submits a revised DMP, submits the appropriate performance guarantee pursuant to section 68.515, and complies with all other requirements of the enhanced compliance method.

(d) Notwithstanding any other provision of this code, no grading, demolition, or building permit shall be issued for any Class 1 or 2 projects 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.

(e) The DMP shall include the following information:

(1) The type of project;

(2) The total square footage of the project;

(3) The estimated weight of C&D, by material type, that the project is expected to generate;

(4) The estimated maximum weight of C&D that can feasibly be diverted via reuse, salvage, or recycling;

(5) The estimated weight of C&D that is planned to be disposed of in a landfill;

(6) The name and address of any person, approved C&D collector, and/or approved C&D facility or facilities the applicant proposes to use to collect, process, or receive C&D generated by the project;

(7) For the approved collector compliance method, a signed contract between the applicant and the approved C&D collector; and,

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(8) For non-residential addition and alteration projects defined in section 68.516(e), acknowledgement by applicants to properly dispose of universal waste; estimation of the type and amount of universal waste to be generated by the project; and, identification of facilities to be used to dispose of universal waste.

(f) The DMR shall include the following information:

(1) General project information including type of project, permit number, project name, location, contact information, and other information specified by the County;

(2) The total square footage of the project;

(3) Itemized list of C&D material generated by the project, the actual tonnage of each material reused, salvaged, recycled, and/or disposed or estimated tonnage if volumetric conversions were made based on actual volumes;

(4) Diversion calculations; and,

(5) Documentation demonstrating diversion and disposal including:

i. Weight tickets or receipts from approved C&D processing facilities, approved C&D recycling facilities to verify recycling of C&D debris;

ii. **Report from approved C&D collector documenting amount of C&D collected, processed, and recycled and the diversion level;** and,

iii. Evidence of reuse and salvage pursuant to section 68.518.

(g) The County shall prepare a list of approved C&D processing facilities and C&D recycling facilities that accept C&D in the unincorporated and incorporated areas of the County. The County shall make the lists available to any person upon request.

(h) The County reserves the right to establish a C&D program administration fee for applicable projects to cover costs associated with the receipt, processing, and review of DMPs and DMRs, and verification of applicable project compliance with the requirements of this article.

(i) The DPW Director shall prepare a conversion rate table(s) that shall be used by an applicant or DMR permittee to calculate the weight of C&D based on volumes of C&D when the weight of the material is unavailable.

(Added by Ord. No. 9840 (N.S.), effective 4-20-07; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10657 (N.S.), effective 3-13-20)

#### SEC. 68.515. PERFORMANCE GUARANTEE.

(a) Applicants for all Class 1 projects and applicants for Class 2 projects that use the enhanced compliance method shall submit to the County a performance guarantee in the

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amount specified in subsection (c) as a condition of a demolition or building permit with the exception that County projects are not required to submit a performance guarantee.

(b) Applicants for Class 2 projects using the approved collector compliance method and applicants for all Class 3 projects are not required to submit performance guarantees. Applicants for grading projects are not required to submit performance guarantees under this article.

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

**Performance Guarantee Values**

Per-Unit Amount	\$0.40 per square foot
Minimum Amount	\$400
Maximum Amount	\$40,000 (100,000 square feet or more)

(d) Performance guarantee amounts in the above table may be reviewed and adjusted periodically by the County Board of Supervisors.

(e) Square footage used to calculate the performance guarantee for an applicable project shall be determined in accordance with section 68.513(c).

(f) A performance guarantee may be in the form of a cash deposit.

(g) Cash deposits for a performance guarantee shall be deposited by the County in an interest-bearing account. The County shall return the performance guarantee plus interest to the DMP permittee upon the County's determination of full compliance with the diversion requirements, or shall return a prorated portion of the performance guarantee with interest less an administrative fee to the DMP permittee based on the degree of compliance with the diversion requirement. The interest amount shall be determined in accordance with the California Government Code section 53079(b).

(h) Any forfeited performance guarantee, including interest on a cash deposit, shall be used by the County to recover the County's administrative costs related to processing the DMPs and DMRs. Any remaining funds shall be used by the County for programs to develop or improve C&D collection, processing, reuse, salvage, and recycling.

(i) If a DMP compliance official determines the DMP permittee fully complied with the diversion requirements, the DMP compliance official shall issue a notice of compliance and release the DMP permittee's performance guarantee refund (described below) within 30 days of final approved DMR submittal. If additional documentation is requested by the DMP compliance official, the DMP permittee shall have 90 days to submit proper documentation. If requested documentation is not submitted by DMP permittee within 90 days of request, DMP permittee will be ineligible to request performance guarantee refund. The

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performance guarantee refund shall equal the amount of the performance guarantee plus interest (where interest is described in subsection (g) above).

(j) If the DMP compliance official determines the DMP permittee has not demonstrated full compliance with the diversion requirements (based on review of the DMR for the enhanced compliance method or based on review of the approved C&D collector's project report for the approved collector compliance method or through other investigation or means), the DMP compliance official shall calculate the percent of the DMP permittee's compliance rate based on receipts and other proof of diversion. The DMP compliance official shall issue a notice of partial compliance or notice of forfeiture to the DMP permittee reflecting the level of compliance and prorated amount of the performance guarantee refund (described in subsection (i) above) and/or 100% forfeiture in the event of complete non-compliance. The DMP compliance official shall serve the DMP permittee, pursuant to section 11.112 of this code, with a notice of partial compliance or a notice of forfeiture. The DMP permittee shall have 15 days from the date a notice of partial compliance or forfeiture is served to file an appeal under section 68.520.

(k) If a grading, demolition, and/or building permit is cancelled, abandoned, or expired for an applicable project that submitted a performance guarantee pursuant to this section 68.515, County shall refund to the DMP permittee the sum of the performance guarantee and interest (where the interest amount is described in subsection (g) above).

(Added by Ord. No. 9840 (N.S.), effective 4-20-07; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10657 (N.S.), effective 3-13-20)

#### SEC. 68.516. DIVERSION REQUIREMENTS.

(a) A DMP permittee shall achieve diversion of C&D for the applicable project through one or more of the diversion methods identified in section 68.516(h) such that the diversion equals:

(1) 65% diversion of C&D generated by the construction and demolition projects, which shall include, at a minimum, 90% diversion of inert material generated by an applicable project; and,

(2) 100% diversion of excavated soils, trees, stumps, rocks, and associated vegetation and soils from the following types of applicable projects: (i) non-residential excavation and grading projects; and, (ii) residential projects that require major grading permits as defined in section 87.208 of this code.

(b) When evaluating compliance with the 65% diversion requirement for a project, the tonnage of materials diverted, including inert materials, will be included in the calculations.

(c) Excavated soil and land-clearing debris that is contaminated by disease or pests are not required to be reused on- or off-site, provided that: (i) the County Agricultural Commissioner has made a determination of disease or pest contamination and permittee follows commissioner's direction for recycling or disposal of the material, (ii) the materials

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are generated in a known pest and/or disease quarantine zone identified by the California Department of Food and Agriculture, or (iii) the materials are otherwise not required to be reused under the CALGreen Code.

(d) For an applicable project that is one phase of a multi-phase project, excavated soil and land-clearing debris may be stockpiled on-site until a storage site is developed, provided the stockpiling is performed in accordance with a temporary stockpiling permit and materials are recycled or reused prior to the final inspection of the final permit in the phase.

(e) For non-residential additions of 1,000 square feet or greater and for non-residential alterations with a permit value equal to or greater than \$200,000, DMP permittee must provide verification acceptable to the DPW Director that universal waste was properly disposed at a facility that accepts universal waste and that the universal waste was diverted from landfill as required by Green Building Standards Code, California Code of Regulations, Title 24, Part 11 ("CALGreen Code") and the 2016 California Building Code, Part 2, Volume 1, Section 5.408.2.

(f) For non-residential projects, the DMP Permittee shall be responsible for ensuring that any tenants and/or subcontractors performing the excavation, grading, demolition and/or construction activities comply with the terms of the DMP permit and this Article.

(g) The diversion requirements for C&D may be increased from 65% to 75% upon 30 days' advance notice from the DPW Director if an approved C&D processing facility within the County has achieved 75% diversion for at least 9 consecutive months.

(h) Diversion of C&D may be achieved through one or more of the following allowable methods, provided that DMP permittee selects method(s) that will result in achievement of the diversion requirements of this article:

- (1) Reuse on-site or salvage for off-site reuse through donation or sale of materials;
- (2) Use of an approved C&D collector to deliver C&D to an approved C&D processing facility or C&D recycling facility, which results in a diversion rate reported by the facility;
- (3) Delivery of C&D to an approved C&D processing facility or C&D recycling facility, which results in diversion rate reported by the facility;
- (4) Delivery of green material to a green material processing facility or chipping and grinding facility for recycling;
- (5) Other donation, salvage, or reuse of materials acceptable to DPW Director;
- (6) Deconstruction and salvage or reuse of materials;
- (7) Delivery of source separated C&D such as dirt, concrete, wood waste, cardboard, or other recyclable C&D delivered to a C&D recycling facility for recycling, processing, and diversion;

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(8) Alternate waste reduction methods developed by working with County if diversion or recycling facilities capable of compliance do not exist; or,

(9) Other methods approved by the DPW Director.

(i) DMP permittees shall arrange for an approved C&D collector to collect and transport all C&D generated at the applicable project site to an approved C&D processing facility or C&D recycling facility, or, if applicable, shall self-haul materials or rely on others to haul materials subject to conditions specified in section 68.531 of this chapter.

(j) If State law specify higher or more stringent diversion requirements for some or all types of C&D, State regulations shall supersede diversion requirements presented in this section 68.516.

(Added by Ord. No. 9840 (N.S.), effective 4-20-07; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10657 (N.S.), effective 3-13-20)

#### SEC. 68.517. DIVERSION INFEASIBILITY EXEMPTION.

(a) For residential projects, if it is infeasible for an applicant for an applicable project to comply with all requirements of section 68.516, the applicant may apply for a diversion infeasibility exemption. For the purposes of this section 68.517, "infeasible" means: (i) that there are no recycling, salvage approved C&D processing facilities, or C&D recycling facilities within a 50-mile radius of the project area or of any location from which the applicant regularly operates its business or stores its excavation, grading, construction, and/or demolition equipment; or, (ii) onsite reuse options are not available for all or part of the project's C&D. The applicant shall apply for the infeasibility exemption using an exemption form provided by the County and shall submit the exemption form at that same time the applicant submits the DMP required by section 68.514.

(b) If a DMP compliance official grants the applicant's request for an infeasibility exemption, the official shall determine an adjusted diversion requirement that specifies the percentage of C&D the applicant is required to recycle, reuse, or salvage. In reaching this determination, the DMP compliance official may consult with any State or local official and the applicant. The DMP compliance 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 DMP compliance official serves the notice, the applicant shall submit a revised DMP or file an appeal under section 68.520.

(Added by Ord. No. 9840 (N.S.), effective 4-20-07; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10657 (N.S.), effective 3-13-20)

#### SEC. 68.518. DOCUMENTATION OF DIVERSION ACTIVITIES.

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(a) For all applicable projects, the DMP permittee shall maintain a daily log of all C&D that leaves the site and all receipts from each approved C&D processing facility, C&D recycling facility, approved C&D collector, other vendor, green material processing operation, or disposal or transfer station facility that accepted C&D from the DMP permittee. Additional documentation requirements are specified in subsections (b) and (e) below.

(b) The daily log shall identify the project location, and each log entry shall contain the date a load was transported off the site, the type of C&D, the weight of the material or its approximate tonnage or estimated volume, the name of the party transporting the materials, the name of the receiving facility, and whether the material was disposed of in a landfill, salvaged for future use off-site, or recycled. Each log entry shall correspond with a receipt issued by the party that transported the material off-site or by facility that accepted the C&D if the materials were hauled by the DMP permittee, provided that such receipts are compiled within 90 days of the date of the log entry. The daily log shall include separate entries for each occurrence of materials reused on-site as specified in section 68.515(e). The log and all receipts shall be maintained at the project site and made available to any County inspector or DMP compliance official responsible to ensure compliance with this article. The DMP permittee's failure to have the receipts from the receiving facility that accepted the C&D or failure to have the daily log containing all the information required by this subsection available for inspection constitutes grounds for suspension of the project's grading, demolition, or building permit.

(c) DMP permittee shall make the approved DMP available at the project site and, upon County request, shall make the DMP available to the DMP compliance official for inspection.

(d) In addition to the requirements under subsections (a) and (b) above, the DMP permittee shall comply with all of the following:

(1) If a receipt from an approved C&D processing facility, C&D recycling center, or other facility required by subsection (a) does not contain a statement of the weight of the C&D, the DMP permittee shall provide a printout or other verifiable statement of the weight of the C&D, produced by a weighing device with a current registration certificate from the County Sealer, or DMP permittee shall obtain a receipt for delivery of the C&D that identifies the date and time of delivery, the type of material delivered, the volume of material or truck size and, if applicable the vehicle number delivering material. DMP permittee shall estimate the tonnage of material based on the volumetric capacity of the vehicle and conversion rate table approved by the DPW Director.

(2) If it is impracticable to weigh reused or salvaged C&D or other C&D, the DMP permittee shall estimate the volume of C&D (based on the capacity of the container or vehicle transporting the material or based on measurements of the dimension of the materials) and shall submit a statement of its volume along with the calculation of the weight of the C&D, using the DPW Director's conversion rate table referenced in section 68.514(i).

(3) If C&D was reused on-site, self-hauled off-site for salvage, or collected by a third party for salvage, the DMP permittee shall provide a receipt or other proof of diversion



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including photos or any additional information relevant to determining compliance with the DMP. If County finds that evidence provided is insufficient, County may request additional evidence or may disallow the accounting of the materials as reuse or salvage.

(4) An authorized representative of the DMP permittee shall sign the DMR under penalty of perjury verifying that the information submitted to the County is in compliance with subsections (1) through (3).

(e) Approved C&D collectors are required to record and report to the County the tons of C&D transported from applicable projects to approved C&D facilities, C&D recycling facilities, and disposal facilities, documenting tonnage by applicable project permit number, in accordance with NEFA reporting requirements DMP permittee may request a tonnage and diversion report on its applicable project from the approved C&D collector.

(Added by Ord. No. 9840 (N.S.), effective 4-20-07; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10657 (N.S.), effective 3-13-20)

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

(a) As an additional condition of approval of a DMP under section 68.514, a DMP permittee shall consent to allowing the County the right to inspect the applicable project site during normal business hours without notice. Upon request, the DMP permittee shall make available to the inspector or DMP compliance official the receipts and daily log of C&D required by section 68.518.

(b) If a DMP permittee or any of the DMP permittee's agents or employees refuse to allow a County inspector to inspect the site or the DMP permittee's daily log and receipts, the County shall have the right to suspend the DMP permittee's grading, demolition, or 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 DMP permittee fails to maintain or have available the daily log or receipts required by this article, (2) if the DMP permittee violates any other provision of this article, or (3) if the DMP permittee commits any other act which would be grounds for suspension of a grading, demolition, or building permit.

(c) If the County decides to suspend a grading, demolition, or building permit under this section 68.519, the County shall issue a notice of suspension and serve the DMP 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 DMP 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 excavation, grading, construction, or demolition site is unsafe or that the DMP permittee has knowingly failed to comply with section 68.516, the County may suspend the permit immediately and advise the DMP 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

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appealable under section 68.520, but an appeal does not stay the immediate suspension of the permit.

(d) It shall be unlawful for any DMP 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.

(Added by Ord. No. 9840 (N.S.), effective 4-20-07; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10657 (N.S.), effective 3-13-20)

#### SEC. 68.520. APPEALS.

An applicant or DMP permittee may make appeals to the DPW Director for the following circumstances: (a) denial of an infeasibility exemption under section 68.517, (b) forfeiture of performance guarantee under section 68.515, or (c) suspension of the DMP permittee's grading, demolition, or building permit under section 68.519. No other appeal shall be allowed under this article. A notice of appeal shall be submitted by applicant or DMP permittee in writing and filed with or mailed to the DPW 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 DPW Director shall appoint an independent hearing officer to hear the appeal under procedures established by the DPW Director. The decision of the hearing officer shall be final.

(Added by Ord. No. 9840 (N.S.), effective 4-20-07; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10657 (N.S.), effective 3-13-20)

### ARTICLE III. STORAGE OF DISCARDED MATERIALS AND NUISANCE ABATEMENT

#### SEC. 68.521. COLLECTOR AND CRMC OBLIGATIONS FOR STORAGE CONTAINERS.

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

(1) Provide containers designed for safe handling that shall be designed and constructed to be non-absorbent, watertight, vector-resistant, durable, easily cleanable, and prevent the leakage of liquids.

(2) Provide containers equipped with close-fitting and tight-fitting lids or covers that can be readily removed.

(3) Provide containers that comply with the color, signage, and labeling requirements specified in a collector's NEFA or CRMC's certificate.

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A collector or CRMC shall furnish all of its customers with one or more containers for each type of discarded materials for separate collection of each type of discarded material for which each customer has subscribed. The containers shall allow generators to effectively source separate the recyclable materials, organic materials, and construction and demolition debris from solid waste for pick-up by the collector or CRMC, where such materials shall include, at a minimum, designated recyclable materials and designated organic materials as defined in section 68.502.

(b) If a collector's NEFA or a CRMC's certificate imposes more stringent container requirements than imposed by this section 68.521, collector or CRMC shall comply with the more stringent requirements imposed by the NEFA or CRMC certificate.

(Amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8060 (N.S.), effective 5-28-92; amended by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.522. STORAGE BY GENERATORS, OWNERS, AND TENANTS.

Generators, including property owners and tenants, in addition to complying with 14 CCR section 17315, shall be responsible for safe and sanitary storage of all discarded materials that accumulate on the property. Generators shall store designated recyclable materials, designated organic materials, and solid waste in the containers supplied by collector or CRMC for such purposes, or in the containers or locations otherwise permitted for such storage by this chapter.

(Added by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.523. USE OF STORAGE CONTAINERS.

No person shall tamper with, modify, remove from, or deposit discarded materials into any container used for storage of discarded materials without the permission of the person to whom a collector or CRMC furnished the container or the owner of the container.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.524. DIRECTOR DEPARTMENT OF PUBLIC WORKS TO ENFORCE ARTICLE.

The Director shall have enforcement authority for this article.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

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**ARTICLE IV. NON-EXCLUSIVE AGREEMENT OR CERTIFIED RECYCLABLES MATERIAL COLLECTOR CERTIFICATE REQUIRED FOR COLLECTION**

**SEC. 68.530. NON-EXCLUSIVE AGREEMENT OR CERTIFIED RECYCLABLES MATERIAL COLLECTOR CERTIFICATE REQUIRED TO COLLECT DISCARDED MATERIALS.**

(a) Except as specifically exempted in section 68.531, it is unlawful for a person to engage in the business of collection of discarded materials kept, accumulated, or produced in the unincorporated area of the County, unless the person has entered into a NEFA, or CRMC pursuant to this chapter that is in full force and effect.

(c) Effective July 1, 2021, collectors will be required to operate under a NEFA and will be approved for one or more collector types. The combined number of collectors authorized to service single-family, multi-family, and commercial generators shall be limited to the number of such NEFAs in effect on July 1, 2021. Beginning July 1, 2021, the number of NEFAs authorizing single-family collectors and multi-family/commercial collectors will decrease if, and when, any NEFAs authorizing single-family collectors and multi-family/commercial collectors are no longer valid due to revocation or termination, the collector opts not to renew the NEFA, or other cause. The Board has the right to adjust the number of NEFAs authorizing single-family collectors and multi-family/commercial collectors if it 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 single-family collectors and multi-family/commercial collectors. The number of NEFAs for C&D collectors shall not be limited.

(d) A "limited single-family service allowance" may be granted by the Director to a multi-family/commercial collector that is not approved as a single-family collector to allow for the collector to collect from 100 or fewer single-family customers subject to review and approval for such allowance by Director.

(Amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

**SEC. 68.531. EXEMPTIONS.**

The following persons shall be exempt from section 68.530:

(a) A person that collects recyclable materials and organic waste from service recipients, for the purpose of recycling or processing, but only if such person: (1) does not directly or indirectly charge the service recipient a monetary sum or other consideration for provision of such service; (2) pay the service recipient a net payment for the receipt of such

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recyclable materials or organic waste; and, (3) provide written documentation to the County upon its request that such persons meet the foregoing requirements.

(b) A person (e.g., gardener, landscaper, tree-trimming service, demolition contractor, construction contractor, document shredding service provider, residential or commercial on-property clean-out service provider, excluding construction and demolition clean-up service providers that are required to be C&D collectors with valid NEFAs as of July 1, 2021) that removes and transports discarded materials from a premises as an incidental and a minor part of the service being performed; provided that the removed discarded materials were generated by the services the person provided. Notwithstanding the preceding sentence, nothing in this section 68.531 shall be construed to exempt hauling services from section 68.530.

The materials that such person may remove as an incidental part of service shall be discarded materials that such person or contractor generated by the services they provided (e.g., building framers may haul wood scraps, plumbers may haul pipe discards, demolition contractors may haul demolition materials). Recyclable materials and organic materials so removed shall be recycled or processed and may not be disposed, and solid waste so removed shall be properly disposed of at a solid waste facility.

(c) A person from an agricultural operation that removes agricultural materials from an agricultural premises and transports the material to another agricultural operation for a purpose other than disposal.

A person that removes discarded materials generated and stored at any premises and transports the materials to a facility for reuse, salvage, recycling, processing, transfer, or disposal provided such person owns, leases, rents, or has legal access to such premises, or, in the case of a commercial premises, multi-family premises, or a County facility provided such removal and transportation is performed by the owner, principal, or partner of the commercial premises, multi-family premises, County, or his/her bona fide employees using a vehicle owned or leased by the commercial premises, multi-family premises, or County facility.

A person that removes and transports residential discarded materials from a group of single-family residential owners or tenants when residences, not to exceed ten (10) units, lie within a single boundary served internally only by private streets.

(d) A person removing or transporting materials generated by public schools and State facilities.

(e) A person removing or transporting recyclable materials, green materials (excluding wood waste), food waste, and pallets, provided such person is a CRMC and complies with CRMC requirements.

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

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

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- (2) By-products of sewage treatment, including sludge, sludge ash, ash, grit, and screenings.
- (3) Residual material or non-putrescible waste from a solid waste management facility, including material recovery, composting, or transformation facilities.
- (4) Animal waste and remains for use as tallow.
- (5) Source separated manure and animal bedding materials provided such materials are transported by person separately from any other materials for a purpose other than disposal.
- (6) Discarded materials collected in the course of a community clean-up campaign.
- (7) Solid or semi-solid discards or byproducts of food and beverage sales or processing activities that are collected for use as livestock feed including, but not limited to, spent brewery grains and fruit pulp that is self-hauled, hauled by the generator's employees, or by a person that collected the materials for their direct use.
- (8) Liquid by-products of food or beverage processing including, but not limited to, used cooking oil and pumpings from grease traps, which are source separated from food waste, solid waste, and other discarded materials for the purpose of disposal or recycling.
- (9) Food waste that is separated by a generator for use as animal feed.
- (10) Edible food that is collected and transported by a person, such as a person from a food recovery organization or food recovery service as defined in sections 14 CCR 18982, for the purpose of providing edible food for human consumption, or edible food removed that is self-hauled to a food recovery organization or food recovery service for the purpose of food recovery.
- (11) Any items that are donated by the generator to youth, civic, or other charitable organizations transported by persons, provided that the generator is not charged any monetary sum or other consideration for such services.
- (12) Reusable items or salvageable materials that are donated or sold by the generator for the purpose of reuse.
- (g) A person or non-profit entity that collects organic materials from service recipients, for the purpose of recycling or processing in a community composting facility as defined in Section 6977 d. and e. of the County of San Diego Zoning Ordinance . This person or non-profit entity may collect fees to offset the collection costs.

(Amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10729 (N.S.), effective 6-4-21; amended by Ord. No. 10807 (N.S.), effective 10-14-22)

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

The right to collect discarded materials in the County pursuant to a NEFA granted pursuant to this chapter shall be non-exclusive.

(Amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

**SEC. 68.533. APPLICATION FOR A NON-EXCLUSIVE AGREEMENT.**

(a) A person applying to enter into a NEFA 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 required by this section and as the Director requests.

(b) The application shall specify:

(1) The geographic areas where the applicant is applying to provide service.

(2) The types of generators the applicant is seeking to provide collection services for each geographic area, such as single-family collection service, multi-family/commercial collection service, construction and demolition debris collection service, or any combination of these types of service.

(c) All collector applications shall include:

(1) The applicant's name, mailing address, and phone number.

(2) Name, mailing address, email address, and telephone number of an individual contact for the applicant.

(3) 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.

(4) 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 discarded materials 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

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application the truck or piece of equipment meets the standards required by 14 CCR sections 17341 to 17345 and this chapter.

(5) 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 discarded materials; and, (C) the applicant owns or has access to adequate office and billing facilities.

(6) A statement of the applicant's qualifications and experience in collecting or transporting discarded materials.

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

(8) Application fee payment, if an application fee is required by the Director.

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

(d) The County will accept NEFA applications for C&D collectors from May 15, 2020 through December 31, 2021. Commencing in 2022, the County will accept NEFA applications for C&D collectors annually from January 1 through January 30.

(e) The County will not accept NEFA applications for single-family collectors or multi-family/commercial collectors 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 number of NEFAs authorizing single-family collectors and multi-family/commercial collectors pursuant to section 68.530.

(Amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9075 (N.S.), effective 9-10-99; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

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

(a) The Director may negotiate and execute a NEFA 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 NEFA 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 County Appellate Hearing Board as provided in section 68.540(e).



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(d) On appeal, the County Appellate Hearing Board may sustain the Director's decision or overrule the decision and direct the Director to enter into a NEFA with the applicant. The County Appellate Hearing Board may recommend as a condition of approval that the NEFA be subject to conditions; provided, those conditions do not materially alter the Board-approved NEFA form and are in conformance with this Chapter. The Appellate Hearing Board shall deny the appeal if material amendments to the NEFA or amendments to this Chapter would be required.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.535. DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE THIS ARTICLE.

The Director shall have enforcement authority for this article.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### ARTICLE V. NON-EXCLUSIVE AGREEMENT CONDITIONS\*

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\*Note--Article V, TRANSPORTER PERMITS, including §§ 68.540, 68.541, 68.542 and 68.543, repealed by Ord. No. 9269 (N.S.), effective 12-15-00; subsequent Articles VI - X renumbered as V - IX.

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#### SEC. 68.540. GENERAL CONDITIONS.

A collector operating under a NEFA shall comply with the following conditions:

(a) A collector shall produce all vehicles or other equipment used to collect or transport discarded materials for inspection at a time and place the Director designates.

(b) A collector shall obtain and keep in effect the insurance coverage and limits required by its NEFA. 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 a NEFA. Each policy shall contain provisions naming the County of San Diego as an additional insured and require that the insurance carrier give the Director notice of cancellation in accordance with the insurance policy provisions.

(c) The Director may suspend or revoke a NEFA when the Director determines the collector has violated any provision of the NEFA, this chapter, any State or federal law, or any rule or regulation promulgated by the Board, State, or federal agency with oversight

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responsibility, or the Director relating to the collection or transportation of discarded materials.

(d) If the Director determines that a collector's conduct warrants suspension or revocation of a NEFA, 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 registered 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 as shown on the collector's most-recently executed NEFA, 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 County Appellate Hearing Board. In the case of an appeal, the collector may continue to operate until the County Appellate Hearing Board renders a decision. The County Appellate Hearing Board shall mean and refer to the appellate hearing board or body specified by Section 16.101 et seq. of the County Code.

(e) A request for a hearing to contest the suspension or revocation of a NEFA shall be made in writing to the Clerk of the Board within ten (10) days after the collector receives the notice described in subsection (d). The hearing shall be scheduled within thirty (30) days following the appointment of the hearing officer pursuant to Section 16.103 of the County Code. **Written notice of the time, date, and place of the hearing shall be given in accordance with Section 16.103 the County Code.** The County Appellate Hearing Board shall render its decision within five (5) days after the close of the hearing in accordance with Section 16.106 of the County Code and its decision shall be final.

(Amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.541. NON-EXCLUSIVE AGREEMENT TERM.

(a) A NEFA shall be issued for an initial term of 10 years. The agreement shall be extended for an additional year on each anniversary date of the agreement, subject to the Director determining that the collector is substantially complying with the agreement, unless otherwise terminated in accordance with the NEFA. This section 68.541(a) shall not apply to NEFAs for C&D Collectors.

(b) A NEFA for C&D collectors shall be issued for an initial term of 3 years, and may be extended, at the County's option, in one or more increments of 3 years.

(c) On the anniversary date of the commencement of the NEFA, and at the request of either party, County and Collector shall meet and confer to revise the terms of the Agreement. If Collector does not agree with revised terms of the Agreement, then Collector

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may request a hearing before the County Appellate Hearing Board. In the case of an appeal, the Collector may continue to operate until the County Appellate Hearing Board renders a decision. The County Appellate Hearing Board shall mean and refer to the appellate hearing board or body specified by Section 16.101 et seq. of the County Code.

(d) A request for a hearing pursuant to subsection (c) above shall be made in writing to the Clerk of the Board within ten (10) days after the parties meet and confer to discuss revised terms. The hearing shall be scheduled within thirty (30) days following the appointment of the hearing officer pursuant to Section 16.103 of the County Code. Written notice of the time, date, and place of the hearing shall be given in accordance with Section 16.103 of the County Code. The County Appellate Hearing Board shall render its decision within five (5) days after the close of the hearing in accordance with Section 16.106 of the County Code and its decision shall be final.

(Added by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

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

(a) A collector granted a NEFA pursuant to this chapter shall pay a solid waste management agreement fee to the County during the term of the agreement. The fee shall be assessed from the date on which the NEFA becomes effective or the effective date identified in the resolution establishing the solid waste management agreement fee, whichever is later. The NEFA 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 NEFA. Fees the County collects pursuant to this section shall be expended by the County for solid waste, recyclable materials, organic waste, construction and demolition debris services and activities in the unincorporated area of the County only and shall not be used by the County for County-wide services or activities. Any fees due by a collector to the County pursuant to this section shall be in addition to any license fee or business tax prescribed by 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 the solid waste management agreement fees due the County under this section.

(Added by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.543. RATE REGULATION.

Pursuant to PRC section 40059, the Board shall have the power to review and regulate collector's fees, rates, and charges upon a finding that collector is charging unreasonable or

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excessive fees, rates, or charges, and the Board of Supervisors shall have the right to specify specific customer rate structuring arrangements and/or relationships between various types of customer rates.

(Added by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

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

(a) A NEFA is transferable subject to the assignment conditions in the NEFA and subject to approval 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 NEFA, 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 10 days of the change.

(Added by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

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

A collector shall indemnify, defend, and hold the County, and County's directors, officers, agents, and employees 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 NEFA granted pursuant to this chapter.

(Added by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.546. [RESERVED.]

(Added by Ord. No. 9445 (N.S.), effective 4-12-02, operative 7-1-01; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; repealed by Ord. No. 10729 (N.S.), effective 6-4-21)

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

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(a) A collector shall provide: (1) collection service in the geographic area(s) approved in the collector's NEFA; (2) the type of collection service (single-family, multi-family/ commercial, and/or construction and demolition debris service) approved in the NEFA; and (3) collection services for the types of discarded materials approved in the NEFA.

(b) A collector may modify the geographic area(s) where the collector provides service or modify the type of collection service the collector provides, by making a written request to the Director, and such request shall be subject to approval of the Director and subject to any limitations specified in the NEFA.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### 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 of the invoice date or for a substantial refusal to comply with the requirements of this code related to the collection of discarded materials, after giving the customer a reasonable opportunity to comply.

(b) If collector exercises its right to refuse service for customer failure to pay their bill within 60 days, collector shall remove any container(s) provided by collector to such customer that are located in the public right of way and clean the area adjacent to containers if any litter has accumulated. Collector shall not charge customers for removal of containers in these circumstances.

(c) 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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.549. EQUIPMENT AND VEHICLE STANDARDS.

(a) All equipment and vehicles used by collectors to transport or collect discarded materials 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 discarded materials shall carry a shovel, broom, and fire extinguisher and shall be maintained in a clean condition and neatly painted. The name 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.

(b) All equipment and vehicles used to collect and transport discarded materials shall also be equipped with both of the following:

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

(2) A mechanical cover or other device that is adequate to cover and contain discarded materials within the vehicle or piece of equipment. If discarded materials fall from, drop from, or for any other reason unintentionally comes out of a vehicle or piece of equipment after discarded materials were placed in or on the vehicle or equipment, it shall be prima facie evidence that the cover was inadequate.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.550. SERVICE REQUIREMENTS.

(a) A collector providing single-family collection service and/or multi-family/commercial collection service pursuant to a NEFA shall comply with all of the following requirements, subject to exceptions to this requirement as identified in section 68.550(a)(5):

(1) In densely-populated areas, collector shall collect solid waste, recyclable materials, and organic materials from customers that voluntarily subscribe to collector's services. Collector shall provide collection services to single-family customers once per week. Collector shall provide collection service to multi-family and commercial customers at a frequency to be agreed on by its customer provided that solid waste and organic materials are collected by collector at least once per week and recyclables materials are collected by collector at least once per week, unless every other week collection authorized by applicable law or regulations and approved by the Director.

(2) In sparsely-populated areas, collector shall collect solid waste, recyclable materials, and organic materials from customers that voluntarily subscribe to collector's services. A collector may collect solid waste from its customers at a frequency as agreed upon by the customer, but not less than once per week, unless every other week collection is authorized by applicable law or regulations and approved by the Director.

(3) In sparsely-populated areas, a collector that offers solid waste collection service is required to offer collection service for designated recyclable materials to its solid waste customers. Collector shall collect recyclable materials from its customers at a frequency as agreed upon by the customer, but not less than every other week. Collector shall provide solid waste and recyclables collection service only to customers that subscribe to this service.

(4) In sparsely-populated areas, a collector that offers solid waste collection service is required to offer collection services for designated organic materials to its multi-family and commercial customers that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the state). Collector is not required to offer to collect organic materials from other customers in the sparsely-populated areas, but may provide these services at its option to customers that subscribe to this service. Collector shall collect organic materials in the sparsely-

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populated areas at a frequency as agreed upon by the customer, but at least weekly. Collector shall provide organic materials collection services only to customers that subscribe to this service.

(5) Collector is not required to provide a single-family, multi-family, or commercial customer with recyclable materials or organic materials collection services if the customer has secured a waiver from the County pursuant to article VII of this chapter or is exempt pursuant to section 68.570(b).

(6) A collector providing service within a specific geographic area shall provide that service to any customer who requests the service and who agrees to pay the collector's rates with the exception of the collector's right to refuse services pursuant to section 68.547.

(b) At the time a collector begins providing service to a customer and at least every six months thereafter, a collector shall notify its customers about the regulations governing disposal of recyclables, organic waste, solid waste, hazardous waste, and toxic waste. The notice shall mention regulations that have changed since the last notice. Collector shall also send a copy of each six-month notice to the Director when distributing this notice to customers. When a collector begins providing service under a NEFA, 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. Collector shall comply with all other noticing and public outreach requirements in accordance with the requirements of the NEFA.

(c) Collector shall collect designated C&D recyclable materials at a frequency determined by customer and collector.

(d) Collector shall transport recyclable materials, organic materials, solid waste, C&D, and other discarded materials to facilities approved in accordance with the collector's NEFA.

(e) No collector shall deliver for disposal any designated recyclable materials or any designated organic materials that are source separated by customer or generator.

(f) Collector shall perform all other services required in the NEFA.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.551. REPORTING REQUIREMENTS.

(a) A collector shall submit reports to the Director in accordance with the requirements of the NEFA.

(b) A collector shall also provide the Director with quarterly export reports documenting discarded materials transported outside California, as required by 14 CCR sections 18808.8 and 18815.1 through 18815.13, on the reporting schedule specified in the NEFA.

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(c) Collectors shall submit monthly, quarterly, semi-annual, and annual reports to the County in accordance with the requirements of the NEFA, using a form or format prescribed by the Director.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.552. LIQUIDATED DAMAGES.

The collector is required to comply with performance standards specified in the NEFA. In the event collector fails to comply with the standards, the County may, at its option, assess liquidated damages in accordance with the procedures and amounts, if any, described in the NEFA.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.553. ADDITIONAL TERMS AND CONDITIONS.

In approving the terms of any NEFA, 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. Approval of an agreement form by the Board shall be deemed to include a determination that each provision in the form is in the public interest.

(Added by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.554. DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE THIS ARTICLE.

The Director shall have enforcement authority for this article.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

### ARTICLE VI. CERTIFIED RECYCLABLE MATERIALS COLLECTORS (CRMC)

#### SEC. 68.560. GENERAL CONDITIONS.

A person may apply to the Director to become a certified recyclable materials collector (CRMC) to receive certification to remove or transport recyclable materials, green materials (excluding wood waste), food waste, and pallets subject to conditions of this article VI. The certification will be valid for a period of two (2) years after the date it is issued by the Director. The expiration date of the certificate will be automatically extended



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for two (2) additional years after the expiration date of the certificate, unless the Director determines that the CRMC is not substantially complying with the CRMC requirements of this chapter, or unless the Director provides sixty (60) days' notice to the CRMC of its intent not to extend the expiration date of the certificate.

(a) A certificate may not be transferred, sold, leased, or assigned, in whole or in part, to another person without the prior written approval of the Director. Approval may be obtained by filing an application with the Director on a form prescribed by the Director. The Director shall maintain a current list of CRMCs on the Department of Public Works' website.

(b) A CRMC shall comply with the following limitations related to the collection of recyclable materials and organic materials:

(1) The amount of recyclable materials and organic materials collected within the unincorporated area of the County by a CRMC may not exceed 1,000 tons per year with the exception that the weight of pallets shall be excluded from the 1,000 ton-per-year limit and are not subject to any annual tonnage limit. For the purposes of this subsection, the annual tonnage of recyclable materials and organic materials collected in the County by the CRMC, its parent company, and all affiliates shall be combined.

(2) Organic materials collected by the CRMC shall be limited to green materials (excluding wood waste), food waste, and pallets for the purposes of this article VI.

(3) The recyclable materials and organic materials collected shall not contain greater than ten percent (10%) by volume of solid waste (assessed separately for each material type).

(4) The CRMC shall achieve an annual ninety percent (90%) diversion rate of the recyclable materials and organic materials collected. The CRMC shall certify their diversion rate in their annual reporting under section 68.565.

(c) A CRMC shall indemnify and hold the County, and County's directors, officers, agents, and employees 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 CRMC certificate granted pursuant to this chapter.

(d) A CRMC shall obtain and keep in effect the insurance coverage and limits required by its CRMC certificate and if not specified in the certificate in such form and amount as may be required by County Risk Management. A CRMC shall file with the Director a copy of each insurance policy or certificate of insurance evidencing a policy prior to the Director approving a CRMC. Each policy shall contain provisions naming the County of San Diego as an additional insured and require that the insurance carrier give the Director notice of cancellation in accordance with the insurance policy provisions.

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(e) A CRMC shall conduct all activities in compliance with all applicable federal, State, and local laws, regulations, ordinances, and requirements and shall be responsible for obtaining all applicable permits, licenses, certifications, and registrations.

(f) The general conditions specified in section 68.540 for NEFA collectors are applicable for CRMCs.

(Amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.561. SERVICE REQUIREMENTS.

(a) Acceptable facilities.

(1) A CRMC shall deliver recyclable materials collected in the unincorporated County to a recycling facility for the purpose of recycling the materials.

(2) A CRMC shall deliver green materials and food waste collected in the unincorporated County to a facility or operation or for location for a use identified in 14 CCR section 18983.1(b), which includes, but is not limited to the following: (i) a recycling center (such as a chip and grind facility) pursuant to 14 CCR section 17402.5(d) or 14 CCR section 17402.5(c); (ii) a compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), small composting activities that would otherwise be excluded from the compost material handling operation or facility definition pursuant to 14 CCR section 17855(a)(4), or a community composting facility; (iii) in-vessel digestion operation or facility as listed in 14 CCR section 17896.5 or activities that would otherwise not be subject to the in-vessel digestion requirements pursuant to 14 section 17896.6; (iv) biomass conversion operation or facility as defined in section 40106 of the PRC; (v) used as a soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a landfill in compliance with 14 CCR section 18983.1(b); (vi) used in land applications in compliance with 14 CCR section 18983.1(b); (vii) lawful use as animal feed in compliance with 14 CCR section 18983.1(b); or, (viii) other operations or facilities approved by the State in accordance with 14 CCR section 18983.1(c). Notwithstanding the foregoing, the allowable facilities, operations, and uses of green materials and food waste shall be defined as in 14 CCR section 18983.1(b).

(3) A CRMC shall deliver pallets to a facility for the purpose of reuse and salvage or to a facility processing that recovers source separated organic waste.

(4) Recyclable materials and organic materials collected by the CRMC in the unincorporated area of the County shall not be delivered to a landfill for disposal or other sites for disposal and shall not be used as alternative daily cover or alternative intermediate cover as defined in 27 CCR section 20690 and 20700, respectively.

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(b) Equipment and vehicles. All vehicles and equipment shall comply with the requirements of 14 CCR sections 17341 through 17345 and shall be kept in a clean and well-maintained condition.

(c) Containers. A CRMC shall comply with container storage requirements of section 68.521. All CRMC-provided containers shall be clearly identified as recyclable materials or organic materials containers, shall display the name and phone number of the CRMC to whom the container belongs. A CRMC shall place a label or provide imprinted text or graphic images on each new container indicating the primary materials accepted and the primary materials that are prohibited container contaminants in that container, or as otherwise required by 14 CCR section 18984.8. CRMC shall achieve compliance with the container labeling requirements in accordance with the following timeline: fifty percent (50%) of all containers by December 31, 2021 and one hundred percent (100%) of all containers by June 30, 2022. Container colors shall comply with CRMC certificate requirements.

(d) Customer education. For customers in the densely-populated areas, CRMC shall provide educational information to its customers in accordance with CRMC certificate requirements.

(e) Contamination monitoring. In the densely-populated areas, CRMC shall conduct contamination monitoring of its customers' containers to identify prohibited container contaminants in accordance with CRMC certificate requirements.

(f) Rates for service. A CRMC shall provide services at no cost to its customers or shall charge its customers for service at rates it determines.

(Amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8060 (N.S.), effective 5-28-92; amended by Ord. No. 8790 (N.S.), effective 4-29-97; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.562. APPLICATION FOR CERTIFIED RECYCLABLE MATERIALS COLLECTORS.

(a) A person applying for certification as a CRMC with the County shall file an application on the 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 required by this chapter or which the Director requests.

(b) All CRMC applications shall include:

(1) The applicant's name, mailing address, email address, and phone number.

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(2) Name, mailing address, email address, and telephone number of an individual contact for the applicant.

(3) 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.

(4) Identification of the type(s) of materials the CRMC is seeking approval to collect and identification of the facilities, operations, or uses CRMC proposes to use to comply with section 68.561(a).

(5) 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 recyclable materials and organic materials 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.

(6) Facts demonstrating that: (A) the applicant owns or has access to suitable facilities for keeping vehicles and equipment clean and in good repair; and, (B) the applicant's storage yard and maintenance facilities will be located in an area zoned for the use.

(7) A statement of the applicant's qualifications and experience in collecting or transporting discarded materials.

(8) Acknowledgement of the applicant's agreement to defend, indemnify, and hold harmless, County and its directors, officers, agents, and employees from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to County's directors, officers, agents, or employees which arise from, or are connected with, or are caused or claimed to be caused by acts or omissions of the applicant, or its directors, officers, agents, or employees, in the performance of the recyclable materials and organic materials collection services, and all costs and expenses of investigating and defending against same; provided, however, that the applicant's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the County, its directors, officers, agents, or employees;

(9) Without limiting the indemnification obligation above, the applicant's agreement to obtain and maintain in full force and effect throughout the term of the CRMC certificate, and any extensions or modifications thereof, insurance coverage which meets or exceeds the requirements established by this chapter or the Director.

(10) Proof of the applicant's insurance that complies with the County's minimum requirements.

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(11) A written statement certifying that the applicant has reviewed and will comply with the requirements of this chapter and in the CRMC certificate.

(12) Application fee payment for CRMC applicant, if an application fee is required by the Director.

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

(c) The County will accept applications for CRMCs on an on-going basis commencing on May 15, 2021.

(Added by Ord. No. 8060 (N.S.), effective 5-28-92; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 9666 (N.S.), effective 8-14-04; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.563. DIRECTOR TO APPROVE OR REJECT APPLICATION.

(a) The Director may issue a CRMC certificate to 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) If the Director rejects an application, in whole or in part, the applicant may appeal the Director's decision to the County Appellate Hearing Board as provided in section 68.540.

(c) On appeal, the County Appellate Hearing Board may sustain the Director's decision or overrule the decision and direct the Director to issue a CRMC certificate to the applicant. The County Appellate Hearing Board may also require that the CRMC be subject to specific conditions.

(Added by Ord. No. 8060 (N.S.), effective 5-28-92; amended by Ord. No. 8866 (N.S.), effective 1-6-98; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.564. SUSPENSION OR REVOCATION OF CRMC CERTIFICATE.

(a) The Director may suspend or revoke a CRMC certificate if a CRMC has violated the provisions in the certificate or any applicable law or regulations subject to the procedures set forth in section 68.540. In such case, CRMC has the right to request a hearing in accordance with section 68.540.

(b) If the Director determines that a CRMC's conduct warrants suspension or revocation of a CRMC certificate, as provided in subsection (a) above, the Director shall serve a written notice on the CRMC personally, or by certified or registered mail at the last address

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provided by the CRMC. When the Director serves notice by certified or registered 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 CRMC as shown on the CRMC's most-recently executed CRMC certificate, whether or not the CRMC actually receives the notice on the attempted delivery date. The CRMC shall cease operations within 10 days after the CRMC receives the notice unless the Director has reinstated the CRMC certificate or the CRMC has requested a hearing before the County Appellate Hearing Board. In the case of an appeal, the CRMC may continue to operate until the County Appellate Hearing Board renders a decision. The County Appellate Hearing Board shall mean and refer to the appellate hearing board or body specified by Section 16.101 et seq. of the County Code.

(c) A request for a hearing to contest the suspension or revocation of a CRMC certificate shall be made in writing to the Clerk of the Board within ten (10) days after the CRMC receives the notice described in subsection (b). The hearing shall be scheduled within thirty (30) days following the appointment of the hearing officer pursuant to Section 16.103 of the County Code. Written notice of the time, date, and place of the hearing shall be given in accordance with Section 16.103 of the County Code. The County Appellate Hearing Board shall render its decision within five (5) days after the close of the hearing in accordance with Section 16.106 of the County Code and its decision shall be final.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.565. REPORTING REQUIREMENTS.

(a) CRMCs shall submit an annual report by February 15 of each year, beginning February 15, 2022, to the Director, on a form or using a format prescribed by the Director. Annual reports shall include the following information for each residential and commercial premises serviced within the unincorporated areas of the county for the period of January 1 through December 31 of the immediately preceding 12-month period. At the Director's option, Director may increase the reporting frequency to require submittal of quarterly reports rather than annual reports for some or all of the information listed below.

- (1) The name of the person(s) responsible for recyclable materials and/or organic materials management at the premises serviced;
- (2) The name and address of the premises serviced;
- (3) The volume in cubic yards or gallons, measured by the size of the applicable containers in use at the premises, of recyclable materials and organic materials (listed separately by material type) collected per week from the premises;
- (4) The frequency of recyclable materials and organic materials collection service provided to the premises;
- (5) The total annual amount of recyclable materials and organic materials, measured in tons and listed separately by material type, collected by CRMC;

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(6) For recyclable materials, the names and addresses of the recycling facilities to which the recyclable materials collected were delivered for recycling;

(7) For green materials, and food waste, the names and addresses of the facilities, operations, or uses to which the green materials, and food waste collected were delivered for processing or use;

(8) For pallets, the names and addresses of the reuse or salvage facilities or operations to which pallets collected were delivered for the purpose of reuse or salvage, or the names and addresses of the facilities to which pallets collected were delivered for the purpose of processing;

(9) For food waste collected and delivered for composting or final processing to a site other than a processing facility or composting operation, a letter of acknowledgement from the site property owner providing their acceptance of the food waste for composting or final processing;

(10) For compostable plastics or compostable plastic bags, if accepted in the organic materials containers, annually submit written notification from the processing facility or composting operation confirming said facility has and will continue to have the capabilities to process and recover compostable plastics;

(11) For food waste, the tons of food waste delivered to each processing facility, composting operation, or site per month for each month in the reporting period, where tons shall be calculated if not readily available by converting cubic yards or gallons of food waste to tons using a density factor provided by the Director;

(12) Statement certifying the diversion rate for all materials collected by the CRMC; and,

(13) Additional information as required by the Director.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.566. ADDITIONAL TERMS AND CONDITIONS.

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

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.567. DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE THIS ARTICLE.

The Director shall have enforcement authority for this article.

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(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

## ARTICLE VII. RECYCLING REQUIRED FOR RESIDENTIAL AND COMMERCIAL PREMISES

### SEC. 68.570. RECYCLING REQUIREMENTS.

(a) Owners, occupants, or operators of single-family, multi-family, and commercial premises, unless exempted in subsection (b) below or by waivers granted pursuant to this chapter, are subject to the requirements specified by this section.

(b) The following persons are exempt from the requirements of this section under the conditions specified:

(1) Exemptions in densely-populated areas: Until September 30, 2021, owners, occupants, or operators of multi-family and commercial premises in densely-populated areas that generate less than two (2) cubic yards of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State) are exempt from the requirements in article VII of this chapter related to designated organic materials, provided that such organic materials are stored and disposed of in accordance with applicable law or regulations, with the exception that multi-family premises are not exempt from designated organic materials requirements for green materials. Commencing October 1, 2021, owners, occupants, or operators of multi-family and commercial premises in densely-populated areas shall not be exempt from the requirements of article VII of this chapter.

(2) Exemptions in sparsely-populated areas:

(i) Owners, occupants, or operators of all single-family premises and all multi-family premises in the sparsely-populated areas are exempt from the requirements in article VII of this chapter related to designated organic materials for food waste, provided food waste is stored and disposed of in accordance with applicable law or regulations. Owners, occupants, or operators of all single-family premises and multi-family premises in the sparsely-populated areas are not exempt from the requirements in Article VII of this chapter related to designated organic materials for green materials.

(ii) Owners, occupants, or operators of commercial premises in sparsely-populated areas that generate less than two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State) are exempt from the requirements in Article VII of this chapter related to designated organic materials, provided that such organic materials are stored and disposed of in accordance with applicable law or regulations.

(c) The owner, occupant, or operator of a premises subject to subsection (a) above shall:  
(1) source separate and store designated recyclable materials and designated organic



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materials separately from solid waste; and, (2) source separate and store designated recyclable materials and designated organic materials separately from each other.

(d) The owner, occupant, or operator of a premises subject to subsection (a) above shall arrange for recycling or processing of the designated recyclable materials and designated organic materials through one or more of the following methods:

(1) Subscribing to a three-stream collection system that includes designated recyclable materials and designated organic materials collection services through a collector or CRMC and solid waste collection services through a collector; and/or,

(2) Self-hauling the designated recyclable materials, designated organic materials, and/or solid waste in accordance with section 68.572 of this chapter.

(3) If a collector offers a collection program approved by the Director that relies on use of a two-stream organic waste collection system pursuant to 14 CCR section 18984.2, the owner, occupant, or operator of a premises may comply with the requirements of this Article VII by subscribing to the two-stream organic waste collection system and source separating recyclable materials, organic materials, and solid waste, as applicable, in accordance with the Director's requirements for such systems.

(e) If the owner, occupant, or operator of a premises subscribes to a collector's or CRMC's collection services to arrange for recycling or processing of designated recyclable materials and/or designated organic materials and/or disposal of solid waste, the owner, occupant, or operator shall comply with the requirements specified in section 68.571 of this chapter.

(f) If the owner, occupant, or operator of a premises self-hauls discarded materials, the owner, occupant, or operator shall comply with the requirements specified in section 68.572 of this chapter.

(g) If the owner, occupant, or operator of a premises manages designated organic materials on its premises to comply with organic waste recycling requirements, it shall use composting method(s) or other on-site management practices that are consistent with applicable laws or regulations that do not create a public nuisance because of odors or other offensive conditions.

(h) If an owner, occupant, or operator of a commercial or multi-family premises meets waiver criteria in sections 68.575 of this chapter, the owner, occupant, or operator may apply for a waiver as described in section 68.575 of this chapter to be excused from some or all designated recyclable materials and designated organic materials recycling requirements of this chapter.

(i) No owner, occupant, or operator of a premises shall dispose of or arrange for disposal of designated recyclable materials or designated organic materials.

(Amended by Ord. No. 7920 (N.S.), effective 7-11-91; amended by Ord. No. 8060 (N.S.), effective 5-28-92; amended by Ord. No. 8089 (N.S.), § 1, effective 7-16-92; Section 1 of Ord. No. 8089 (N.S.) repealed by Ord. No. 8100 (N.S.), effective 7-1-92; amended by Ord. No.

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8866 (N.S.), effective 1-6-98; amended by Ord. No. 9495 (N.S.), effective 9-13-02; amended by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

**SEC. 68.571. REQUIREMENTS FOR RESIDENTS AND COMMERCIAL BUSINESSES  
SUBSCRIBING TO COLLECTION SERVICES.**

(a) An owner, occupant, or operator of a single-family, multi-family, or commercial premises receiving any type of discarded materials collection service from collectors or CRMCs in the unincorporated area of the County shall comply with the following requirements for discarded materials collection, except those that meet the self-hauler requirements in section 68.572 of this chapter:

(1) For premises in densely-populated areas, subscribe to a three-stream collection service for collection of all discarded materials as described below unless exempted pursuant to section 68.570(b) or unless waiver(s) is(are) granted pursuant to section 68.575. The Director shall have the right to review the number, size, and frequency of collection of containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and may direct the owner, occupant, or operator of premises to adjust the number of containers, container sizes, or frequency of collection to ensure proper separation, storage, and disposal or recycling of materials.

(2) For premises in densely-populated areas, subscribe to and participate in the collector's and/or CRMC's collection service(s) by using a three-stream collection service and placing discarded materials in designated containers as follows:

(i) Place source separated designated organic materials in the organic materials container(s).

(ii) Place source separated designated recyclable materials in the recyclable materials container.

(iii) Place other discarded materials in the solid waste container.

(iv) If collector or CRMC provides additional containers or containers with split compartments for source separation and storage of food waste or other materials for the purposes of collection, collector's or CRMC's instructions regarding source separation of discarded materials and placement of materials in the proper containers shall be followed.

(v) Pursuant to section 68.570(d), an owner, occupant, or operator may use a two-stream collection system if such system is available.

(3) For multi-family and commercial premises in sparsely-populated areas that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week, owner, occupant, or operator of such premises shall comply with requirements of subsections (a)(1) and (a)(2) above, except those that meet the self-hauler requirements in section 68.572 of this chapter.

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(4) For single-family premises in sparsely-populated areas and multi-family and commercial premises in sparsely-populated areas that generate less than two (2) cubic yards of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State), subscribe to and participate in collector's and/or CRMC's collection service(s) for one or more materials such as recyclable materials, organic materials, or solid waste and follow collector's or CRMC's instructions regarding source separation of discarded materials and placement of materials in the proper containers, except those that meet the self-hauler requirements in section 68.572 of this chapter.

(b) The owner, occupant, or operator of a residential or commercial premises shall only deposit designated recyclable material and designated organic materials in a container(s) that is intended to receive the designated organic materials and designated recyclable materials for collection. If a bottle, jar, jug, or can is made of designated recyclable material and such container 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 designated recyclable materials until the bottle, jar, jug, or can has been completely emptied.

(c) Nothing in this chapter prohibits an owner, occupant, or operator from preventing or reducing their organic waste, managing organic waste on site, or delivering organic waste to an organic waste processing facility that processes organic waste in accordance with applicable law. Owners, occupants, or operators may manage their organic materials on site provided they apply for and obtain an on-site organics management waiver as described in section 68.575 of this chapter.

(d) The owner, occupant, or operator of a construction and/or demolition site shall only deposit designated C&D recyclable materials in a container(s) that is intended to receive designated C&D recyclable materials for collection. For the purpose of this section, designated C&D recyclable materials are any of the following materials: asphalt, concrete, dirt, land clearing vegetation, sand, gravel, rock, metal, wood, green materials, mixed paper, cardboard, and other recyclable materials generated at construction and demolition sites. For the purposes of this section, "green materials" means any material related to land development such as yard trimmings, trees, brush, and construction and demolition wood waste and does not include food material, bio-solids, wood containing lead-based paint or wood preservatives, mixed construction debris, or mixed demolition debris.

(e) An owner, occupant, or operator shall use collector-provided or CRMC-provided containers of adequate size and in sufficient numbers to contain without overflowing all the discarded materials that the person's household or premises generates within the designated removal period. Owners, occupants and operators shall also comply with discarded materials storage requirements in section 68.522.

(f) An owner, occupant, or operator using plastic or paper bags as containers for collection service shall tie, seal or otherwise securely fasten all bags set out for collection.

(g) An owner, occupant, or operator receiving collection service shall not place containers in a manner that impedes access to neighboring driveways, mailboxes, utilities, or easements.

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(h) No owner, occupant, or operator shall place, deposit, or allow any 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 CRMC, or after 12:00 p.m. on the day following collection day. Owners, occupants, and operators shall place their containers in a location immediately adjacent to and bordering their premises unless otherwise arranged by collector or CRMC and approved by Director.

(i) A violation of this section shall be charged as an infraction, except that an owner, occupant, or operator 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.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10253 (N.S.), effective 3-8-13; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.572. SELF-HAULER REQUIREMENTS.

Self-haulers who self-haul designated recyclable materials, organic materials, solid waste, or any combination thereof shall comply with the following requirements:

(a) Self-haulers shall handle discarded materials by source separation of materials into three or more streams in the following manner:

(1) If self-hauling designated recyclable materials, the owner, occupant, or operator of the premises shall source separate and transport all designated recyclable materials to a recycling, reuse, salvage, and/or processing facility for the purpose of recycling, reuse, or salvage, or shall source separate and transport the designated recyclable materials to a transfer facility if the operator of such facility delivers the materials to a recycling, reuse, salvage, and/or processing facility for the purpose of recycling, reuse, or salvage.

(2) If self-hauling designated organic materials, the owner, occupant, or operator of premises shall source separate and transport all designated organic materials to a facility, operation, or property that recovers source separated organic waste in a manner consistent with 14 CCR section 18984.1, or shall source separate and transport the designated organic materials to a transfer facility if the operator of such facility delivers the materials to a facility, operation, or property that recovers source separated organic waste in a manner consistent with 14 CCR section 18984.1.

(3) If self-hauling solid waste, the owner, occupant, or operator of premises shall source separate solid waste from designated recyclable materials and designated organic materials and transport all solid waste to a landfill for disposal, or shall transport all solid waste to a transfer facility if the operator of such facility delivers the materials to a landfill for disposal.

(b) As an option to three-stream system for source separation of designated recyclable materials, designated organic materials, and solid waste described in section 68.571, self-hauler may source separate discarded materials into two streams of materials consistent with 14 CCR section 18984.2 and transport the two streams of discarded materials to

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facilities, operations, or activities that process or recover those materials in accordance with 14 CCR section 18984.2.

(1) Owner, occupant, or operator of any multi-family or commercial premises or of any single-family premises that generates one cubic yard or more per week of discarded materials shall register with the County as a self-hauler.

(2) For a self-hauler that is an owner, occupant, or operator of any multi-family premises or commercial premises or of any single-family premises that generates one cubic yard or more per week of discarded materials, maintain an annual log documenting the types and quantities of discarded materials generated and delivered to recycling facilities, organic waste facilities, solid waste facilities, salvage operations, or other locations. The annual log shall be maintained in a form or format as prescribed by the Director for the preceding fiscal year July 1 through June 30. Annual logs shall be stored for a period of three (3) years at the place of business the unincorporated areas of the county for multi-family and commercial premises and at the place of residence in unincorporated areas of county for single-family premises and shall be made available to County inspector upon request. At a minimum, the annual log shall include the following:

(i) Delivery receipts and weight tickets from the entity accepting designated recyclable materials, designated organic materials, and solid waste;

(ii) The amount of material in cubic yards or tons transported by the owner, occupant, or operator to each entity; and,

(iii) If the material is transported to an entity that does not have scales to weigh the materials on-site or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of the materials delivered to the facility, the self-hauler is not required to record the weight of material, but shall keep an invoice from facility estimating weight or volume from the facility that received the designated recyclable materials, designated organic materials, and solid waste.

(c) The owner, occupant, or operator of construction and demolition projects shall comply with requirements specified in Article II of this chapter.

(Added by Ord. No. 10036 (N.S.), effective 2-26-10; amended by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.573. MULTI-FAMILY REQUIREMENTS.

(a) Multi-family owners or operators shall comply with the following requirements:

(1) Subscribe to discarded materials collection services or self-haul in accordance with sections 68.570, 68.571, and 68.572 of this chapter.

(2) Multi-family premises that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State) that arrange for gardening or landscaping services shall require that the contract

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or work agreement between the owner, occupant, or operator of a multi-family premises and a gardening or landscaping service specifies that the designated organic materials generated by those services be managed in compliance with this chapter.

(3) Owner or operator of a multi-family premises, with the consent of the collector or CRMC if owner or operator of the multi-family premises requires modification or alteration of any containers and subject to any required approval from the County, may implement a remote monitoring program for inspection of the contents of its discarded materials containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify prohibited container contaminants.

(b) Multi-family premises in densely-populated areas shall comply with the following:

(1) Achieve a minimum diversion service level ratio that meets or exceeds the County's multi-family and commercial diversion service level ratio requirement of 35%, unless exempt under a waiver approved by this chapter.

(2) Supply and allow access to adequate number, size, and location of discarded materials collection containers for employees, contractors, and tenants, consistent with its recyclable materials, organic materials, and solid waste collection service or in a manner that supports compliance with self-haul requirements of sections 68.570 and 68.572 of this chapter.

(3) Annually provide information to employees, contractors, and tenants about organic waste recovery requirements and about proper sorting of designated organic materials and designated recyclable materials.

(4) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep designated organic materials and designated recyclable materials separate from solid waste and the location of containers for discarded materials and the rules governing their use at each property.

(5) Provide or arrange access for County or its designee to their properties during all inspections conducted in accordance with this chapter to confirm compliance with the requirements of this chapter.

(6) Accommodate and cooperate with implementation and operation of a remote monitoring program for inspection of the contents of containers for prohibited container contaminants. The remote monitoring program may involve installation by County, collector, or CRMC of remote monitoring equipment on or in the recyclable materials, organic materials, and solid waste containers used by the multi-family premises.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.574. COMMERCIAL BUSINESS REQUIREMENTS.

(a) Commercial businesses shall comply with the following requirements:

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(1) Subscribe to discarded materials collection services or self-haul in accordance with sections 68.570, 68.571, and 68.572 of this chapter.

(2) Commercial premises that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State) that arrange for gardening or landscaping services shall require that the contract or work agreement between the owner, occupant, or operator of a commercial business and a gardening or landscaping service specifies that the designated organic materials generated by those services be managed in compliance with this chapter.

(3) For commercial premises that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State) and that provide customers access to the business, provide customers with a recyclable materials and an organic materials bin or container to collect recyclable materials and organic materials purchased on the premises for immediate consumption and that fulfills all of the following requirements:

(i) Is adjacent to each bin or container for solid waste, except in restrooms.

(ii) Is visible and easily accessible.

(iii) Is clearly marked with educational signage indicating the types of recyclable materials or organic materials that are appropriate to place in the recyclable materials or organic materials bins or containers in accordance with state law and the local jurisdiction's solid waste ordinances and practices.

(iv) Full-service restaurants defined by CA Public Resources Code section 42649.8 are exempt from the requirements of this subsection (a)(3) if the full-service restaurant provides its employees a recyclable materials and an organic materials bin or container to collect recyclable materials and organic materials purchased on the premises for immediate consumption and implements a program to collect designated recyclable materials and designated organic materials.

(4) Owner or operator of a commercial business, with the consent of the collector or CRMC if owner or operator of the commercial premises requires modification or alteration of any containers and subject to any required approval from the County, may implement a remote monitoring program for inspection of the contents of its discarded materials containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify prohibited container contaminants.

(5) If commercial businesses are tier one or tier two edible food generators, comply with food recovery requirements pursuant to this chapter.

(b) Commercial premises in densely-populated areas shall comply with the following requirements:

(1) Achieve a minimum diversion service level ratio that meets or exceeds the County's multi-family and commercial diversion service level ratio requirement of 35%, unless exempt under a waiver approved by this chapter.

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(2) Supply and allow access to adequate number, size, and location of discarded materials collection containers with sufficient labels or colors (conforming with requirements outlined below) for employees, contractors, tenants, and customers, consistent with recyclable materials container, organic materials container, and solid waste container collection service provided by the collector or CRMC or in a manner that supports compliance with self-haul requirements of sections 68.570 and 68.572 of this chapter.

(3) Provide containers for the collection of designated organic materials and designated recyclable materials in all indoor and outdoor areas where solid waste containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a commercial business does not generate any of the materials that would be collected in one type of container, the business does not have to provide that particular container in all areas where solid waste disposal containers are provided for customers. Pursuant to 14 CCR section 18984.9(b), the containers provided by the commercial business shall have either:

(i) A body or lid that conforms with the container colors provided through the collection service provided by its collector or CRMC, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A commercial business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

(ii) Container labels that include language or graphic images or both indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials that are prohibited container contaminants.

(4) To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the collector's or CRMC's discarded materials collection service or, if self-hauling, per the commercial businesses' instructions to support its compliance with its self-haul program.

(5) Periodically inspect recyclable materials, organic materials, and solid waste containers for prohibited container contaminants and inform employees of contaminated containers and of the requirements to keep contaminants out of those containers pursuant to 14 CCR section 18984.9(b)(3).

(6) Annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper sorting of designated organic materials and designated recyclable materials.

(7) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants or within fourteen (14) days of hiring to new employees that describes requirements to keep designated organic materials and designated recyclable



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materials separate from solid waste (when applicable) and the location of containers for discarded materials and the rules governing their use at each property.

(8) Provide or arrange access for County or its designee to their properties during all inspections conducted in accordance with this chapter to confirm compliance with the requirements of this chapter.

(9) Accommodate and cooperate with implementation and operation of a remote monitoring program for inspection of the contents of containers for prohibited container contaminants. The remote monitoring program may involve installation of remote monitoring equipment on or in the recyclable materials, organic materials and solid waste containers used by the commercial premises.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.575. WAIVERS.

(a) Single-family owners, occupants, or operators and multi-family and commercial premises owners and operators may apply for waivers in certain circumstances described in this section 68.575 to be excused from designated recyclable materials and/or designated organic materials collection services.

(b) De minimis waivers in densely populated areas: For a multi-family or commercial premises in a densely populated area, the County may waive a multi-family owner's or operator's or commercial business owner's or operator's obligation to comply with some or all designated recyclable materials and designated organic materials recycling requirements of this chapter if the owner or operator of commercial business or multi-family residential dwelling provides documentation that the business or multi-family generates less solid waste, recyclable materials, and organic material than the thresholds described below.

(1) Commercial businesses or multi-families requesting a de minimis waiver shall:

i. Submit an application specifying the services that they are requesting a waiver from and provide documentation that either:

a. The commercial business's or multi-family's total solid waste collection service is two (2) cubic yards or more per week and designated recyclable materials and designated organic material subject to collection in a recyclable materials container(s) or organic materials container(s) comprises less than twenty (20) gallons per week per applicable material stream of the multi-family's or commercial business' total waste (i.e., designated recyclable materials in the recyclable materials stream are less than twenty (20) gallons per week or designated organic materials in the organic materials stream are less than twenty (20) gallons per week); or,

b. The commercial business's or multi-family's total solid waste collection service is less than two (2) cubic yards per week and designated recyclable materials and designated organic material subject to collection in a recyclable material container(s) or organic

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material container(s) comprises less than ten (10) gallons per week per applicable material stream of the multi-family's or commercial business's total waste (i.e., designated recyclable materials in the recyclable materials stream are less than ten (10) gallons per week or designated organic materials in the organic materials stream are less than ten (10) gallons per week).

c. For the purposes of subsections (a) and (b) above, total solid waste shall be the sum of weekly container capacity measured in cubic yards for solid waste, recyclable materials, and organic materials collection service.

ii. Notify County if circumstances change such that multi-family's or commercial business's quantity of designated recyclable materials and designated organic materials exceeds the weekly threshold required for the waiver, in which case the waiver will be rescinded.

iii. Provide written verification of eligibility for de minimis waiver every five (5) years, if County has approved de minimis waiver.

(c) Physical space waivers in densely or sparsely populated areas: For a multi-family or commercial premises in a densely populated area or in a sparsely populated area, the County may waive a multi-family owner's or operator's or commercial business owner's or operator's obligations to comply with some or all designated recyclable materials and designated organic materials recycling requirements of this chapter if the County has evidence from its own staff, a collector, CRMC, licensed architect, or licensed engineer that the premises lacks adequate space for compliance with the designated recyclable materials and/or designated organic materials requirements of this chapter.

(1) A physical space waiver may also be requested if a commercial business or multi-family owner or operator documents that the premises lacks adequate space for sufficient number and size organic material container(s) and recyclable material containers.

(2) A commercial business or multi-family owner or operator requesting a physical space waiver shall:

i. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

ii. Provide documentation that the premises lacks adequate space for recyclable material containers and/or organic material containers including documentation from its collector, CRMC, licensed architect, or licensed engineer or from County staff.

iii. Provide written verification to County that it is still eligible for physical space waiver every five (5) years, if County has approved application for a physical space waiver.

(d) On-site organics management waiver in densely or sparsely populated areas: County may waive a single-family, multi-family, or commercial business's obligations to comply with some or all designated organic materials recycling requirements if the generator provides adequate documentation that its source separated organic material is being managed through on-site composting or other on-site management practices that are

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consistent with applicable laws or regulations. Single-family, multi-family, or commercial business owner or operator requesting an on-site organics management waiver shall:

(1) Submit an application form specifying the type(s) of on-site organics management they will utilize.

(2) Provide documentation that the premises has adequate space for on-site and does not come into conflict with provisions in section 68.570.

(3) For multi-family and commercial owners and operators in densely populated areas, demonstrate that the on-site organics management will achieve the de minimis volume standards in subsection (b) above; and, for multi-family and commercial owners and operators in sparsely-populated areas, demonstrate that the on-site organics management will achieve the low volume standard in subsection (f) below.

(4) For single-family premises, demonstrate or confirm plans to provide appropriate management of all green materials and food waste, including food-soiled paper.

(5) Provide written verification for on-site organics management waiver every five (5) years.

(e) Recyclable materials recycling waivers for sparsely populated areas: For a multi-family or commercial premises in a sparsely populated area, the County may waive a multi-family owner's or operator's or commercial business owner's or operator's requirements to comply with some or all designated recyclable materials recycling requirements for any of the following reasons:

(1) The commercial business's or multi-family's total solid waste collection service is two (2) cubic yards or more per week and designated recyclable materials subject to collection in a recyclable materials container(s) comprises less than twenty (20) gallons per week; or,

(2) The commercial business's or multi-family's total solid waste collection service is less than two (2) cubic yards per week and designated recyclable materials subject to collection in a recyclable material container(s) comprises less than ten (10) gallons per week.

(3) For the purposes of subsections (1) and (2) above, total solid waste shall be the sum of weekly container capacity measured in cubic yards for solid waste, recyclable materials, and organic materials collection service.

(f) Organic materials recycling waivers for sparsely populated areas: For a multi-family or commercial premises in a sparsely populated area that generates two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State), the County may waive a multi-family owner's or operator's or commercial business owner's or operator's requirements to comply with some or all designated organic materials recycling requirements for any of the following reasons:

(1) Physical space waiver pursuant to Section 68.757(c).

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(2) The current implementation by a multi-family premises or commercial premises of actions that result in the recycling of a significant portion of its organic waste.

(3) The multi-family premises or commercial premises or group of multi-family premises or commercial premises does not generate at least one half of a cubic yard of organic waste per week.

(4) Extraordinary and unforeseen events warrant limited-term exemptions.

(g) Review and approval of waivers by County: Owners and operators of premises seeking waivers shall:

(1) Apply to Director or his/her designee for a waiver, or consent to a collector submitting the application on the owner's behalf. Waivers are valid for five (5) years.

(2) Any waiver holder must cooperate with the County and/or collector or CRMC for compliance inspections and enforcement as stated in section 68.610.

(3) Waiver holder, or its collector on the owner's behalf with consent of the owner, must reapply to the Director or his/her designee for a waiver upon the expiration of the waiver period and shall submit any required documentation, and/or fees/payments as required by the County. Failure to submit a completed application shall equate to an automatic denial of said application.

(4) Director may revoke a waiver at any time upon a determination that any of the circumstances justifying a waiver are no longer applicable.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.576. DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE ARTICLE.

The Director shall have enforcement authority for this article.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### ARTICLE VIII. SOLID WASTE PLANNING FEES

##### SEC. 68.580. SOLID WASTE PLANNING FEE FOR DISPOSAL SITES AND HAULERS.

(a) Pursuant to PRC section 41901, this section establishes a solid waste planning 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. Operators of solid waste disposal sites in San Diego County shall pay the County a solid waste planning fee of \$0.02 per ton for all solid waste tons disposed in its solid waste disposal sites, except for operators of the San Onofre Landfill and Las Pulgas Landfill. For any solid waste that is exported and disposed

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outside of San Diego County, either the handler or the solid waste facility operator that transported the solid waste out of San Diego County for disposal shall pay the County a solid waste planning fee of \$0.02 per ton fee on all solid waste transported out of County for disposal. These solid waste planning fees shall be paid on solid waste regardless of its jurisdiction of origin (e.g., paid on all solid waste disposed in, transported in, and collected from unincorporated County areas and incorporated cities within the County). The parties described above, which are obligated to remit the solid waste planning fees, shall remit the amount due to the Director.

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

(c) For the purposes of this section, handler means a person that collects or transports solid waste generated in unincorporated County areas or incorporated cities within the County.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### **SEC. 68.581. DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE ARTICLE.**

The Director shall have enforcement authority for this article.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### **SEC. 68.582. [RESERVED.]**

### **ARTICLE IX. EDIBLE FOOD RECOVERY**

#### **SEC. 68.591. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS.**

(a) With the exception of annual reporting requirements which are subject to the commencement dates specified below, tier one commercial edible food generators must comply with the requirements of this section 68.591 commencing January 1, 2022, and tier two commercial edible food generators must comply commencing January 1, 2024, unless a different schedule is established pursuant to 14 CCR section 18991.3, in which case that schedule shall apply.

(b) Commercial edible food generators shall comply with the following requirements:

(1) Arrange to recover the maximum amount of edible food that would otherwise be disposed.

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(2) Contract with, or enter into a written agreement with food recovery organizations or food recovery services for:

(i) the collection of edible food for food recovery; or,

(ii) acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.

(3) Shall not intentionally spoil food capable of being recovered by a food recovery organization or food recovery service.

(4) Allow County or its designated entity to access the premises and review records.

(5) Keep records that include the following information, or as otherwise specified in 14 CCR section 18991.4:

(i) A list of each food recovery service or food recovery organization that collects or receives its edible food.

(ii) A copy of all contracts or written agreements established under 14 CCR section 18991.3.

(iii) A record of the following information for each of those food recovery services or food recovery organizations:

a. The name, address, and contact information of the food recovery service or food recovery organization.

b. The types of food that will be collected by or transported to the food recovery service or food recovery organization.

c. The established frequency that food is or will be collected or self-hauled.

d. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a food recovery service or food recovery organization for food recovery.

(c) Large venue or large event operators not providing food service, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this section, commencing January 1, 2024.

(d) Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or requirements contained in food share donation regulations for schools pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 (commencing with section 49580) to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend section 114079 of the California Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

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**SEC. 68.592. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES.**

(a) Commencing January 1, 2022, food recovery services collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR section 18991.5(a)(1):

(1) The name, address, and contact information for each commercial edible food generator that the service collects edible food from.

(2) The quantity in pounds of edible food collected from each commercial edible food generator per month.

(3) The quantity in pounds of edible food transported to each food recovery organization per month.

(4) The name, address, and contact information for each food recovery organization that the food recovery service transports edible food to for food recovery.

(b) Commencing January 1, 2022, food recovery organizations collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR section 18991.5(a)(2):

(1) The name, address, and contact information for each commercial edible food generator that the organization received edible food from.

(2) The quantity in pounds of edible food received from each commercial edible food generator per month.

(3) The name, address, and contact information for each food recovery service that the organization received edible food from for food recovery.

(c) Commencing January 1, 2022, food recovery organizations and food recovery services shall inform commercial edible food generators, from which it collects or receives edible food, about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement with them.

(d) Food recovery organizations and food recovery services that have their primary address physically located in the unincorporated County and contract with or have written agreements with one or more commercial edible food generators for food recovery shall submit an annual food recovery report to the County detailing the total pounds of edible food recovered in the previous calendar year from the tier one and tier two commercial edible food generators that they have a contract or written agreement with pursuant to 14 CRR section 18991.3(b). For food recovery services, the annual food recovery report shall include the information listed in subsection (a), with the exception that annual quantities (not monthly quantities) of edible food shall be provided for the most recently completed calendar quarter. For food recovery organizations, the annual food recovery report shall

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include the information listed in subsection (b), with the exception that annual quantities (not monthly) of edible food shall be provided for the most recently completed calendar quarter. The annual food recovery report shall be submitted to the Director no later than January 31 of each year with the first report due no later than January 31, 2023 reporting the required information for the previous calendar year.

(e) Food recovery services and food recovery organizations operating in the unincorporated areas of the County shall provide information and consultation to the County, upon request, to support edible food recovery capacity planning assessments or other studies that are conducted by the County or its designated entity. A food recovery service or food recovery organization shall respond to a request for information within sixty (60) days unless another timeframe is specified by the Director.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.593. DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE THIS ARTICLE.

The Director of Department of Public Works shall have enforcement authority for this Article.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

### ARTICLE X. REPORTING REQUIRED BY FACILITY OPERATORS

#### CHAPTER 6. SEWAGE COLLECTIONS, TRANSPORT AND DISPOSAL\*

#### SEC. 68.600. FACILITY REPORTING REQUIREMENTS.

(a) Upon Director's written request, a facility owner of a facility that processes paper products, printing and writing papers, organic materials, and/or biosolids including, but not limited to, owners or operators of recycling centers, recyclable materials processing facilities, composting facilities, in-vessel digestion facilities, and publicly-owned treatment works shall submit a facility capacity report to the Director within sixty (60) days of the County's request. Such reporting shall commence no sooner than January 1, 2022.

(b) The facility capacity report shall comply with the following:

(1) Include reports of existing capacity available for processing for paper products, printing and writing papers, organic materials, and/or biosolids for any facility in the unincorporated and incorporated areas of the County that process such materials. Existing capacity may include identification of monthly tons of additional paper products, printing and writing papers, organic materials, and/or biosolids such facility has the ability to receive within permitted limits.



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(2) Include description of potential new or expanded processing capacity at those facilities, operations, and activities for processing of paper products, printing and writing papers, organic materials, and/or biosolids.

(3) Be submitted using a form or format prescribed by the Director.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

## ARTICLE XI. ENFORCEMENT

### SEC. 68.610. INSPECTIONS AND INVESTIGATIONS.

(a) County representatives, including but not limited to Department of Public Works, authorized enforcement officials, and/or a County designated entity, are authorized to conduct inspections and investigations, scheduled or at random, of any collection container, collection vehicle or vehicle loads, transfer, processing, or disposal facility for discarded materials or source separated materials to confirm compliance with this chapter. This section does not allow the County or authorized designees to enter the interior of a private residential property for inspection. For the purposes of inspecting commercial business or multi-family dwelling containers for compliance with this chapter, the County, its designee, collector, or CRMC may conduct container inspections for prohibited container contaminants using remote monitoring, and commercial businesses and multi-family dwellings shall accommodate and cooperate with the remote monitoring pursuant to this chapter.

(b) A regulated person shall provide or arrange for access during all inspections (with the exception of residential property interiors) and shall cooperate with the County or its designated designee during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, edible food recovery activities, container labeling, required records, or any other requirement of this chapter. Failure to provide or arrange for required: (i) access to a premises; (ii) installation and operation of remote monitoring equipment; or, (iii) access to records for any inspection or investigation is a violation of this chapter.

(c) Any records obtained by the County or designee during its inspections, remote monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code section 6250 et seq.

(d) County may receive written complaints from persons regarding collectors, CRMCs, or other regulated persons that may be potentially non-compliant with this chapter. Any persons receiving agreements, certificates, permits, or approvals from the County to conduct discarded materials hauling activities in accordance with this chapter shall as a condition of such agreement, certificate, permit, or approval cooperate in the investigation and resolution of such complaints.

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(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

**SEC. 68.611. ENFORCEMENT ACTIONS.**

(a) Enforcement pursuant to this chapter may be undertaken by the authorized enforcement officer designated by the County.

(b) The process for enforcement is as follows:

(1) Authorized enforcement officers will monitor regulated entities' compliance with this chapter or will rely on monitoring conducted by the County, its designee, collector, or CRMC. Monitoring activities may include scheduled or random compliance reviews, route reviews, investigation of complaints, and an inspection program that may include remote monitoring. The term entities as used in this Section shall be read broadly to mean any regulated business or individual.

(2) The County may issue official notifications to inform regulated entities of obligations under this chapter and of violations.

(3) For incidences of prohibited container contaminants found in containers, the County, its designee, collector, or CRMC may issue a contamination notice to any owner, operator, and/or occupant found to have prohibited container contaminants in a container indicating requirements to properly separate materials. Such notice will be provided via a cart tag or other communication, immediately upon identification of the prohibited container contaminants. If prohibited container contaminants are observed on a subsequent occasion within a twelve (12) month period after a notice was given, the collector or CRMC may assess contamination fees on the customer.

(4) County may issue a notice of violation to regulated entities identified to be non-compliant requiring compliance by the regulated entity within sixty (60) days of issuance of the notice of violation; and, County may take enforcement action pursuant to this section 68.611, with the following exceptions: (i) commencing on January 1, 2024, the County shall issue a notice of violation to regulated entities identified as noncompliant with any requirements of Chapter 12 of 14 CCR, Title 14, Division 7, which requires compliance by the regulated entity within sixty (60) days of issuance of the notice of violation; and, County shall take enforcement action pursuant to this section 68.611; and, (ii) violations of prohibited container contamination shall be addressed in accordance with subsection (3) above. The notice of violation shall conform to the requirements of a warning of an administrative citation pursuant to Title 1, Division 8, Chapter 1 of the County Code. The County may, at its option, extend the sixty (60) day compliance period provided to non-compliant entities. Notwithstanding the foregoing, extensions beyond sixty (60) days for instances of noncompliance with any requirement of Chapter 12 of 14 CCR, Title 14, Division 7 may only be provided for extenuating circumstances described in 14 CCR Section 18995.4.

(5) Absent compliance by the regulated entity within the deadline set forth in the notice of violation, County shall commence an action to impose penalties, via an

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administrative citation, pursuant to Title 1, Division 8, Chapter 1 of the County Code. Notices shall be sent to owner at the official address of the owner maintained by the tax collector for the County or, if no such address is available, to the owner at the address of the residential dwelling or commercial premises or to the party responsible for paying for collection services, depending upon available information. The fines shall be assessed as an infraction by the County in accordance with County Code Section 18.106.

(6) The County may extend the compliance deadlines set forth in a notice of violation issued in accordance with subsection (4) above if it finds that there are extenuating circumstances beyond the control of the non-compliant regulated-entity that make compliance within the deadlines impracticable, including the following:

(i) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;

(ii) Delays in obtaining discretionary permits or other government agency approvals;  
or,

(iii) Deficiencies in organic waste recycling infrastructure or edible food recovery capacity and the County is under a corrective action plan with the State pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(c) Persons receiving an administrative citation containing a fine or penalty pursuant to subsection (4) above for an uncorrected violation may request a hearing to appeal the citation pursuant to Title 1, Division 8, Chapter 1 of the County Code.

(d) As an alternative to or in conjunction with any procedure specified in this chapter, all violations of this chapter may be addressed in accordance with any County enforcement process or compliance mechanism, including without limitation those specified in Title 1, Division 8 of the County Code.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### SEC. 68.612. 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.

(Added by Ord. No. 10729 (N.S.), effective 6-4-21)

#### CHAPTER 6. SEWAGE COLLECTION, TRANSPORT AND DISPOSAL \*

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\*Cross reference(s)--Uniform licensing procedure, § 16.101 et seq.

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**SEC. 68.601. PURPOSE.**

This Chapter implements Article 1 of Chapter 4 of Part 13 of Division 104 of the California Health and Safety Code (beginning at section 117400) concerning septic tank, chemical toilet, cesspool and sewage seepage pit cleaning, and the transport and disposal of cleanings. This chapter is intended to protect public health and comfort and the environment.

(Added by Ord. No. 10104 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

**SEC. 68.601.1. DEFINITIONS.**

"DEPARTMENT" shall mean the Department of Environmental Health and Quality.

"DIRECTOR" shall mean the Director of Environmental Health.

The phrase "SEPTIC TANK, CHEMICAL TOILET, CESSPOOL, OR SEWAGE SEEPAGE PIT" shall be construed to include those things, and any place in which spilled sewage collects, and all other places or means of sewage disposal other than regular sewage treatment plants and collection systems operated by a political subdivision and holding a valid permit from the State of California.

"SEWAGE" means sewage, constituent parts of sewage, treated sewage, effluents containing sewage, or any other liquid waste contained in or removed from a septic tank, chemical toilet, cesspool, or sewage seepage pit.

A "SEWAGE PUMPING VEHICLE" shall mean any vehicle used for the collection and transportation of sewage.

"REGISTRATION" is an authorization issued by the department to engage in the cleaning of septic tanks, chemical toilets, cesspools, or sewage seepage pits and the transport and disposal of cleanings.

(Amended by Ord. No. 5001 (N.S.), effective 12-1-77; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10104 (N.S.), effective 1-7-11; amended by Ord. No. 10519 (N.S.), effective 2-9-18; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

Cross reference(s)--Definitions, § 12.101 et seq.

**SEC. 68.601.2. DEPARTMENT TO ENFORCE PROHIBITION ON SEWAGE HAULING AND DISPOSAL BY UNREGISTERED PERSONS.**

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The Director shall implement this Chapter and Article 1 of Chapter 4 of Part 13 of Division 104 of the California Health and Safety Code. Pursuant to section 117435 of the Health and Safety Code, the Director may require compliance with the terms and conditions set out in this Chapter, and such additional terms and conditions as he deems necessary for the protection of human health and comfort, as conditions of approval for any application for registration. Pursuant to section 117450 of the Health and Safety Code, the Director may issue such additional orders and directions to specific persons subject to this Chapter as determined necessary under the circumstances to protect human health and comfort.

(Added by Ord. No. 10104 (N.S.), effective 1-7-11; amended by Ord. No. 10519 (N.S.), effective 2-9-18; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.602. EXAMINATION FEE.

Whenever any person not previously registered applies for examination as a septic tank or cesspool cleaner, said examination to be conducted by the Director as provided in Section 117420 of the Health and Safety Code of the State of California, the applicant shall pay to the Director an examination fee as set forth in Title 6, Division 5, Section 65.107, Paragraph (g), of this Code. No examination shall be administered until the required fee is paid. In the event the applicant is unsuccessful in such examination no part of said examination fee shall be returned to the applicant.

(Amended by Ord. No. 3436 (N.S.), effective 1-1-70; amended by Ord. No. 6378 (N.S.), effective 7-29-82; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10104 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10519 (N.S.), effective 2-9-18)

#### SEC. 68.603. [RESERVED.]

(Amended by Ord. No. 3436 (N.S.), effective 1-1-70; repealed by Ord. No. 10104 (N.S.), effective 1-7-11)

#### SEC. 68.604. REGISTRATION REQUIRED; FEES.

(a) No person or firm shall engage in the business of cleaning of septic tanks, chemical toilets, cesspools, or sewage seepage pits or in the transport or disposal of cleanings except pursuant to and in compliance with an unrevoked registration issued by the Director. Persons and firms required to be registered shall submit an application to the Department on a form provided by the Department. Registration must be renewed annually. The initial application for registration and each annual application for renewal shall be accompanied by the base permit fee required in Title 6, Division 5, Section 65.107, Paragraph (g) of this Code.

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(b) Registration is not complete until an application is submitted, fees are paid, the applicable examination is taken and passed, identified disposal locations are examined or otherwise verified to be suitable, and the person or firm is notified in writing by the department that the application for registration has been approved by the Director. Renewal of registration is not complete until an application is submitted with the information required by the Director, and fees (including any applicable delinquency fees) are paid. If any information on a registration application is determined to be false or incomplete, or if the applicant has been operating in violation of this code, registration may be denied or revoked pursuant to section 117445 of the Health and Safety Code.

(c) For purposes of this registration requirement, a person or firm is "engaged in the business" of cleaning septic tanks, chemical toilets, cesspools, or sewage seepage pits or in the transport or disposal of cleanings, and therefore must be registered, if that person or firm solicits business from or contracts with the owner of a septic tank, chemical toilet, cesspool or sewage seepage pit for cleaning services. In addition, any independent contractor who cleans septic tanks, chemical toilets, cesspools, or sewage seepage pits or who hauls cleanings is "engaged in the business" of cleaning septic tanks, chemical toilets, cesspools, or sewage seepage pits.

(d) For purposes of this registration requirement, an individual who is an hourly or salaried employee of a registered person or firm, who is dispatched by that registered person or firm with instructions to do cleaning at a particular location and to transport cleaning to a particular approved disposal site, is not "engaged in the business" of cleaning septic tanks, chemical toilets, cesspools, or sewage seepage pits.

(Added by Ord. No. 10104 (N.S.), effective 1-7-11; amended by Ord. No. 10519 (N.S.), effective 2-9-18; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.604a. ANNUAL REGISTRATION FEE -- 10 PERCENT PENALTY FOR DELINQUENCY.

Expired registrations are not valid. In any case where the applicant has failed to apply for a renewal registration or to pay the applicable fee prior to the expiration of a registration, it shall be unlawful for that person or firm to engage in the business of cleaning septic tanks, chemical toilets, cesspools, or sewage seepage pits or in the transport or disposal of cleaning. Prior to renewal of an expired registration, in addition to the base permit fee, the applicant shall pay a delinquency fee equal to 10 percent of the base fee for each month or fraction of a month after the expiration of the prior registration; provided, however, in no event shall the total delinquency fee be more than 60 percent of the examination fee. Late payment of required fees does not excuse unlawful operations while the registration was expired, and shall not prevent the imposition of any other penalty prescribed by this code or prosecution for violation of this chapter.

(Amended by Ord. No. 3436 (N.S.), effective 1-1-70; amended by Ord. No. 6378 (N.S.), effective 7-29-82; amended by Ord. No. 6447 (N.S.), effective 10-28-82; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10104 (N.S.), effective 1-7-11)

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SEC. 68.604b. VEHICLE REGISTRATION FEE -- 10 PERCENT PENALTY FOR DELINQUENCY.

There is hereby imposed an annual registration fee for each sewage pumping vehicle. Said registration fee shall be paid to the Department as set forth in Title 6, Division 5, Section 65.107, Paragraph (g), of this Code. Expired vehicle registrations are not valid. In any case where the applicant has failed to apply for a renewal vehicle registration or to pay the applicable fee prior to the expiration of a registration, it shall be unlawful for that vehicle to be used to pump or haul sewage. Prior to renewal of an expired vehicle registration, in addition to the base permit fee, the applicant shall pay a delinquency fee equal to 10 percent of the base fee for each month or fraction of a month after the expiration of the prior registration; provided, however, in no event shall the total delinquency fee be more than 60 percent of the examination fee. Late payment of required fees does not excuse unlawful operations while the registration was expired, and shall not prevent the imposition of any other penalty prescribed by this code or prosecution for violation of this chapter.

(Added by Ord. No. 5001 (N.S.), effective 12-1-77; amended by Ord. No. 6378 (N.S.), effective 7-29-82; amended by Ord. No. 6447 (N.S.), effective 10-28-82; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10104 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

SEC. 68.605. DOCUMENTATION REQUIRED DURING REGULATED ACTIVITIES.

A registered person or employee of a registered firm, when cleaning a septic system, chemical toilet, cesspool or sewage seepage pit, or transporting or disposing of cleaning, shall have available for immediate inspection a copy of that person's registration; or for an employee, written records showing that the person is employed by the registered firm on an hourly or salaried basis, and was dispatched to a specific pickup location or locations and disposal site by that registered firm.

(Added by Ord. No. 10104 (N.S.), effective 1-7-11)

SEC. 68.606. EQUIPMENT STANDARDS.

(a) All trucks used in the transportation and collection of sewage shall be in good mechanical condition and otherwise maintained in an overall reasonable state of good repair. Said trucks shall have the name, address, and phone number of the permittee displayed on both sides of the vehicle, in letters not less than three (3) inches high. Such lettering shall be permanently affixed to the vehicle by painting, permanent decal, or other method approved by the Director.

(b) Trucks used exclusively for pumping and servicing chemical toilets shall have a minimum tank capacity of one-hundred fifty (150) gallons. Trucks used for pumping and

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servicing cesspools, septic tanks, and seepage pits have a minimum tank capacity of one thousand (1,000) gallons.

(c) Trucks used in the transportation and collection of sewage shall have closed, leakproof steel tanks with water-tight main valves. Each truck shall have an approved pumping system operated by manifold vacuum, power takeoff, or auxiliary engine.

(d) Vacuum hose shall be maintained in a leakproof condition.

(Added by Ord. No. 5001 (N.S.), effective 12-1-77; amended by Ord. No. 5405 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10104 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 68.607. [RESERVED.]

(Amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10104 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13; repealed by Ord. No. 10519 (N.S.), effective 2-9-18)

#### SEC. 68.608. INSPECTION OF EQUIPMENT.

The Director shall inspect all equipment used in cleaning septic tanks, chemical toilets, cesspools and sewage seepage pits owned or under the control of each person registered under the provisions of this chapter at regular intervals. The registered person or firm using equipment that is required to be permitted shall cooperate to facilitate an initial inspection within 90 days after a registration application is submitted to the Department.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10104 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10519 (N.S.), effective 2-9-18)

#### SEC. 68.609. REPORTS TO DIRECTOR OF ENVIRONMENTAL HEALTH.

(a) Whenever a person cleans a septic tank, chemical toilet, cesspool, or sewage seepage pit, that person shall promptly record the event and make the records available for inspection by the Director. Upon request, the registered person or firm responsible for that activity shall file a complete and accurate report for all such events. Said reports shall contain the location of septic tanks, chemical toilets, cesspools, and sewage seepage pits cleaned, the date of each cleaning, location of the disposal site, where sewage effluent or other material has been finally disposed of, and any other information which the Director may require.



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(b) The report shall be signed by the registered person or an officer of the registered firm. The Director may require, before or after his initial receipt of a report, that any such report be sworn to before a notary. The registration of any person or firm who fails to submit sworn and notarized reports when required to do so by the Director may be revoked. Making a false statement or a material omission in a required report is a violation of this Chapter, whether the report was or was not required to be sworn.

(Amended by Ord. No. 5001 (N.S.), effective 12-1-77; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10104 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10519 (N.S.), effective 2-9-18; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.610. DUMPING SITES.

Publisher's Note: This Section has been AMENDED by new legislation (Ord. 10729 , adopted 5-5-2021). The text of the amendment will be incorporated below when the ordinance is codified.

No waste shall be deposited in any location other than those approved in writing by the Director.

(Added by Ord. No. 5001 (N.S.), effective 12-1-77; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10104 (N.S.), effective 1-7-11)

#### SEC. 68.611. PENALTY CLAUSE.

Publisher's Note: This Section has been AMENDED by new legislation (Ord. 10729 , adopted 5-5-2021). The text of the amendment will be incorporated below when the ordinance is codified.

Any person violating any provision of this Chapter, or after effective notice and a reasonable opportunity to comply, any directive order issued by the Director pursuant to Section 68.601.2 of this Code, shall be guilty of a misdemeanor.

(Added by Ord. No. 5001 (N.S.), effective 12-1-77; amended by Ord. No. 10104 (N.S.), effective 1-7-11; amended by Ord. No. 10519 (N.S.), effective 2-9-18)

#### SEC. 68.612. ADMINISTRATIVE REMEDIES.

Publisher's Note: This Section has been AMENDED by new legislation (Ord. 10729 , adopted 5-5-2021). The text of the amendment will be incorporated below when the ordinance is codified.

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The administrative remedies set out in Chapter 1 of Division 8 of Title 1 of this Code are applicable to violations of this Chapter.

(Added by Ord. No. 10104 (N.S.), effective 1-7-11)

#### SEC. 68.613. NUISANCE.

Any unsanitary condition or any condition not consistent with public health and comfort that is caused wholly or in part by a violation of this Chapter is a public nuisance, and may be abated by the Director as provided in this Code.

(Added by Ord. No. 10104 (N.S.), effective 1-7-11)

#### CHAPTER 7. ACCUMULATION OF JUNK\*

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\*Note--Added by Ord. No. 2871 (N.S.), effective 10-7-65.

Cross reference(s)--Junkyards and motor vehicle wrecking yards, § 21.601 et seq.

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#### SEC. 68.701. DEFINITIONS.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them in this section:

(a) "FRONT LOT LINE" means the line separating the front of the lot from the street. If a lot is bounded by more than one street then the front lot line is the line most nearly facing the front of the main building on the lot; provided, that if there is no building on the lot the front lot line may be designated by the owner of the lot.

(b) "FRONT YARD" means a yard extending across the full width of a lot and extending from the front lot line to the front foundation line, and its prolongations, of the main building, as shown in Figure 1 of this Section. If the lot is vacant, the front yard depth shall be 50 feet.

(c) "JUNK" means any combustible or noncombustible nonputrescible waste, including but not limited to trash; refuse; paper; glass; cans; bottles; rags; fabrics; bedding; ashes; trimmings from lawns, shrubbery or trees, except when used for mulch or like agricultural purposes; household refuse other than garbage; lumber, metal, plumbing fixtures, bricks, building stones, plaster, wire or like materials from the demolition, alteration or construction of buildings or structures; tires or inner tubes; auto, aircraft or boat parts; plastic or metal parts or scraps; damaged or defective machinery, whether or not repairable; and damaged or defective toys, recreational equipment or household appliances or furnishings, whether or not repairable.

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(d) "LOT" means a contiguous quantity of land in the possession of, or owned by, or recorded as the property of, the same person.

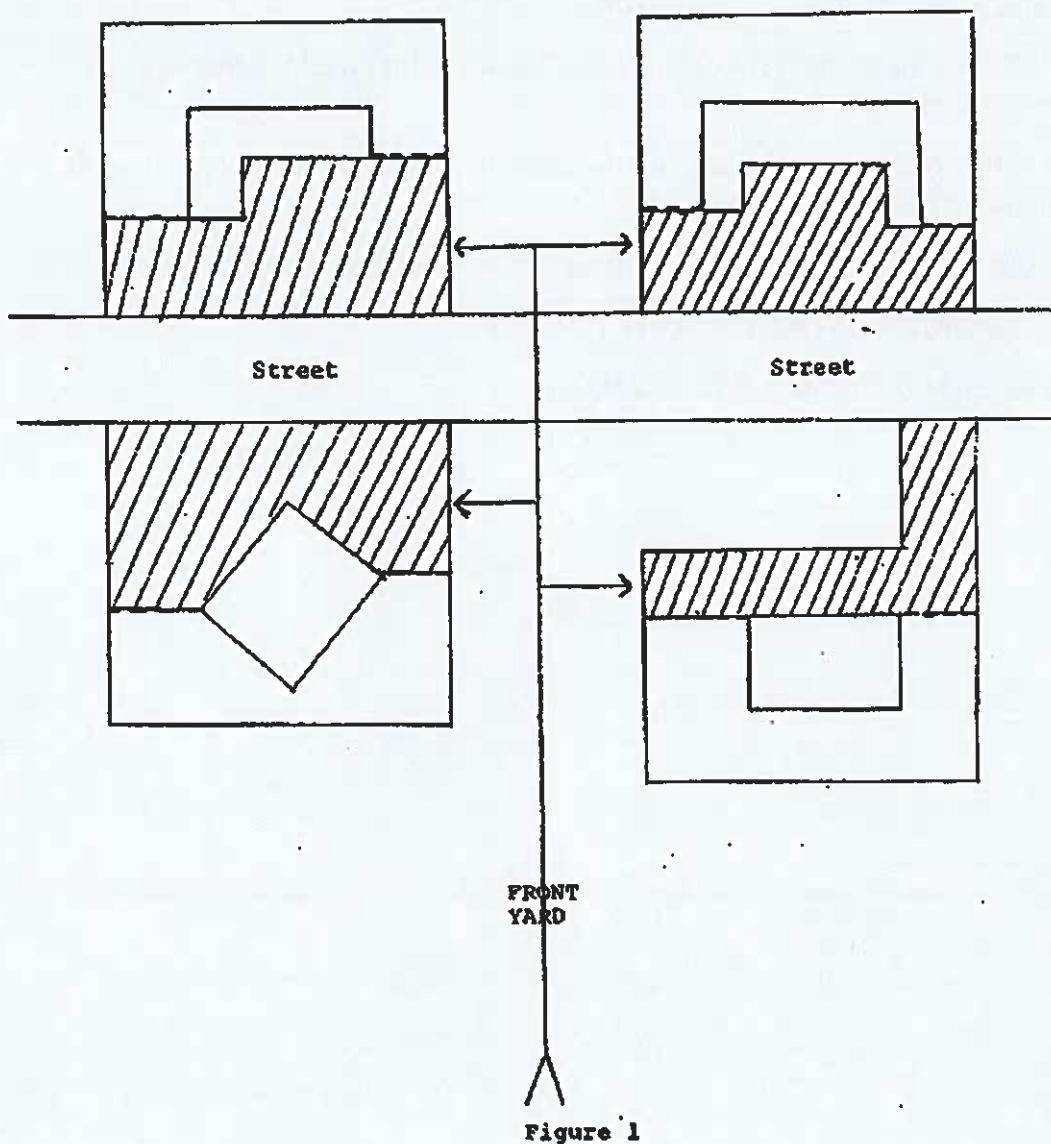
(e) "LOT USED FOR RESIDENTIAL PURPOSES" means a lot on which one or more dwellings are located.

(f) "REAR LOT LINE" means the lot boundary line or lines most distance from and generally opposite the front lot line.

(g) "SIDE LOT LINE" means any lot boundary line that is not a front or rear lot line.

(Amended by Ord. No. 8085 (N.S.), effective 7-10-92)

Cross reference(s)--Definitions, § 12.101 et seq.



**SEC. 68.702. ACCUMULATION OF JUNK -- PROHIBITIONS.**

No person shall accumulate junk:

(a) On any lot that is not in his ownership or possession, unless he has permission from the owner of such lot to do so.

(b) On any lot used for residential purposes, unless done in strict compliance with Section 68.703.

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(c) On any parcel of land adjacent to a lot used for residential purposes, except:

(1) As a part of and incident to a lawfully established and conducted commercial or industrial enterprise; or

(2) When done in strict compliance with Section 68.703.

#### SEC. 68.703. ACCUMULATION OF JUNK -- REGULATIONS.

(a) No person shall accumulate junk or permit junk to be accumulated, on a lot used for residential purposes or on a lot adjacent to a lot used for residential purposes:

(1) Within four feet of any building or structure, except that junk may be accumulated within two feet of a fence or wall which is constructed of non-flammable material and is not used for structural support of a building;

(2) Within 15 feet of any rear lot line;

(3) Within 10 feet of any side lot line; or

(4) In the front yard.

(b) No person shall accumulate junk, or permit junk to be accumulated on a lot that is used for residential purposes or on a vacant lot that is adjacent to a lot used for residential purposes, except in accordance with all of the following regulations:

(1) The accumulation shall be stored in sturdy, vermin-proof, closed containers, or on platforms elevated not less than 18 inches above the ground;

(2) The accumulation shall not be maintained so as to be conducive to the breeding, shelter or harborage of insects, rodents, vermin or pests;

(3) The accumulation shall not be strewn about or maintained in an unsightly condition;

(4) The accumulation shall be maintained so as not to constitute a fire hazard;

(5) The accumulation, if not contained in metal or opaque containers, shall be kept in an area enclosed by a lawfully constructed opaque fence or wall at least two feet higher than the accumulation or, alternatively, said accumulation shall be completely covered with canvas, a tarpaulin, opaque plastic or like material; and

(6) The accumulation shall be maintained so as not to constitute a danger or potential danger to the public health, safety or welfare.

#### SEC. 68.704. JUNK YARDS.

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This chapter does not prohibit the accumulation of junk in the course of the lawful operation of a junk yard, motor vehicle storage or wrecking yard, or salvage yard conducted in the manner authorized by The Zoning Ordinance and/or this code. Nothing contained in this chapter shall be deemed to authorize the establishment or maintenance of a junk yard, motor vehicle storage or wrecking yard, or salvage yard.

#### SEC. 68.705. DISPOSAL OF JUNK.

This chapter does not prohibit the accumulation of junk in accordance with the conditions and requirements of, and for the purposes authorized by, Sections 68.530 et seq. and 68.540 et seq. of this code, or for a reasonable time prior to disposal thereof in a public dump or other place where disposal lawfully may be made.

#### SEC. 68.706. FIREWOOD.

This chapter does not prohibit the accumulation of used lumber, scraps and/or materials fabricated out of wood for use as firewood or fuel; provided, however, that any such accumulation shall be neatly stacked and shall be maintained in accordance with the provisions of Subsections (1) and (4) of subparagraph (a), and of subsections (2), (3) and (4) of subparagraph (b) of Section 68.703; and provided, further, that the components of such an accumulation shall be sawed or otherwise reduced in size so that no piece thereof exceeds five feet in length or two feet in width.

#### SEC. 68.707. DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES TO ENFORCE.

The Director of Planning and Development Services shall enforce this Chapter.

(Amended by Ord. No. 3877 (N.S.), effective 5-25-72; amended by Ord. No. 10224 (N.S.), effective 10-25-12)

#### SEC. 68.708. DETERMINATION OF DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES.

The Director of Planning and Development Services shall determine whether or not a person is accumulating junk in such manner as to constitute a violation of this Chapter. In making such determination the Director of Planning may consider the nature, size and extent of the accumulation; the length of time the accumulation has been permitted to remain; whether, and to what extent, the accumulation is detrimental to the public health, safety and welfare; and whether any unusual conditions exist that would render the disposal of such junk in a lawful manner a hardship.

(Amended by Ord. No. 3877 (N.S.), effective 5-25-72; amended by Ord. No. 10224 (N.S.), effective 10-25-12)

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**SEC. 68.709. NOTICE OF VIOLATION.**

If the Director of Planning and Development Services determines that an accumulation of junk exists in violation of this Chapter, he or she shall declare a public nuisance and issue a Notice and Order to Abate 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.

(Amended by Ord. No. 7141 (N.S.), effective 6-26-86; amended by Ord. No. 10224 (N.S.), effective 10-25-12)

**SEC. 68.710. [RESERVED.]**

(Repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

**SEC. 68.711. [RESERVED.]**

(Amended by Ord. No. 3877 (N.S.), effective 5-25-72; repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

**SEC. 68.712. [RESERVED.]**

(Amended by Ord. No. 3877 (N.S.), effective 5-25-72; amended by Ord. No. 5200 (N.S.), effective 8-10-78; repealed by Ord. No. 7141 (N.S.), effective 6-26-86)

**SEC. 68.713. NUISANCE.**

The accumulation of junk contrary to this Chapter is hereby declared to be a public nuisance. Upon direction of the Board of Supervisors the County Counsel shall bring an appropriate action to abate such public nuisance in a court of competent jurisdiction and such action shall be in addition to any other remedy provided in this Chapter or any other provision of law.

(Amended by Ord. No. 7141 (N.S.), effective 6-26-86)

**SEC. 68.714. ABATEMENT OF EXISTING UNLAWFUL ACCUMULATION OF JUNK.**

Within 90 days following the effective date of this Chapter, every person owning or in possession of land on which there is an accumulation of junk which does not conform to the

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provisions of this Chapter shall remove said accumulation of junk or bring said accumulation of junk into conformity with such requirements.

#### CHAPTER 8. HAZARDOUS INCIDENT RESPONSE\*

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\*Note--Chapter 8, ABATEMENT OF WEEDS AND RUBBISH, Sections 68.801--68.817, added by Ord. No. 4179 (N.S.), effective 11-15-73. Sections 68.810--68.817 repealed by Ord. No. 4466 (N.S.), effective 3-13-75. Sections 68.801--68.809 repealed by Ord. No. 5726 (N.S.), effective 5-8-80. New Chapter 8, DISCLOSURE OF HAZARDOUS MATERIALS, Sections 68.801--68.813, added by Ord. No. 6293 (N.S.), effective 6-24-82; amended by Ord. No. 6452 (N.S.), effective 11-11-82; amended by Ord. No. 6470 (N.S.), effective 12-16-82. Declared, by Ord. No. 7091 (N.S.), effective 3-13-86, to be inoperative until action taken to the contrary and added Chapter 11, HAZARDOUS MATERIALS INVENTORY AND RESPONSE PLANS, Sections 68.1101--68.1111. Title added. Chapter 8, DISCLOSURE OF HAZARDOUS MATERIALS, repealed by Ord. No. 8672 (N.S.), effective 5-23-96. Prior to repeal, chapter consisted of §§ 68.801--68.814, as amended by Ord. No. 6570 (N.S.), effective 6-2-83; Ord. No. 7428 (N.S.), effective 2-4-88; and Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95. Ord. No. 8672 (N.S.), effective 5-23-96, added similar new provisions as § 68.1113. New Chapter 8, Hazardous Incident Response, Sections 68.801--68.804, added by Ord. No. 10412 (N.S.), effective 2-26-16.

Cross reference(s)--Hazardous and medical wastes, § 68.505; hazardous waste establishments (Certified Unified Program Agency), § 68.901 et seq.; underground storage of hazardous substances, § 68.1001 et seq.; hazardous materials inventory and response plans, § 68.1101 et seq.; medical wastes, § 68.1201 et seq.

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#### 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 and Quality (Department), 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 (USDCEO), a joint powers agency established for these purposes. It is the further intent of the Board of Supervisors that the Department should respond to releases in the unincorporated area that do not fall within the ambit of USDCEO 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 the Department to better protect the County be made available for deployment



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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 104.13 of the California Fire Code (as amended and adopted in this County) 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.

(Added by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10536 (N.S.), effective 7-1-18; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### 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.

"Department" shall mean the Department of Environmental Health and Quality.

"Director" shall mean the Director of the Department of Environmental Health and Quality.

"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.

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"Flammable material" means any material which constitutes a flammable material pursuant to the California Fire as amended and adopted by the County of San Diego

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

(Added by Ord. No. 10536 (N.S.), effective 7-1-18; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### **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.

(Added by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10536 (N.S.), effective 7-1-18)

#### **SEC. 68.803. HAZARDOUS INCIDENT RESPONSE.**

(a) The Department 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. For any responses undertaken pursuant to the authority of the Health Officer, such responses shall be coordinated with and under the immediate supervision of the Director of Environmental Health. 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 (USDCESO) and its member agencies. Responses to releases within the unincorporated area can be conducted through USDCESO or independently by the Department, as USDCESO and the Department find appropriate.

(b) When responding to a release or threatened release, the Director of Environmental Health 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 Department 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

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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 Department 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 25508.3, 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 Department shall record their 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.

(Added by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10536 (N.S.), effective 7-1-18; amended by Ord. No. 10606 (N.S.), effective 7-1-19; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### 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 104.13 of the California Fire Code (as amended and adopted in this County), by Sections 13009.6 and 25515 of the California Health and Safety

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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.

(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 104.13 of the California Fire Code (as amended and adopted in this County), 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.

(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 USDCEO, the Director may arrange for the County Office of Emergency Services (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 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.

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

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

(j) For responses undertaken jointly with another agency but not pursuant to a contract with USDCESO, 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) 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.

(Added by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10536 (N.S.), effective 7-1-18)

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

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(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.

(Added by Ord. No. 10536 (N.S.), effective 7-1-18)

#### SEC. 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.

(Added by Ord. No. 10536 (N.S.), effective 7-1-18)

#### CHAPTER 9. CERTIFIED UNIFIED PROGRAM AGENCY\*

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\*Note--Chapter 9, HAZARDOUS WASTE FACILITIES, Sections 68.901--68.909, added by Ord. No. 6376 (N.S.), effective 7-15-82; repealed and new Chapter 9, Sections 68.901--68.911 added by Ord. No. 6469 (N.S.), effective 12-16-82; title amended by Ord. 9293 (N.S.), effective 1-12-01.

Cross reference(s)--Hazardous and medical wastes, § 68.505; underground storage of hazardous substances, § 68.1001 et seq.; hazardous materials inventory and response plans, § 68.1101 et seq.; medical wastes, § 68.1201 et seq.

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#### SEC. 68.901. PURPOSE.

Publisher's Note: This Section has been AMENDED by new legislation (Ord. 10709, adopted 12-09-2020). The text of the amendment will be incorporated below when the ordinance is codified.

It is the intent of the Board of Supervisors that the Department of Environmental Health and Quality (Department) is designated as the Certified Unified Program Agency. It is further the intent of the Board of Supervisors that the Director of the Department (Director) provide health care information and other appropriate technical assistance on a 24-hour basis to emergency responders in the event of a hazardous waste incident involving community exposure.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01)

#### SEC. 68.902. DIRECTOR TO IMPLEMENT AND ENFORCE THE UNIFIED PROGRAM.

(a) The Director, in addition to their other duties, is hereby designated as the Officer to implement and enforce the Unified Program as certified by the California Secretary for Environmental Protection and specified in the California Health and Safety Code, Chapter 6.11 (commencing with Section 25404).

(b) The Department may designate categories of facilities as "Notification-Only Low Risk Unified Program Facilities." Facilities that are subject to the Unified Program solely because they recycle photochemical wastes to recover silver have been so designated for many years and will remain so designated unless the Department affirmatively de-designates such facilities. This designation may also be applied to other categories of facilities but may only be applied to facilities that are subject to the Unified Program solely as waste generators. Each category of facilities designated shall be defined by such conditions concerning wastes and waste management as the Department finds are necessary to ensure that associated risks are extremely low. Designations shall be disclosed on the appropriate Department web page or pages and in local CERS instructions.

(c) Any "notification-only" designation to which an objection is made by the Director of the California Department of Toxic Substances Control shall be rescinded.

(d) The Director may streamline the permitting and reporting process for notification-only low risk unified program facilities, and need not perform inspections of these facilities.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

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**SEC. 68.903. INSPECTION OF UNIFIED PROGRAM FACILITIES.**

It shall be the duty of the Director to make periodic inspections of all unified program facilities as defined in Chapter 6.11 (commencing with Section 25404 of the California Health and Safety Code).

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**SEC. 68.904. CERS REPORTING.**

(a) Any business, person, owner or operator that has a unified program facility as defined in Section 68.904.5 or is a medical waste generator required to have a permit pursuant to Section 68.1202, shall submit and shall keep up to date, through CERS, all of the following:

(1) The facility information and program elements as defined in section 68.904.5 required and medical waste regulated under Section 68.1201 which are required to be reported pursuant to Chapter 6.95 of the California Health and Safety Code.

(2) The waste generator shall provide information for each hazardous waste and medical waste generated at the facility. Wastes that are less than 55 gallons, 500 pounds, and for compressed gases less than 200 cubic feet, are required to be reported as inventory. At a minimum the following information shall be included: the common name of the waste, maximum amount in storage at any one time, annual waste amount, physical state of the waste, unit of measure, and if applicable, State waste code and hazard categories for hazardous waste.

(3) Where applicable, the additional locally required information specified in Section 68.1113 of this Code.

(b) Any business which handles hazardous material in quantities subject to the requirements of the Hazardous Materials Release Response Plans and Inventory Law shall certify that the business plan meets the requirements as specified in Division 20, Chapter 6.95 of the California Health and Safety Code.

(c) Pursuant to Chapter 6.95 of the California Health and Safety Code electronic updates are required within 30 days for reportable information affected by the following events:

(1) A 100 percent or more increase in the quantity of a previously disclosed hazardous material that is subject to the inventory reporting requirements in State law.

(2) Any handling of a previously undisclosed hazardous material that is subject to the inventory reporting requirements in State law.

(3) Change of business address.



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(4) Change of business ownership.

(5) Change of business name.

(6) A substantial change (as defined in State law) in the handler's operations occurs that requires modification to any portion of the business plan.

(d) An application or submission to apply for a new Unified Program Facility permit must be made within 30 days of becoming a Unified Program Facility subject to any of the program elements defined in Section 68.904.5.

(e) Notification and submittal of unified program facility information and required program elements through CERS is the only submittal method that meets the requirements of State law and this code.

(f) Submissions, updates, and any required certifications in CERS may be made by the business, person, owner or operator of the Unified Program facility, an officially designated representative, or by the Department if a CERS application form is authorized by an officially designated representative.

Note: An additional hourly fee will be due under Section 65.107(m) if outdated information or unaccepted submittals in CERS results in increased costs to process a permit application or renewal.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10473, effective 7-1-17; amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.904.5. DEFINITIONS.

The relevant definitions in Chapters 6.5, 6.67, 6.7, 6.11 and 6.95 of Division 20 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.

"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.

"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.

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"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.

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

"Department" means the Department of Environmental Health and Quality.

"Director" means the Director of the Department of Environmental Health and Quality.

"Minimal Inventory Variation Low Risk Business Operations" are those businesses not subject to the Underground Storage Tank Program or the Aboveground Petroleum Storage Act and are limited to the following facilities: unmanned telecommunications sites; food and beverage facilities where compressed gases related to beverage carbonation is the primary hazardous material; dry cleaners; car washes with no auto repair or maintenance activities; facilities where a fuel tank associated with an emergency generator is the primary hazardous material; and facilities where propane associated with forklift operations is the primary hazardous material.

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

"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.

"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, Division 20, Chapter 6.11, Section 25404(c).

"Unified program facility permit" or "UPFP" means the permit issued by the Department pursuant to Chapters 9, 10, and 11 of this Division. These permits implement unified program elements for hazardous materials and hazardous 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.

(Added by Ord. No. 10099 (N.S.), effective 1-7-11; amended by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10536 (N.S.), effective 7-1-18; amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### **SEC. 68.905. UNIFIED PROGRAM FACILITY PERMIT REQUIRED.**

No business, person, owner or operator shall have a unified program facility as defined in Section 68.904.5 without obtaining a unified program facility permit with the applicable permit elements from the Director. Unified program facility permits are not transferable to

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a different business, person, owner or operator pursuant to Section 65.106 unless approved by the Director. Any business, person, owner or operator who has a unified program facility without obtaining a unified program facility permit from the Director shall cease unified program activities and shall be guilty of a misdemeanor punishable by a \$1,000 fine or 6 months in prison or both. The County may also impose civil penalties against the business, person, owner or operator in the amount of \$1,000 per violation and may seek injunctive relief if the business, person, owner or operator refuses to cease unified program activities.

(Amended by Ord. No. 7300 (N.S.), effective 6-11-87; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9859 (N.S.), effective 6-15-07, operative 7-1-07; amended by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.906. APPLICATION FOR PERMIT.

Every applicant for a unified program facility permit required by this division shall submit the information required to obtain said permit through CERS or by submitting a completed application to the Department. Any required update to such information (including but not limited to information on changes in ownership) shall be submitted in the same manner.

(Amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10065 (N.S.), effective 8-13-10; amended by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.907. FEE.

(a) Every business, person, owner or operator required to have a unified program facility permit shall pay the applicable fees specified in Section 65.107 of this Code when applying for a new permit or registration, or for the renewal of an existing permit or registration.

(b) The Director may collect a fee that is based on the relevant facts observed during an inspection, notwithstanding any contrary data in CERS. The Director is not obliged to reduce CERS-based fees downward where a business has failed to update CERS data in time for data to be "accepted" prior to an annual invoice being calculated. It is the responsibility of the facility operator to keep information required to be reported in CERS up to date.

(Amended by Ord. No. 6715 (N.S.), effective 2-17-84; amended by Ord. No. 6972 (N.S.), effective 7-18-85; amended by Ord. No. 7300 (N.S.), effective 6-11-87; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10379 (N.S.), effective 4-17-15;

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amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.907.1 ESTABLISHED FACILITY NON-NOTIFICATION FEE.

Any business, person, owner or operator who has a unified program facility and failed to obtain or apply for a Unified Program Facility Permit through CERS, or complete and submit a CERS application to the Department, shall be subject to a one-time non-notification fee as specified in Section 65.107 of this Code.

(Added by Ord. No. 9859 (N.S.), effective 6-15-07, operative 7-1-07; amended by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10680 (N.S.), effective 9-4-20)

#### SEC. 68.907.2 PERFORMANCE FEE REDUCTION.

Biotechnology and testing laboratory facilities subject to the Unified Program Facility Permit base fee, the hazardous waste fees or the hazardous materials fees in Section 65.107 of the County Code of Regulatory Ordinances may have these fees reduced by 25% if the facility meets performance standards as defined by the Department.

For the purposes of this section, biotechnology facilities include sites primarily engaged in the research, development or production of: diagnostic processes, analytical laboratory devices and instruments, medical and surgical instruments, medicinal chemicals, botanical products, pharmaceutical preparations, and biological products. Testing laboratories are laboratories where relatively small quantities of hazardous chemicals are handled. These sites are primarily engaged in: research, analysis, clinical testing, or product development, testing and/or quality control.

(Added by Ord. No. 9859 (N.S.), effective 6-15-07, operative 7-1-07)

#### SEC. 68.908. INVESTIGATION BY DEPARTMENT.

Upon receipt of notification from the business, person, owner or operator through CERS that required information has been submitted, plus payment of the required fee, it shall be the duty of the Director to investigate the matters set forth in such notification and related submittals, and the unified program facility conditions in and about the place where it is proposed to conduct the activities subject to unified program requirements specified in the notification. If the Director determines that the statements contained in the notification are true, and that the facility complies with unified program facility requirements as set forth in this Code and State law, a unified program facility permit shall thereupon be granted. If the business, person, owner or operator of the facility required to obtain the unified facility program permit fails to pay appropriate fees associated with a unified program facility permit or upon inspection a facility fails to comply with requirements as set forth in this Code or State law, such unified program facility permit shall be denied.

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(Amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.908.1. RE-INSPECTION WITH RE-INSPECTION FEE.

If the unified program facility permit is denied for failure to pay appropriate fees associated with a unified program permit, or if a facility fails to comply with requirements set forth in this Code or State law, or if a facility subject to the Small Quantity Medical Waste Registration Program fails to comply with the registration requirements, inspections shall continue to be performed to mitigate threats to public health and safety and the environment, and a re-inspection fee shall be due for each such inspection. Any notification and related submittals for a new or updated permit will be processed in accordance with Section 68.908.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10473, effective 7-1-17; amended by Ord. No. 10680 (N.S.), effective 9-4-20)

#### SEC. 68.908.2. ADDITION, DELETION, OR MODIFICATION OF A PERMIT ELEMENT.

Any permittee who needs to add or delete a permit element or make any other modification to their unified program facility permit shall submit that information through CERS. Any fee adjustments applicable based on those updates will apply to the next annual fee invoice for the facility.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10379 (N.S.), effective 4-17-15)

#### SEC. 68.909. ELECTRONIC REPORTING AND VERIFICATION PROCEDURES.

Unified program facilities that handle hazardous materials in quantities subject to the requirements of Chapter 6.95 of the California Health and Safety Code must comply with the certification requirements in State law. Provided required fees have been paid, the Director shall verify the completeness of the reported information. Information that is verified as complete and is accepted by the Department in CERS shall be treated as having been submitted when it was first posted by the business, person, owner, operator or designated representative. Information that is identified by the Department as "not accepted" in CERS shall be deemed submitted on the date that corrected information was submitted, provided that corrected information is verified as complete and is accepted by the Department in CERS.

(Amended by Ord. No. 7300 (N.S.), effective 6-11-87; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10065 (N.S.), effective 8-13-10; amended by Ord.

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No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.909.5. NOTIFICATION-ONLY LOW RISK UNIFIED PROGRAM FACILITIES.

Facilities that are subject to the Unified Program designated pursuant to Section 68.902(b) of this Code as being eligible as "notification-only low risk unified program facilities" shall submit an annual notification through CERS in lieu of a permit application and in lieu of any other CERS reporting for that facility only. This notification shall include an entry in the Facility Information element in CERS that the facility generates hazardous waste and a statement by the business certifying that the facility meets the conditions for "notification only" status established by the Director for the specific facility type.

(Added by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10606 (N.S.), effective 7-1-19; amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.909.6. [RESERVED.]

(Added by Ord. No. 10680 (N.S.), effective 9-4-20; repealed by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.910. RENEWAL DATE AND DELINQUENCY DEFINED.

A unified program facility permit issued pursuant to this division shall expire on the last day of the month of the one year anniversary month in which the unified program facility permit was issued and shall be renewed annually by paying to the Department the required annual fee, which fee is due and payable each year. The annual fee, if unpaid, is thirty days delinquent on the first day of the second month after the month in which the permit expires.

The imposition of, or payment of the fee imposed by this section, shall not prevent the imposition of any other penalty prescribed by this Code, or any ordinance, or prosecution for violation of this Code, or any ordinance.

(Amended by Ord. No. 7300 (N.S.), effective 6-11-87; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.911. STATE SURCHARGE.

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As required by Section 25404.5 of the California Health and Safety Code, each business, person, owner or operator who notifies the Director through CERS to obtain or update ownership for a permit to operate an underground storage tank or to obtain or renew a unified program facility permit shall pay a surcharge in addition to the local permit fee. The amount of the surcharge shall be determined by the State in the manner prescribed in State law. (The State surcharge is not a County fee and State surcharge revenues are not retained by the County.)

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10733 (N.S.), effective 7-1-21)

#### SEC. 68.912. DENIAL, SUSPENSION OR REVOCATION OF PERMIT OR PERMIT ELEMENT.

The Director or a designee of the Director may order that the unified program facility permit or permit element of an establishment be denied, suspended or revoked whenever it appears to him, by reason of either complaint or Department investigation, that the permit should not be granted pursuant to Section 68.908 or 68.908.1 or that permittee, their employee, servant or agent, or any person acting with their consent or under their authority, has or may have violated any provision of this division or any relevant requirement established or provided by law.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.913. HEARINGS AND APPEALS.

(a) A suspension or revocation of a Unified Program facility permit or permit element, and any administrative enforcement order issued pursuant to Section 25404.1 of the California Health and Safety Code, may be appealed as provided in applicable state laws and regulations.

(b) If applicable state laws and regulations do not specify appeals procedures for an action by the Director related to a Unified Program facility, appeals may be made as provided in Section 61.109 and of this code.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9858 (N.S.), effective 5-25-07)

#### SEC. 68.914. SUSPENSION, EXPIRATION, CANCELLATION OR FORFEITURE BY OPERATION OF LAW OF A UNIFIED PROGRAM FACILITY PERMIT.

The suspension, expiration or forfeiture by operation of law of a unified program facility permit, or its suspension, forfeiture or cancellation by the Department or by order of a court, or its surrender or attempted or actual transfer without written consent of the

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Department shall not affect the authority of the Department to institute or continue a disciplinary proceeding against the holder of a unified program facility permit upon any ground, or otherwise taking an action against the holder of a unified program facility permit on these grounds.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.915. SITE SCREENING, SITE INVESTIGATION AND CORRECTIVE MEASURES.

(a) To the extent authorized by the State Department of Toxic Substances Control, the Department, in its capacity as a Certified Unified Program Agency, shall oversee site screening, site investigation and corrective measures required at sites in the County that are subject to the state Hazardous Waste Control Law and are within the regulatory jurisdiction of the County as a Certified Unified Program Agency.

(b) Definitions. For purposes of this section, the following definitions apply:

"Corrective action" means those activities taken to evaluate, investigate, remove, remediate, prevent, minimize or mitigate a release or threatened release of hazardous waste or constituents, as necessary to protect the public health or the environment. The term "corrective action" includes site screening, site investigation and corrective measures.

"Site screening" means those activities that are performed to determine whether current or past hazardous waste management practices at the site have resulted in a release or threatened release of hazardous waste or constituents that poses a threat to the public health or the environment.

"Site investigation" means those activities that are performed to determine the nature and extent of releases of hazardous waste or constituents at the site, identify and assess the risks to the public health or the environment posed by the release, and gather all necessary data on possible corrective measures.

"Corrective measures" means those activities that are performed to remove, remediate, prevent, minimize or mitigate a release of hazardous waste or constituents at the site.

(c) Authority. The Department may require corrective action at a site whenever the Department determines that there is or may be a release of hazardous waste or constituents into the environment at or from a site.

(d) The responsible party or the person requesting oversight shall make deposits and reimburse the Department for its oversight costs as set out in Section 65.107(k)( 21) of this code.

(e) This section does not limit the Department's authority to oversee site investigations or remedial actions pursuant to Chapter 6.65 of Division 20 of the Health and Safety Code, Sections 33459 to 33459.8 of the Health and Safety Code, or Sections 101480 to 101490 of the Health and Safety Code, to the extent applicable.



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(Added by Ord. No. 10317 (N.S.), effective 2-7-14; amended by Ord. No. 10473, effective 7-1-17; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

CHAPTER 10. CERTIFIED UNIFIED PROGRAM AGENCY,  
UNDERGROUND STORAGE OF HAZARDOUS SUBSTANCES\*

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\*Note--Chapter 10, Underground Storage of Hazardous Substances, Sections 68.1001--68.1011, added by Ord. No. 6753 (N.S.), effective 5-10-84; title amended by Ord. No. 9293 (N.S.), effective 1-12-01.

Cross reference(s)--Hazardous and medical wastes, § 68.505; additional locally-required information on hazardous compressed gases, carcinogens and reproductive toxins, § 68.1113; hazardous waste establishments (Certified Unified Program Agency), § 68.901 et seq.; hazardous materials inventory and response plans, § 68.1101 et seq.; medical wastes, § 68.1201 et seq.

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SEC. 68.1001. PURPOSE.

It is the purpose of this Chapter to implement Chapters 6.7 and 6.75 of Division 20 of the California Health and Safety Code, which establish standards and procedures regarding underground storage tanks and a fund for underground storage tank cleanup, to establish a procedure for issuance of an underground storage tank operating element of a unified program facility permit for underground storage tanks, and to establish a procedure for enforcement of the requirements of this Chapter, in order to prevent and control unauthorized discharges of hazardous substances stored underground.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1001.1. OPERATING PERMIT ELEMENT OF THE UNIFIED PROGRAM FACILITY PERMIT.

For the purposes of this chapter, the operating permit as defined in Chapter 6.7 of Division 20 of the California Health and Safety Code and Title 23 of Division 3 of the California Code of Regulations shall be known as the operating permit element of the unified program facility permit.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9859 (N.S.), effective 6-15-07, operative 7-1-07)

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**SEC. 68.1001.2. UNDERGROUND STORAGE TANK INSTALLATION, REPAIR, REPLACEMENT, MODIFICATION, UPGRADE OR CLOSURE ELEMENT OF THE UNIFIED PROGRAM FACILITY PERMIT.**

For the purposes of this chapter, the underground storage tank installation, repair, replacement, modification, upgrade or closure permit shall be known as the underground storage tank installation, repair, replacement, modification, upgrade or closure element of the unified program facility permit.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01)

**SEC. 68.1002. IMPLEMENTATION OF STATE LAWS AND REGULATIONS.**

The Department is hereby designated pursuant to Section 25283 of the California Health and Safety Code as the agency responsible for implementation and enforcement of Chapters 6.7 and 6.75 of Division 20, California Health and Safety Code.

(Amended by Ord. No. 7023 (N.S.), effective 10-10-85; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**SEC. 68.1003. OPERATING PERMIT ELEMENT REQUIRED.**

(a) No person shall own or operate an underground storage tank within the County of San Diego unless by authority of a valid, unexpired, unsuspended and unrevoked unified program facility permit containing an underground storage tank operating permit element for the unified program facility on which the tank is located, issued to the owner or operator pursuant to the provisions of this Chapter.

(b) Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid operating permit element has been issued shall have 30 days after the date of assumption of ownership to apply for an operations permit or, if accepting a transferred operating permit element, shall submit to the Director the completed form accepting the obligations of the transferred operating permit element. During the period from the date of application until the operating permit element is issued or refused, the person shall not be held to be in violation of this section.

(c) A person shall be deemed to operate an underground storage tank if the person in effect supervises, inspects, directs, organizes, manages or controls or is in any way responsible for or in charge of the facility for which a permit is required.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9859 (N.S.), effective 6-15-07, operative 7-1-07)

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**SEC. 68.1004. INSTALLATION, REPAIR OR CLOSURE PERMIT/EXTENSION.**

(a) Permit. No person shall install, repair, replace, modify, upgrade, close or remove an Underground Storage Tank (U.S.T.) within the County of San Diego, unless by authority of a valid, unexpired, unsuspended and unrevoked unified program facility permit containing a U.S.T. Installation, Repair, Replacement, Modification, Upgrade or Closure Element, respectively for such installation, repair, replacement, modification, upgrade, closure or removal, issued to the owner or operator pursuant to the provisions of this Chapter. For the purpose of this section, the underground storage tank includes connected piping and any associated monitoring systems. The U.S.T. Installation, Repair, Replacement, Modification, Upgrade, or Closure Element is valid for 180 days from the date of issue. Fees paid for plan check and inspections for the Element are not refundable after this 180-day period.

(b) Timing of Inspections. Each permit element issued shall specify a deadline for the owner or operator to make the facility available for inspection by the County in a condition that will allow the County to verify correct completion of the activities authorized by the permit. Failure or refusal of the owner or operator to make the facility available prior to this deadline shall constitute a violation of this Ordinance and shall be subject to the penalties set out in Division 8 of Title 1 of this code, for each day after the missed deadline. Such violations shall also be grounds for revocation of the Operating Permit Element.

If an Operating Permit Element is revoked, a new permit fee must be paid to reinstate that Element, so that the required inspection can be performed.

(c) Timing of Closure. An owner or operator of an underground storage tank must apply for a unified program facility permit containing a U.S.T. Closure Element, or, if the owner/operator has a unified program facility permit, the owner/operator must apply to modify the permit to include a U.S.T. Closure Element to the permit within 90 days of ceasing operation of the underground storage tank. Activities authorized under the U.S.T. Closure Element shall be completed within 180 days of permit approval or modification. The Director may, in his/her discretion, extend the completion date one time, for up to 180 days.

(d) The expiration of the permit Element may be extended one time, for 180 days, with payment of the required Plan Extension Fee.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9524 (N.S.), effective 1-10-03; amended by Ord. No. 9530 (N.S.), effective 3-14-03; amended by Ord. No. 9859 (N.S.), effective 6-15-07, operative 7-1-07; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

**SEC. 68.1005. APPLICATION FILING.**

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All applications for a new unified program facility permit shall be filed with the Director pursuant to Section 68.906 et seq. All applications to modify existing unified program facility permits shall be filed with the Director pursuant to Section 68.908.2.

(Amended by Ord. No. 7023 (N.S.), effective 10-10-85; amended by Ord. No. 7301 (N.S.), effective 6-11-87; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10065 (N.S.), effective 8-13-10; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

SEC. 68.1006. [RESERVED.]

(Amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1007. ISSUANCE OF PERMIT.

A unified program facility permit containing an underground storage tank installation, repair, replacement, modification, upgrade, or closure element will not be issued, renewed, or extended if the Director, upon inspection of the underground storage tank, determines that it does not comply with the requirements of State law or the requirements of this Chapter. An underground storage tank permit may not be issued, renewed, or extended if the applicant has not paid the local fees and state surcharges assessed pursuant to Division 5 of Title 6 of this Code.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1008. OPERATING PERMIT ELEMENT CONDITIONS.

Unified Program facility permits containing underground storage tank installation, repair, replacement, modification, upgrade or closure elements issued pursuant to this Chapter shall be subject to conditions imposed as the Director determines are necessary to promote the purposes and objectives of Chapter 6.7 and 6.75 of Division 20, California Health and Safety Code and of this Chapter.

(Amended by Ord. No. 7023 (N.S.), effective 10-10-85; amended by Ord. No. 7301 (N.S.), effective 6-11-87; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

SEC. 68.1008.5. [RESERVED.]

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(Added by Ord. No. 7023 (N.S.), effective 10-10-85; repealed by Ord. No. 9293 (N.S.), effective 1-12-01)

#### SEC. 68.1009. TERM OF THE OPERATING PERMIT ELEMENT.

Except as provided in Section 25285.1 of the California Health and Safety Code, operating permit elements issued under Section 68.1003 of this Chapter shall be effective for five years from the date of issuance. Unified program facility permits shall be effective for one year from the date of issuance.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9859 (N.S.), effective 6-15-07, operative 7-1-07)

#### SEC. 68.1009.5. INVESTIGATION FEES: WORK WITHOUT A PERMIT.

a) Investigation (work without a permit). Whenever an underground storage tank system is installed, modified, removed or destroyed without first obtaining the required permit, a special investigation shall be made before a permit may be issued for such work.

b) Fee. Investigation Fee (work without a permit). An investigation fee, in addition to the permit fee, shall be submitted by the person required to have the permit to the Director whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this code. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code or State law nor from any penalty prescribed by law.

c) Unauthorized Release. Whenever there is an unauthorized release of a hazardous substance from an underground storage tank system, the tank owner, tank operator, and/or property owner shall, as required by the Director, determine the extent of contamination, assess the risk to public health and the environment, and develop and implement remedial action programs to comply with provisions of this code and State laws.

d) Investigation Fee (unauthorized release). The person responsible for an unauthorized release shall submit fee to the Department for the staff time expended for consultation, investigation and remediation. The fee shall be paid at the rate specified in Section 65.107 of the County Code of Regulatory Ordinances.

e) Investigation Fees--Penalty for Delinquency. All investigation fees are due 30 days from the date of billing. The investigation fee, if unpaid, is thirty days delinquent thirty days after the date of billing. Thereafter a penalty shall be added thereto, which shall be collected at the time the fee is paid. Penalties are specified in Section 65.105 of the County Code of Regulatory Ordinances.

(Added by Ord. No. 7023 (N.S.), effective 10-10-85; amended by Ord. No. 7301 (N.S.), effective 6-11-87; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No.

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8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.1010. PENALTY FOR DELINQUENT PAYMENT FOR PERMIT TO OPERATE.

Applicants who are delinquent in filing the application and obtaining the required permit to operate or paying the annual fee shall be subject to payment of the original fee plus late fees. Delinquent fees will be specified in Section 65.105 of the County Code of Regulatory Ordinances. Failure to pay the annual fee shall automatically revoke the permit to operate. The imposition of or payment of the penalty imposed by this section shall not prevent the imposition of any other penalty prescribed by this Code or any ordinance or prosecution for violation of this Code or any ordinance.

(Amended by Ord. No. 7023 (N.S.), effective 10-10-85; amended by Ord. No. 7301 (N.S.), effective 6-11-87)

#### SEC. 68.1011. VIOLATIONS.

It shall be unlawful for any person to violate any provision of this Chapter and such violations shall include violations of Chapter 6.7 and 6.75 of Division 20 of the California Health and Safety Code. Such violation shall be a misdemeanor and shall be subject to any of the penalties set forth in Section 68.1012.

(a) Each and every day a violation of this Chapter continues shall constitute a separate offense. The person committing or permitting such offenses may be charged with a separate offense for each violation and punished accordingly.

(Amended by Ord. No. 7301 (N.S.), effective 6-11-87; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01)

#### SEC. 68.1012. PENALTIES.

In addition to penalties provided in State law, the following criminal, civil and administrative civil penalties apply to violations of this Chapter.

(a) **Penalty for Misdemeanor.** Unless otherwise specified by this Chapter, a misdemeanor is punishable by a fine not exceeding one thousand dollars (\$1000), imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment.

(b) **Administrative Civil Penalties.** In addition to any other remedies provided by County Code or state law, any person who violates any provision of this Chapter, including the state laws and regulations incorporated in this Chapter, shall be liable for an administrative civil penalty to be imposed by the Director. The amount of the penalty shall not be more than five thousand dollars (\$5000) for each day of violation. Any person who knowingly violates any provision of this Chapter, after reasonable notice of the violation, is liable for

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an administrative civil penalty of not more than ten thousand dollars (\$10,000) for each day of violation. Where the violation would otherwise be an infraction, the amount of the administrative civil penalty shall not exceed the maximum fine or penalty amounts of infractions set forth in subsection (b) above.

(c) **Penalty Factors.** In determining the civil, criminal and administrative civil penalties imposed pursuant to this Chapter, all relevant circumstances shall be considered, including but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, if any, taken by the violator.

(d) **Separate Remedies.** Each civil, criminal or administrative civil penalty imposed pursuant to this Chapter for any separate violation shall be separate, and in addition to, any other provision of law and does not supersede or limit any and all other legal remedies and penalties, civil, administrative or criminal which may be applicable under other laws.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.1013. ADMINISTRATIVE CIVIL PENALTY PROCEDURE.

(a) **Notice of Penalty and Opportunity for Hearing.** Notice of any administrative civil penalty shall set forth the alleged acts or failures to act that constitute a basis for liability and the amount of the proposed administrative civil penalty. The notice of administrative civil penalty shall be served by personal service or certified mail and shall inform the party so served that the administrative civil penalty imposed shall be administratively reviewed by the Hearing Authority before it is enforced if a request for hearing is timely filed. The notice shall also specify the procedure for requesting a hearing before the Hearing Authority.

(b) **Administrative Review.** If a party desires administrative review of the administrative civil penalty imposed by the Director, it shall request a hearing by timely filing a written request pursuant to the provisions of Section 68.1017 of this Chapter. A hearing shall be conducted by the Hearing Authority pursuant to Section 68.1017 of this Chapter unless the party has waived the right to a hearing or has entered into a settlement agreement with the Director. A party waives the right to a hearing by so stating in writing or by failure to file with the Director a written request for hearing within fifteen (15) days after service of the notice of opportunity for hearing.

(c) **Effective Date.** Where the party has waived the right to a hearing or where the party has entered into a settlement agreement, the administrative civil penalty shall not be subject to review by any court, the Hearing Authority or any other agency and shall be effective 15 days after notice of the penalty is served. Where a hearing has been held, the penalty shall be effective 20 days after the decision of the Hearing Authority becomes final.

(d) **Judicial Review.** The manner of contesting the final order of the Hearing Authority concerning any administrative civil penalty is governed by Government Code Section 53069.4, or any successor provision thereto. Service of the notice of appeal authorized by

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Government Code Section 53069.4 upon the County of San Diego shall be by service upon the Clerk of the Board of Supervisors.

(e) Collection. Payment of the penalty shall be made within 30 days from when the penalty became effective. In addition to all remedies herein contained, the County of San Diego may pursue all reasonable and legal means in collecting administrative civil penalties.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.1014. INJUNCTIONS AND OTHER ORDERS.

When any person has engaged in, is engaged in or is about to engage in any acts or practices which violate this Chapter, or any resolution, rule or regulation adopted pursuant to this Chapter, the Office of the County Counsel or District Attorney for San Diego County may apply to any court of competent jurisdiction for an order enjoining those acts or practices, or for an order directing compliance.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01)

#### SEC. 68.1015. SETTLEMENT PROCESS.

The Director, pursuant to Section 68.1013 of this Chapter, may adopt a written settlement agreement process for the settlement of violations of this Chapter, which shall take into consideration the penalty factors set forth in Section 68.1012(c) of this Chapter.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01)

#### SEC. 68.1016. GROUNDS FOR REVOCATION, MODIFICATION OR SUSPENSION OF OPERATIONS PERMIT.

Any operating permit element issued pursuant to this Chapter may be revoked, modified or suspended during its term, upon one or more of the following grounds:

(a) Violation of any of the terms or conditions of the operating permit element, including nonpayment of fees;

(b) Obtaining the operating permit element by misrepresentation or intentional failure to fully disclose all relevant facts;

(c) A change in any condition that requires modification or termination of the operation of the underground storage tank; or

(d) Violation of any provision of this Chapter, including the state laws and regulations incorporated by reference in this Chapter.



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(Added by Ord. No. 9293 (N.S.), effective 1-12-01)

**SEC. 68.1017. METHOD OF REVOCATION, MODIFICATION OR SUSPENSION.**

The Director may revoke, modify or suspend an operating permit element pursuant to Section 68.912 and follow by issuing a written notice stating the reasons therefor, and serving same together with a copy of the provisions of this Chapter, upon the holder of the operating permit element. The revocation, modification or suspension shall become effective 15 days after service of the notice, unless the holder of the operating permit element enters into a settlement agreement with the Director or appeals the notice in accordance with the provisions of Section 68.913. If such an appeal is filed, the revocation, modification or suspension shall not become effective until a final decision on the appeal is issued.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**SEC. 68.1018. ADMINISTRATION.**

Except as otherwise provided, the Director, or their designee, is charged with the responsibility of administering this Chapter, and shall be authorized from time to time to promulgate and enforce such rules or regulations consistent with the purposes, intent and express terms of this Chapter as he or she deems necessary to implement such purposes, intent and express terms. No rules or regulations promulgated by the Director or amendments thereof shall be enforced or become effective until thirty calendar days following the date on which the proposed rules or regulations are filed with the Clerk of the Board of Supervisors.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**CHAPTER 11. CERTIFIED UNIFIED PROGRAM AGENCY,  
HAZARDOUS MATERIALS INVENTORY AND RESPONSE PLANS\***

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\*Note--Chapter 11, HAZARDOUS MATERIALS INVENTORY AND RESPONSE PLANS, Sections 68.1101--68.1111, added by Ord. No. 7091 (N.S.), effective 3-13-86; title amended by Ord. No. 9293 (N.S.), effective 1-12-01.

Cross reference(s)--Hazardous and medical wastes, § 68.505; additional locally-required information on hazardous compressed gases, carcinogens and reproductive toxins, § 68.1113.; hazardous waste establishments (Certified Unified Program Agency), § 68.901 et seq.; underground storage of hazardous substances, § 68.1001 et seq.; medical wastes, § 68.1201 et seq.

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SEC. 68.1101. PURPOSE.

Publisher's Note: This Section has been AMENDED by new legislation (Ord. 10709, adopted 12-09-2020). The text of the amendment will be incorporated below when the ordinance is codified.

It is the intent of the Board of Supervisors that the Director of the Department of Environmental Health shall implement Division 20, Chapter 6.95 of the Health and Safety Code. It is further the intent of the Board of Supervisors that the Director of the Department of Environmental Health expand the application of the Business Plan, Area Plan, other reporting, disclosure and monitoring requirements of Division 20, Chapter 6.95 of the Health and Safety Code in a manner hereinafter prescribed.

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1102. [RESERVED.]

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1103. [RESERVED.]

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1104. [RESERVED.]

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1105. [RESERVED.]

(Amended by Ord. No. 7302 (N.S.), effective 6-11-87; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1106. [RESERVED.]

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(Amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1107. [RESERVED.]

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1108. [RESERVED.]

(Amended by Ord. No. 7302 (N.S.), effective 6-11-87; repealed by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1109. [RESERVED.]

(Amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1110. [RESERVED.]

(Amended by Ord. No. 7302 (N.S.), effective 6-11-87; repealed by Ord. No. 9293 (N.S.), effective 1-12-01)

SEC. 68.1111. [RESERVED.]

(Amended by Ord. No. 7302 (N.S.), effective 6-11-87; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; repealed by Ord. No. 9293 (N.S.), effective 1-12-01)

**SEC. 68.1112. ENFORCEMENT OF HAZARDOUS MATERIALS RESPONSE PLAN AND INVENTORY REQUIREMENTS AT AGRICULTURAL BUSINESSES.**

Every business which is required, pursuant to California Health and Safety Code, to provide information regarding inventories or hazardous materials to the Agricultural Commissioner shall pay a maximum yearly fee in accordance with the ordinance for such fee. Such fee shall pay the expenses of the Agricultural Commissioner in collecting annual inventories and conducting at least triennial storage inspections of agricultural businesses to ensure proper compliance with hazardous materials response plan and inventory requirements.

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(Added by Ord. No. 7416 (N.S.), effective 1-7-88; amended by Ord. No. 8628 (N.S.), effective 2-8-96; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9514 (N.S.), effective 12-13-02)

#### SEC. 68.1112.5. LOCAL INTERPRETATIONS OF CERTAIN CERS REQUIREMENTS.

(a) Site maps submitted through CERS shall identify each location where a reportable quantity of a hazardous material is stored, even if materials stored in different locations are combined for inventory reporting purposes.

(b) Chemicals with the same CAS (Chemical Abstract Service) number can be combined for CERS purposes even if the common names of those chemicals as labeled at the facility differ. A single applicable common name can be reported.

(c) The Director may allow specific categories of low-risk hazardous materials that are similar in type, physical state and hazardous components or properties to be combined for reporting purposes, even if those materials have different CAS numbers. The Director shall document the determinations that categories of materials can be combined by posting local instructions in CERS.

(Added by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10680 (N.S.), effective 9-4-20)

#### SEC. 68.1113. ADDITIONAL LOCALLY-REQUIRED INFORMATION.

Any business which handles compressed gases with an American Conference of Governmental Industrial Hygienists Threshold Limit Value (TLV) of 10 parts per million or less shall report these gases in CERS as part of their chemical inventory, in any quantity, unless the contents are an instrument calibration gas standard at a concentration below the Immediately Dangerous to Life and Health (IDLH) limits of the gas. The business shall prepare a business plan in conformance with Chapter 6.95, and shall submit said plan to the Director through CERS.

(Added by Ord. No. 8672 (N.S.), effective 5-23-96; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10379 (N.S.), effective 4-17-15; amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21; amended by Ord. No. 10733 (N.S.), effective 7-1-21)

#### SEC. 68.1114. PENALTIES.

Violations of this Chapter that are also violations of Chapter 6.95 of Division 20 of the Health and Safety Code are subject to the administrative, civil, and criminal penalties specified in State law. Violations of this Chapter that are not violations of Chapter 6.95 of

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Division 20 of the Health and Safety Code are subject to the following criminal, civil and administrative penalties:

(a) **Penalty for Misdemeanor.** Violations of this Chapter are misdemeanors punishable by a fine not exceeding one thousand dollars (\$1,000), imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment.

(b) **Civil Penalty.** Any person who violates any provision of this Chapter is liable for a civil penalty of not more than two thousand dollars (\$2,000) for each day, or part thereof, such violation occurs. Any person who knowingly violates any provision of this Chapter, after reasonable notice of the violation is liable for a civil penalty of not more than five thousand dollars (\$5,000) for each day, or part thereof, that such violation occurs. The County Counsel or District Attorney is authorized to bring a civil action in any court of competent jurisdiction to recover such civil penalties for the County.

(c) **Administrative Penalties.** The Director may impose administrative civil penalties for violations of this Chapter in the same manner as for violations of Chapter 6.95 of Division 20 of the Health and Safety Code.

(d) **Continuing Violation.** Each and every day a violation of this chapter continues shall constitute a separate offense. The person committing or permitting such offenses may be charged with a separate offense for each such violation and punished accordingly.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9859 (N.S.), effective 6-15-07, operative 7-1-07; amended by Ord. No. 10099 (N.S.), effective 1-7-11; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.1115. ADMINISTRATIVE ENFORCEMENT POLICY.

By written policy the Department shall adopt procedures for enforcing this Chapter and Section 25515.2 of the California Health and Safety Code. Such procedures shall contain those elements required by, and shall be consistent with the provisions stated in, Health and Safety Code section 25515.2, or any successor statute thereto. The administrative enforcement procedures adopted shall not be exclusive, but are cumulative with all other remedies available by law and under this Chapter.

(Added by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10099 (N.S.), effective 1-7-11; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.1116. SMALL COMPRESSED GAS CYLINDER EXEMPTION.

Compressed gases in cylinders containing any of the following materials used for the purpose specified and stored at each Unified Program Facility in quantities not exceeding the thresholds specified below are exempt from Section 25507 of the California Health and Safety Code.

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(a) Non-refrigerated or non-cryogenic carbon dioxide compressed gas used for carbonation of beverages and stored in quantities of not more than 6000 cubic feet at standard temperature and pressure.

(b) Refrigerated or cryogenic carbon dioxide compressed gas used for carbonation of beverages and stored in quantities of not more than 3500 cubic feet at standard temperature and pressure.

(Added by Ord. No. 9667 (N.S.), effective 8-14-04; amended by Ord. No. 10379 (N.S.), effective 4-17-15)

#### SEC. 68.1117. SMALL PROPANE GAS TANK EXEMPTION.

Propane at commercial buildings, restaurants and RV hookup stations that handle 1000 gallons or less of propane gas in stationary tanks exclusively for heating, cooling, or cooking on site are exempt from Section 25507 of the California Health and Safety Code. This exemption does not include sites that dispense propane.

(Added by Ord. No. 9667 (N.S.), effective 8-14-04; amended by Ord. No. 10379 (N.S.), effective 4-17-15)

#### SEC. 68.1118. [RESERVED.]

(Added by Ord. No. 9667 (N.S.), effective 8-14-04; repealed by Ord. No. 10379 (N.S.), effective 4-17-15)

#### SEC. 68.1119. CLOSED FIRE SUPPRESSION SYSTEM EXEMPTION.

Materials in closed fire suppression systems are exempt from Section 25507 of the California Health and Safety Code.

(Added by Ord. No. 9667 (N.S.), effective 8-14-04; amended by Ord. No. 10379 (N.S.), effective 4-17-15)

#### SEC. 68.1120. [RESERVED.]

(Added by Ord. No. 9667 (N.S.), effective 8-14-04; repealed by Ord. No. 10379 (N.S.), effective 4-17-15)

#### CHAPTER 12. MEDICAL WASTES\*

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\*Note--Chapter 12, MEDICAL WASTES, Sections 68.1201--68.1211, added by Ord. No. 7608 (N.S.), operative 7-21-89; title amended by Ord. No. 9293 (N.S.), effective 1-12-01; title amended by Ord. No. 10709 (N.S.), effective 1-15-21.

Cross reference(s)--Hazardous and medical wastes, § 68.505; hazardous waste establishments (Certified Unified Program Agency), § 68.901 et seq.; underground storage of hazardous substances, § 68.1001 et seq.; hazardous materials inventory and response plans, § 68.1101 et seq.; additional locally-required information on hazardous compressed gases, carcinogens and reproductive toxins, § 68.1113.

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#### SEC. 68.1201. PURPOSE.

(a) It is the intent of the Board of Supervisors that the Director of Environmental Health shall implement the Medical Waste Management Act, Division 104, Part 14 of the California Health and Safety Code.

(b) It is also the intent of the Board of Supervisors that all terminology contained within is as defined in the Medical Waste Management Act, Division 104, Part 14 of the California Health and Safety Code.

(Amended by Ord. No. 7646 (N.S.), effective 8-4-89; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9667 (N.S.), effective 8-14-04; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.1202. MEDICAL WASTE GENERATORS.

(a) It shall be unlawful for any generator of medical waste, other than a trauma scene waste management practitioner, to store, transfer or dispose of such wastes without an annual permit or a valid Small Quantity Medical Waste Generator Registration from the Director of Environmental Health or fail to pay the fees as specified in Section 65.107. The Director may collect a fee that is based on the relevant facts observed during an inspection, notwithstanding any contrary data in CERS or submitted to the Department. The Director is not obliged to reduce CERS-based fees downward where a business has failed to update CERS data in time for data to be "accepted" prior to an annual invoice being calculated. It is the responsibility of the facility operator to keep information required to be reported to CERS or to the Department up to date.

(b) Large Quantity Medical Waste Generators. Any facility that generates 200 pounds or more of medical waste per month within a calendar year is required to apply for a permit as prescribed in Chapter 9, Section 68.904 of this division.

(c) Small Quantity Medical Waste Generators.

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(1) Maintaining an annual permit satisfies the requirement set forth in the Medical Waste Management Act to register with the local enforcement agency.

(2) Small Quantity Medical Waste Generator Registration Program.

(A) Small Quantity Medical Waste Generator Registration Program facilities are those facilities that generate less than 200 pounds per month of medical waste, do not treat medical waste and are not considered a Unified Program Facility as defined in section 68.904.5.

(B) Small Quantity Medical Waste Generator Registration Program facilities must register every two years with the Department by completing and submitting an application, certifying compliance with the Medical Waste Management Act, and paying the required Small Quantity Medical Waste Generator registration fee as specified in section 65.107.

(Added by Ord. No. 9859 (N.S.), effective 6-15-07, operative 7-1-07; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10680 (N.S.), effective 9-4-20; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.1203. MEDICAL WASTE TREATMENT FACILITIES.

(a) Any medical waste generator using onsite steam sterilization, incineration, or microwave technology to treat medical waste generated onsite shall apply for a Medical Waste Treatment Permit with the Department. Any generator treating medical waste that is generated offsite is required to obtain a permit with the California Department of Public Health.

(b) An Onsite Medical Waste Treatment Facility Permit is valid for 5 years.

(c) Any onsite medical waste treatment facility shall obtain a Medical Waste Treatment Permit prior to commencement of the treatment facility's operation.

(Added by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 68.1204. FEE.

Every person required to have a permit, registration, or license required by this division shall, at the time of making application or renewal, pay the fee prescribed for such a permit, registration, or license. Such fees shall be specified in Section 65.107 of the County Code of Regulatory Ordinances.

(Amended by Ord. No. 7646 (N.S.), effective 8-4-89; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 10680 (N.S.), effective 9-4-20)

#### SEC. 68.1205. MEDICAL WASTE CONTAINER LABELING.



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Medical waste must be accumulated, stored and transferred in containers that meet the requirements specified in the California Medical Waste Management Act. Primary containers accumulating medical wastes (e.g. including but not limited to sharps containers, red bags, chemotherapeutic, pharmaceutical and pathology waste containers), with the exception of small bench top red bags used to collect medical waste (such as non-breakable pipette tips) that are later consolidated into a large, labeled medical waste red bag, must be labeled in a manner that will identify the generator by location. Acceptable labels could include an electronic tracking system (e.g. bar code or unique number) or a label with generator's name, address and phone number that is visible on the outside of the container. This label must be attached when the container is first used to accumulate or store medical waste.

(Amended by Ord. No. 7646 (N.S.), effective 8-4-89; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9667 (N.S.), effective 8-14-04; amended by Ord. No. 9880 (N.S.), effective 10-19-07; amended by Ord. No. 10379 (N.S.), effective 4-17-15)

#### SEC. 68.1206. [RESERVED.]

(Amended by Ord. No. 7646 (N.S.), effective 8-4-89; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9667 (N.S.), effective 8-14-04; repealed by Ord. No. 9880 (N.S.), effective 10-19-07)

#### SEC. 68.1207. [RESERVED.]

(Amended by Ord. No. 7646 (N.S.), effective 8-4-89; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9667 (N.S.), effective 8-14-04; amended by Ord. No. 10238 (N.S.), effective 1-4-13; repealed by Ord. No. 10733 (N.S.), effective 7-1-21)

#### SEC. 68.1208. CRIMINAL PENALTY.

Violation of any of the provisions of this chapter shall be a misdemeanor punishable by imprisonment in the County jail not exceeding one year, or a fine not exceeding ten thousand dollars (\$10,000), or both.

(Amended by Ord. No. 9293 (N.S.), effective 1-12-01)

#### SEC. 68.1209. CIVIL PENALTY.

Any person who violates any of the provisions of this chapter shall be liable for a civil penalty not to exceed fifteen thousand dollars (\$15,000) for each such violation.

(Amended by Ord. No. 9293 (N.S.), effective 1-12-01)

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**SEC. 68.1210. ADDITIONAL REMEDIES.**

The civil and criminal provisions of this chapter are remedies in addition to any existing remedy authorized by law and are not to be construed as conflicting with or in dereliction of, any provisions of this chapter or of this code or of law. Said provisions are to be construed as independent and non-exclusive and in no way conditioned upon each other.

(Amended by Ord. No. 9293 (N.S.), effective 1-12-01)

**SEC. 68.1211. [RESERVED.]**

(Amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9293 (N.S.), effective 1-12-01; amended by Ord. No. 9667 (N.S.), effective 8-14-04; repealed by Ord. No. 10733 (N.S.), effective 7-1-21)

**SEC. 68.1212. APPEALS.**

Appeals from the denial of any permit sought pursuant to Section 68.1202 of this Code to satisfy the requirements of the Medical Waste Management Act shall be made and conducted in accordance with Section 61.109 of this Code. Notwithstanding any other provision of this title, a petition for a hearing must be filed within 20 days after the Director of Environmental Health mails the notice that the requested permit has been denied.

(Added by Ord. No. 9858 (N.S.), effective 5-25-07; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

**SEC. 68.1213. ENFORCEMENT.**

In addition to any other legal remedies, the provisions of this Chapter may be enforced through the provisions of Chapter 10, Part 14, Division 104 of the California Health and Safety Code.

(Added by Ord. No. 10709 (N.S.), effective 1-15-21)

**DIVISION 9. UNSANITARY AND UNSAFE PREMISES\***

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\*Cross reference(s)--Abatement of weeds and rubbish, § 68.401 et seq.

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**CHAPTER 1. ORDERS TO VACATE OR TO REQUIRE VACATION OF BUILDINGS USED FOR HUMAN HABITATION\***

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\*Cross reference(s)--Unsafe buildings or structures, § 91.1.116.1.

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#### SEC. 69.101. PURPOSE.

This chapter provides expedited administrative procedures to address conditions in rented residences and other premises that constitute an immediate threat to the health and safety of tenants or the public. The expedited procedure for rental units is based on the tenants' relocation benefit provisions of the State Housing Law (Health & Safety Code Sections 17910 to 17998.3). The expedited procedure for other premises is based on the County Health Officer's obligation and authority to protect public health (see, e.g., Health and Safety Code Sections 101000 and 101030 and Government Code Section 23003).

(Added by Ord. No. 10100 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13)

#### SEC. 69.102. APPLICABILITY.

(a) This chapter is applicable to buildings and mobilehomes used for human occupancy.

(b) The expedited procedure provided in Section 69.105 of this chapter is available when the Director finds that unsanitary conditions or the substandard conditions listed in Section 69.104(a) of this Code in a rented residence or its lot are so extensive and of such a nature that the immediate health and safety of the tenants is endangered.

(c) The expedited procedure provided in Section 69.106 of this Code is available when the Director finds that unsanitary conditions described in Section 69.104(b) of this Code in any residence or its lot constitute an immediate threat to the health and safety of the public.

(Added by Ord. No. 10100 (N.S.), effective 1-7-11; amended by Ord. No. 10412 (N.S.), effective 2-26-16)

#### SEC. 69.102.1. OTHER AUTHORITY.

(a) Substandard, illegal or unpermitted conditions, and related threats to the health or safety of children or adults, may also be addressed as otherwise authorized by law. The expedited administrative procedures established by this chapter are in addition to other remedies and penalties provided by law.

(b) When the expedited procedures provided in this chapter are available to address one or more substandard conditions at a rental residence or its lot, other substandard

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conditions at that residence may also be addressed in notices and orders issued pursuant to this procedure, but with appropriately modified time frames for corrective action.

(Added by Ord. No. 10100 (N.S.), effective 1-7-11)

#### SEC. 69.103. DEFINITIONS.

The following definitions shall apply to this chapter:

"Department" means the Department of Environmental Health and Quality.

"Director" means the Director of Environmental Health.

"Residence" means any dwelling unit, guest room or suite of rooms that is subject to the State Housing Law.

"Substandard condition" means a condition described in Section 17920.3 of the Health and Safety Code (i.e., the State Housing Law).

"Unsanitary condition" means a condition inside a building or mobilehome that exposes occupants to unconfined sewage, or the presence of sewage or greywater at the soil surface outdoors.

"Wiring" means all parts and components of the electrical system in a residence.

(Added by Ord. No. 10100 (N.S.), effective 1-7-11; amended by Ord. No. 10238 (N.S.), effective 1-4-13; amended by Ord. No. 10412 (N.S.), effective 2-26-16; amended by Ord. No. 10578 (N.S.), effective 12-13-18; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 69.104. IMMEDIATE THREAT TO HEALTH AND SAFETY.

(a) The Director may find that any of the following substandard conditions or a combination thereof is so extensive and of such a nature that the immediate health and safety of the tenants in the rental residence is endangered:

(1) Inadequate sanitation or an unsanitary condition.

(2) Continued reliance on a defective or failed sewage system that has caused an unsanitary condition within the prior 30 days.

(3) A lack of potable piped water, unless the water supply to the residence has been shut off due to nonpayment by a tenant obligated under a written lease to pay for water. "Potable piped water" does not include water hauled to the site.

(4) Hazardous wiring, including any wiring that poses an increased risk of fire or of electrical shock because it is substandard.

(5) Structural hazards that pose a risk of collapse.

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(6) Leaking or substandard gas plumbing.

(b) The Director may find that any unsanitary condition that is a public nuisance constitutes an immediate threat to the health and safety of the public.

(Added by Ord. No. 10100 (N.S.), effective 1-7-11; amended by Ord. No. 10412 (N.S.), effective 2-26-16)

#### SEC. 69.105. ORDERS TO IMMEDIATELY VACATE RENTED PREMISES.

(a) Where the Director finds pursuant to Section 69.104(a) that the immediate health and safety of the tenants in a rental residence is endangered, the Director may condemn the premises, order that the premises be immediately vacated, and order the owner to arrange for the immediate vacation of the premises. The Director shall also provide notice of required repairs as set out in Section 69.107, to address any endangerment to the tenants and any threat to public health and safety.

(b) In lieu of requiring immediate vacation, the Director may proceed as described in Section 69.106 of this code.

(Added by Ord. No. 10100 (N.S.), effective 1-7-11)

#### SEC. 69.106. ORDERS TO MAKE REPAIRS; FAILURE TO COMPLY; ORDERS TO VACATE PREMISES.

(a) Where the Director finds pursuant to Section 69.104(b) that there is an immediate threat to the health and safety of the public due to unsanitary conditions, and determines that those conditions must be corrected within 30 days to protect public health and safety, or where the director elects to do so pursuant to Section 69.105(b), the Director may issue a Notice and Order to the property owner requiring prompt correction or abatement of the substandard condition or conditions that create a threat to health and safety.

(b) Any such order shall require the owner to make an election, pursuant to Section 17980 of the Health and Safety Code, to repair or demolish the residence. For repairs needed to abate the immediate threat to public health and safety, a deadline for making that election, not more than five days after notice of the order, shall be specified in the order. Any such order shall also require the owner to initiate corrective action by applying for any required County permits by a specified date not more than five days after notice of the order. The Director shall also provide notice of required repairs and a schedule for repairs as set out in Section 69.107.

(c) If an owner fails to comply with an order issued pursuant to subsection (a) of this section, and if the endangerment to the tenants or the immediate threat to public health and safety addressed by that order would be abated or reduced if the residence or commercial building were vacated, the Director may at any time condemn the premises, order the occupants of the residence or other building to immediately vacate the premises,

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and order the owner to arrange for the immediate vacation of the premises. For purposes of this subsection, failure to comply with an order includes failure to elect to repair or demolish within five days or as specified in the order, failure to initiate corrective action as specified in the order, or failure to make progress on repairs or to complete repairs according to a reasonable and feasible schedule specified by the Director as set out in Section 69.107.

(Added by Ord. No. 10100 (N.S.), effective 1-7-11)

#### SEC. 69.107. NOTICE OF REQUIRED REPAIRS; SCHEDULE FOR REPAIRS; REOCCUPANCY.

(a) When the Director issues an order pursuant to Section 69.105 or 69.106, the Directors shall at the same time or as soon thereafter as is feasible provide reasonable notice to the owner of the repairs and alterations required to correct the conditions addressed in the order. If the order requires the correction of any code violations that did not endanger occupants or pose a threat to public health, safety or welfare, the notice of required repair shall separately identify those lower priority repairs and alterations.

(b) When the Director provides a notice of required repairs, the Director shall at the same time or as soon thereafter as is feasible set out a reasonable and feasible schedule for **expeditious repair, which shall become a part of the previously issued order.**

(c) Onsite wastewater treatment system repairs and electrical and gas repair work that requires a permit shall not be undertaken until the required permit or permits have been issued by the County.

(d) Condemned premises may not be reoccupied until all repairs ordered pursuant to subsection (a) have been completed, and inspected and approved by the Director.

(Added by Ord. No. 10100 (N.S.), effective 1-7-11; amended by Ord. No. 10412 (N.S.), effective 2-26-16)

#### SEC. 69.108. DETERMINATIONS REGARDING TENANT RELOCATION ASSISTANCE.

(a) If the Director orders vacation of a tenant occupied residence after finding that the substandard conditions at the residence are so extensive and of such a nature that the immediate health and safety of the residents is endangered, the Director shall determine the eligibility of the tenants for relocation benefits pursuant to Sections 17975 to 17975.10 of the Health and Safety Code.

(b) If the Director determines that the tenants are eligible for relocation benefits, the Director shall calculate the benefit amount at issue and shall provide notice to the owner and tenants as specified in Section 17975.1 of the Health and Safety Code. If the Director determines that the tenants are not eligible for relocation benefits, the Director shall provide notice of that determination to the owner and tenants, including a brief statement of the reasons for that determination.

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(c) For purposes of Section 17975.1 of the Health and Safety Code, any bedroom included in permits or plans for the residence submitted to the County at any time shall be counted as a bedroom regardless of the current use of that space. In addition, any space added to a residence by the current owner or a prior owner without permits that is in actual use as a bedroom, and any space converted for use as a bedroom by the owner or a prior owner, with or without permits, shall be counted as a bedroom.

(d) The Director shall not advance relocation payments to tenants.

(Added by Ord. No. 10100 (N.S.), effective 1-7-11)

#### SEC. 69.109. NOTICE THAT BUILDING HAS BEEN CONDEMNED.

(a) When rented premises have been condemned and the Director has determined that the immediate health and safety of the residents is endangered, or where any other premises are condemned and the Director has determined that there is an immediate threat to public health or safety, the Director shall place or cause to be placed thereon a placard reading as set out below.

#### WARNING

**THESE PREMISES HAVE BEEN CONDEMNED AS BEING AN IMMEDIATE THREAT TO THE HEALTH AND SAFETY OF RESIDENTS OR THE PUBLIC. IT IS UNLAWFUL FOR ANY PERSON TO RESIDE IN OR OCCUPY THIS BUILDING. THIS NOTICE IS EFFECTIVE IMMEDIATELY.**

[signature]

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Director of Environmental Health

(b) The Director shall provide separate written notice to the tenant occupying the premises if there is a tenant, and to the owner or his agent, that the property is ordered condemned and that the order to vacate and (where applicable) the determination of the Director concerning tenant relocation benefits may be appealed within five days as set out in Section 69.112. The notice shall state that an appeal will not stay the order or the determination of the Director. Notice to an owner who is not the occupant of the premises may be provided by mail to the owner's address as listed in County records for the parcel.

(Amended by Ord. No. 5499 (N.S.), effective 5-2-79; Ord. No. 5502 (N.S.), adopted 5-8-79, effective 6-7-79, supersedes Ord. No. 5499; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 9665 (N.S.), effective 8-14-04; amended by Ord. No. 10100 (N.S.), effective 1-7-11; amended by Ord. No. 10709 (N.S.), effective 1-15-21)

#### SEC. 69.110. REMOVAL OF PLACARDS PROHIBITED.

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It is a violation of this chapter to remove a placard posted by the Director.

(Added by Ord. No. 9665 (N.S.), effective 8-14-04; amended by Ord. No. 10100 (N.S.), effective 1-7-11)

#### SEC. 69.111. OCCUPYING POSTED PREMISES PROHIBITED.

Any person who resides in or occupies premises that have been condemned by the Director pursuant to this Chapter is guilty of a misdemeanor. Occupants shall immediately vacate such premises until all repairs and alterations required by the Director shall have been made.

(Added by Ord. No. 9665 (N.S.), effective 8-14-04; amended by Ord. No. 10100 (N.S.), effective 1-7-11)

#### SEC. 69.112. APPEAL.

(a) The owner or tenant of any premises condemned and ordered to be vacated by the Director may file an appeal as specified in Chapter 1 of Division 6 of Title 1 of this code (Sections 16.101 and following) within five days of the date of the order. The Director's determination concerning tenant relocation benefits may be appealed in the same manner. An appeal shall not stay the Director's order or determination.

(b) Where an owner or tenant appeals, notice of the hearing shall be provided to the owner by the Clerk of the Board, and shall be provided by the Director to all persons known to the Director to claim to be tenants. Regardless of who appeals, both the owner and the tenant(s) may participate in the proceeding as parties.

(c) Where a condemnation and order to vacate is appealed, the hearing officer may determine whether the Director's determination that there was an immediate threat to health and safety was unreasonable when made, whether an immediate threat to health and safety exists as of the date of the hearing, and whether the condemnation shall be lifted or the order to vacate delayed to avoid extreme hardship to the owner or tenants.

(d) Where a determination concerning tenant relocation benefits is appealed, the hearing officer may determine whether the persons identified by the Director as tenants were tenants, whether each tenant was displaced by the Director's order, whether the Director's determinations concerning tenant eligibility and owner liability were consistent with the State Housing Law and whether the Director's determination concerning the number of bedrooms in the residence was consistent with Section 69.108(c). In making these determinations the hearing officer may consider all relevant evidence, whether or not that evidence was available to or considered by the Director at the time the Director's determinations were made.

(e) An owner appealing the Director's determination that tenant relocation benefits should be paid, or an owner or tenant seeking a delay in an order to vacate based on



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extreme hardship, may waive the timelines for scheduling hearings specified in Section 16.103 of the County Code, and may request that a hearing be held and a decision rendered within 10 days after the date the order to vacate was first mailed and posted. However, the timing of the appeal hearing and decision shall not affect the owner's liability for failure to make timely payment of benefits pursuant to Section 17957.3 of the Health and Safety Code.

(f) A failure to pay relocation benefits that are not appealed or that are upheld after an appeal is a violation of this Code, and is subject to the administrative remedies provided in Chapter 2 of Division 8 of Title 1 of this Code (sections 18.201 and following).

(Added by Ord. No. 5499 (N.S.), effective 5-2-79; Ord. No. 5502 (N.S.), adopted 5-8-79, effective 6-7-79, supersedes Ord. No. 5499; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10100 (N.S.), effective 1-7-11; amended by Ord. No. 10412 (N.S.), effective 2-26-16)

#### SEC. 69.113. COMPLIANCE TIMELINE.

(a) Conditions which the Director identifies as an immediate threat to the health and safety of tenants or the public must be corrected on the reasonable and feasible timeline specified by the Director pursuant to Section 69.107(b).

(b) For any other conditions called out in the Order issued by the Director for which the Director has not specified a timeline for repairs, the property owner shall have 60 days to obtain permits to commence with repair, rehabilitation, demolition, or removal.

(c) If the building or portion thereof is not repaired, rehabilitated, demolished, or removed within the time specified by the Director or by subsection (b) above, the Director or another County official may take any further action authorized by the State Housing Law or by this Code.

(Added by Ord. No. 9273 (N.S.), effective 12-15-00; amended by Ord. No. 10100 (N.S.), effective 1-7-11)

#### DIVISION 10. AMBULANCE, CRITICAL CARE, AND NON-EMERGENCY MEDICAL TRANSPORTATION SERVICES\*

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\*Editor's note--Division 10, Ambulance, Critical Care and Non Emergency Medical Transportation Services, consisting of chapters 1 through 7, added by Ord. No. 8192 (N.S.), effective 2-4-93.

Cross reference(s)--General regulations, Tit. 1; health officer and director of public health defined, § 12.114; emergency services, § 31.101 et seq.; highways and traffic, Tit. 7.

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## CHAPTER 1. GENERAL PROVISIONS

### SEC. 610.101. PURPOSE.

(a) The emergency and non-emergency transportation of sick, disabled or injured persons is a matter closely affecting the public interest and welfare, it is the policy of the Board of Supervisors of San Diego County to see that persons requiring ground or air ambulance, critical care, and non-emergency medical transportation services receive such services, and that such services are reasonably available and accessible to persons within the County; and

(b) Every Emergency Medical Services aircraft (EMS aircraft), ground ambulance, critical care transport, and non-emergency medical transport vehicle that serves persons in the unincorporated areas of San Diego County shall meet certain minimum levels and standards of equipment, staffing and mechanical reliability.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

### SEC. 610.102. EXEMPTIONS.

(a) This Division shall not apply to vehicles operated as EMS aircraft, ground ambulances, critical care transport vehicles, and non-emergency medical transport vehicles, or to persons engaged in providing service where ambulance, critical care transport, and non-emergency medical transport services are rendered at the request of any County communications center or at the request of any law enforcement or fire protection agency during any "state of war emergency", "state of emergency", or "local emergency" as defined in California Government Code section 8558 or during any period (not over 30 days, but renewable every 30 days) when the Board of Supervisors or the Chief Administrative Officer or his or her designee has determined that adequate emergency ambulance service, critical care transport service, or non-emergency medical transport services will not be available from existing permittees.

(b) This Division shall not apply to EMS aircraft, ground ambulances, critical care transport vehicles, or non-emergency medical transport vehicles and to persons engaged in the transport of patients where the transport initiated outside San Diego County boundaries for transport into the County.

(c) This Division does not apply to EMS aircraft, ground ambulances, critical care transport vehicles, or non-emergency medical transport vehicles operating solely within an incorporated area.

(d) Not for profit agencies, volunteer public safety agencies, or agencies permitted by another governmental entity shall not be required to pay the fees imposed by Section 610.601 of this Division. All other portions of this Division shall apply.

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(e) Agencies of the United States Government operating air or ground ambulances are exempted from all portions of this Division.

(f) Governmental agencies operating air or ground ambulances twenty-four hours per day staffed with full time paid employees shall be exempted from the application process identified in Sections 610.201 through 610.211 and 610.401 through 610.411, as well as the fees imposed by Section 610.601 of this Division. All other portions of this Division shall apply.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8270 (N.S.), effective 6-29-93; amended by Ord. No. 8276 (N.S.), effective 8-19-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.103. DEFINITIONS.

Unless otherwise specifically provided, the following terms as used in this Division are defined as follows:

(a) **Advanced Life Support.** "Advanced Life Support" (ALS) means special services designed to provide definitive prehospital emergency medical care, including, but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration of specified drugs and other medicinal preparations, and other specified techniques and procedures administered by authorized personnel under the direct supervision of a base hospital as part of a local EMS system at the scene of an emergency, during transport to an acute care hospital, during interfacility transfer, and while in the emergency department of an acute care hospital until responsibility is assumed by the emergency physician or other medical staff of that hospital, as cited in Section 1797.52 of the Health and Safety Code.

(b) **Advanced Life Support Rescue Aircraft.** "Advanced Life Support Rescue Aircraft," (ALS Rescue Aircraft) means a rescue aircraft whose medical flight crew has at a minimum one attendant certified or licensed in advanced life support.

(c) **Air Ambulance.** "Air Ambulance" means any rotor aircraft specially constructed, modified or equipped, and used for the primary purposes of responding to emergency calls and transporting critically ill or injured patients whose medical flight crew has at a minimum two (2) attendants certified or licensed in advanced life support, one of which is a Registered Nurse (RN).

(1) Air Ambulance Providers permitted to respond to prehospital scene locations shall be identified as Primary Response Air Ambulances.

(2) Interfacility Air Ambulances are aircraft configured and staffed as Air Ambulances and engaged in the transport of the sick and injured between licensed health care facilities with licensed heliports.

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(d) Air Ambulance Service. "Air Ambulance Service" means an air transportation service that utilizes air ambulances.

(e) Air Rescue Service. "Air Rescue Service" means an air service used for emergencies, including search and rescue.

(f) Air Rescue or Air Ambulance Service Provider. "Air Rescue or Air Ambulance Service Provider" means the individual or group that owns and/or operates an air ambulance or air rescue service.

(g) Ambulance. "Ambulance" generally refers to a "Ground Ambulance" which is any vehicle specially constructed, modified or equipped and used for the purpose of transporting sick, injured, disabled, convalescent, infirm, or otherwise incapacitated persons, including vehicles used for critical care transport. "Ambulance" does not include a gurney van or a non-medical transport vehicle designed for the transportation of persons who are wheelchair users.

(h) Ambulance Attendant. "Ambulance Attendant" means a person who is at a minimum certified as an Emergency Medical Technician (EMT) whose primary duty is to care for the sick, injured or disabled persons.

(i) Ambulance Driver. "Ambulance Driver" means a person properly licensed by the State of California as an ambulance driver and who is at a minimum certified as an Emergency Medical Technician (EMT).

(j) Ambulance Provider. "Ambulance Provider" means a person, firm, partnership, corporation, municipality, government agency or other organization which furnishes or offers to furnish ambulance service to the public, its employees, visitors and/or residents of San Diego County. "Ambulance Provider" includes all organizations that provide or operate an ambulance on private property whether or not required to do so by local, state or federal law and/or regulation.

(k) Ambulance Provider's Permit. "Ambulance Provider's Permit" means written authorization by the County to provide emergency or non-emergency ambulance service within the County.

(l) Ambulance Service. "Ambulance Service" means the activity, business or service for hire, profit, or otherwise, of being prepared for, responding to requests for and/or transporting one or more persons by ambulance on or in any of the streets, roads, highways, alleys, or any public way or place in the unincorporated areas of the County. "Ambulance Service" includes all organizations that provide or operate an ambulance on private property whether or not required to do so by local, state or federal law and/or regulation.

(m) Authorizing EMS Agency. "Authorizing EMS Agency" means the County of San Diego Emergency Medical Services (EMS) Office which approves utilization of specific EMS aircraft within its jurisdiction.

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(n) Auxiliary Rescue Aircraft. "Auxiliary Rescue Aircraft" means a rescue aircraft which does not have a medical flight crew, or whose medical flight crew does not meet the minimum requirements of a BLS rescue aircraft.

(o) Basic Life Support. "Basic Life Support" (BLS) means those procedures and skills contained in the EMT scope of practice listed in California Code of Regulations, Title 22, Division 9, Chapter 2.

(p) Basic Life Support Rescue Aircraft. "Basic Life Support Rescue Aircraft" (BLS Rescue Aircraft) means a rescue aircraft whose medical flight crew has at a minimum one attendant certified as an EMT with at least eight (8) hours of hospital clinical training, and whose field/clinical experience specified in the California Code of Regulations, Title 22, Division 9, Chapter 2 is in the air medical transport of patients.

(q) Classifying Emergency Medical Services Agency. "Classifying Emergency Medical Services Agency" (Classifying EMS Agency) means the agency, which categorizes the EMS aircraft into groups. This shall be the local EMS agency in the jurisdiction of origin, except for aircraft operated by the California Highway Patrol, the California Department of Forestry or the California National Guard, which shall be classified by the EMS Authority.

(r) Code I, II, or III Calls.

(1) Code I - Any non-emergency transportation of patients without the use of lights and sirens.

(2) Code II - An emergency where time is critical, requiring immediate response by the Ambulance Provider, without the use of lights and sirens.

(3) Code III - An emergency requiring immediate response, whether to or from the scene, with the use of lights and sirens to deliver critical care to patients threatened by loss of life or limb. Such responses involve emergency ALS ambulances responding to 911 requests. BLS or CCT ambulance with such a response shall notify the emergency ambulance provider holding rights to the Exclusive Operating Area (EOA) within which the pathway to and/or address resides.

(s) Critical Care Transport. "Critical Care Transport" (CCT) means any non-911 requested emergency or non-emergency transport of a patient from one health care facility or acute care facility to another where the skill level required in the care of that patient during transport exceeds the basic life support, Emergency Medical Technician (EMT) level and scope of training.

(t) Critical Care Transport Provider. "Critical Care Transport Provider" (CCT Provider) means a person, firm, partnership, corporation, municipality, government agency or other organization which furnishes or offers to furnish critical care transport.

(u) Critical Care Transport Provider's Permit. "Critical Care Transport (CCT) Provider's Permit" means written authorization by the County to provide emergency or non-emergency critical care transport within the County. Critical Care Providers may be employed or contracted by Transport Providers.

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(v) Designated Dispatch Center. "Designated Dispatch Center" means an agency that has been designated by the County of San Diego EMS Office for the purpose of coordinating air ambulance or rescue aircraft response to the scene of a medical emergency within the jurisdiction of the local EMS agency.

(w) Emergency Call. "Emergency Call" means a request for an ambulance to transport or assist persons in apparent sudden need of medical attention; or, an ambulance transport that is initially classified as a non-emergency call that becomes an emergency call due to a change in the patient's medical condition; or, in a medical emergency, as determined by a physician, to transport blood, or any therapeutic device, accessory to such device, or tissue or organ for transplant.

(x) Emergency Medical Technician. "Emergency Medical Technician" (EMT) means an individual trained in all facets of basic life support and who has a valid certificate, in accordance with the provisions contained in Title 22, California Code of Regulations, Division 9, Chapter 2, et seq.

(y) Emergency Medical Services Aircraft. "Emergency Medical Services Aircraft" means an aircraft utilized for the purpose of prehospital emergency patient response and transport. EMS aircraft includes air ambulances and all categories of rescue aircraft.

(z) Emergency Service. "Emergency Service" means the service performed in response to an emergency call. Emergency service also includes transportation of a patient, regardless of a presumption of death of the patient, or transportation of a body for the purpose of making an anatomical gift, as provided in Section 12811 of the California Vehicle Code, and the California Uniform Anatomical Gift Act.

(aa) Gurney Van Transport. "Gurney Van Transport" means any vehicle specially constructed, modified or equipped and/or used for the purpose of transporting patients who cannot travel in an upright, sitting position and for whom the need for any medical care, treatment or procedure other than pre-established devices solely maintained by the patient is not required, likely or foreseeable.

(bb) Jurisdiction of Origin. "Jurisdiction of Origin" means the local EMS jurisdiction within which the authorized air ambulance or rescue aircraft is operationally based.

(cc) Medical Flight Crew. "Medical Flight Crew" means the individual(s), excluding the pilot, specifically assigned to care for the patient during aircraft transport.

(dd) Non-emergency Call. "Non-emergency Call" means an ambulance call for a purpose other than an emergency.

(ee) Non-Emergency Medical Transport Provider. "Non-Emergency Medical Transport Provider" means any person, firm, partnership, corporation, municipality, government agency or other organization which furnishes or offers to furnish non emergency medical transport service.

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(ff) Non-emergency Medical Transport Provider's Permit. "Non-emergency Medical Transport Provider's Permit" means written authorization by the County to provide non-emergency medical transport service.

(gg) Non-Emergency Medical Transport Service. "Non-Emergency Medical Transport Service" means the activity, business or service, for hire, profit, or otherwise, of being prepared for, responding to requests for and/or transporting for medical purposes one or more persons by gurney van, or wheelchair van on or in any of the streets, roads, highways, alleys or any public way or place in the unincorporated areas of the County.

(hh) Non-emergency Medical Vehicles. "Non-emergency Medical Vehicles" means any vehicle which has been specially constructed, modified, or equipped and/or used for the purpose of transporting clients either for profit or non-profit, who are wheelchair users or bed confined under the following categories:

- (1) hospitals
- (2) convalescent homes
- (3) retirement homes
- (4) all homes receiving funding for the board and care of residents living in those homes
- (5) non-emergency medical transport providers
- (6) nutrition centers
- (7) senior citizens
- (8) any other like social service categories not regulated by the California Highway Patrol, Metropolitan Transit System.

(ii) Paramedic. "Paramedic" means an individual whose scope of practice is to provide advanced life support as according to the standards prescribed by Title 22, California Code of Regulations, Division 9, Chapter 4, et seq., who has a valid license pursuant to that division, and is accredited by the Medical Director of the County of San Diego EMS Office.

(jj) Permit Officer. "Permit Officer" means the EMS Administrator of the County of San Diego EMS Office or his/her designee.

(kk) Primary Response Air Ambulance. "Primary Response Air Ambulance" means air ambulances permitted to respond to prehospital scene locations. This rotor aircraft has been specifically constructed, modified or equipped as an air ambulance, permitted by the County of San Diego EMS Office for the primary purposes of responding to emergency calls and/or transporting critically ill or injured patient(s). Primary Response Air Ambulances shall be authorized to routinely respond to medical emergencies in the field at the request of public safety or other designated officials.

(ll) Private Call. "Private Call" means any call for services that is received by an ambulance provider other than through the 9-1-1 system.

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(mm) Rescue Aircraft. "Rescue Aircraft" means an aircraft whose usual function is not prehospital emergency patient transport but which may be utilized, in compliance with local EMS policy, for prehospital emergency patient transport when use of an air or ground ambulance is inappropriate or unavailable. Rescue aircraft includes ALS rescue aircraft, BLS rescue aircraft and Auxiliary rescue aircraft.

(nn) Special Events. "Special Events" means any event, including, but not limited to concerts, sporting events or contests, and other events that place a grouping or gathering of people in one general locale sufficient in number, or subject to activity that creates the need to have one or more ambulances pre-positioned at the event. Ambulances at these events shall be permitted by the County of San Diego with an Emergency Medical Transport Permit.

(oo) Vehicle Permit. "Vehicle Permit" means a permit decal or certificate issued by the Permit Officer indicating that an ambulance or other permitted vehicle has passed inspection according to the standards established herein. This permit is required for each vehicle operated in addition to the ambulance operator's permit.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

Cross reference(s)--Definitions, § 12.101 et seq.

## CHAPTER 2. GROUND AMBULANCE/CRITICAL CARE TRANSPORT PERMITS\*

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\*Cross reference(s)--Uniform licensing procedure, § 21.101 et seq.; licenses, business regulations and business taxes, Tit. 2.

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### SEC. 610.201. REQUIRED.

No person (either as owner, agent or otherwise) shall furnish, operate, conduct, maintain or otherwise engage in, or offer or profess to engage in ambulance service or critical care transport in the unincorporated areas of the County unless the person holds a currently valid Ambulance Provider's and/or Critical Care Transport Provider's Permit.

All non-local contracted providers must also be permitted by the County of San Diego and cannot provide transportation unless requested via mutual aid or for purposes of continuation of care.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)



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#### SEC. 610.202. APPLICATION -- FORMS.

Each application for an Ambulance Provider's and/or Critical Care Transport Provider's Permit shall be made upon forms prescribed by the County.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.203. APPLICATION -- REQUIRED DATA.

Each applicant who desires an Ambulance Provider's and/or Critical Care Transport Provider's Permit shall submit the following data:

- (a) Applicant's name and business address;
- (b) The name(s) under which the applicant has engaged, does, or proposes to engage in ambulance service;
- (c) The names and addresses of the applicant, registered owner(s), partner(s), officer(s), director(s) and all shareholders who hold or control 10% or more of the stock of the applicant;
- (d) A statement of fact and good faith (one from principal owner and one from designated physician medical director if CCT service is provided);
- (e) A copy of the designated physician medical director's State of California physician's/surgeon's license (only from CCT Provider);
- (f) A statement of legal history, one each from the applicant, all registered owner(s), partner(s), officer(s), director(s), and controlling shareholder(s), including criminal convictions and civil judgments;
- (g) An application for a criminal history report, one each from the applicant, all registered owner(s), partner(s), officer(s), director(s), and controlling shareholder(s);
- (h) A resume specifying the education, training, and experience of the applicant in the care and transportation of patients;
- (i) A description of the applicant's training and orientation programs for ambulance attendants, dispatchers, ambulance drivers, and maintenance staff;
- (j) Evidence of insurance coverage as required by Sections 610.706, 610.707;
- (k) A list of the full names and California physician and surgeon license numbers of all other physicians employed by provider;
- (l) A list of the full names and California Registered Nurse license numbers including expiration dates of all registered nurses employed by the provider;

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(m) A description of the locations from which ambulance services will be offered, noting the hours of operation;

(n) A description of the applicant's program for maintenance of the vehicles;

(o) A description of each ambulance including: the make, model, year of manufacture, mileage and vehicle identification number;

(p) A list of the full names of all ambulance drivers and attendants which identifies each persons' EMT certification number or paramedic license number and issuing jurisdiction, CPR Certification, California Driver's License, , and expiration date of each;

(q) For applicants that are privately owned ground ambulance companies, an affirmation that the applicant possesses and maintains currently valid California Highway Patrol Inspection Reports for each vehicle listed in the application, and a copy of the license issued by the Commissioner of the California Highway Patrol (in accordance with Section 2501 of the California Vehicle Code);

(r) The applicant may be required to submit such other information, as the Permit Officer deems necessary for determination of compliance with this Division.

(s) Proof of financial viability with ability to operate for a minimum of 6 months, with profit-loss information provided and proof of current tax payment status.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.204. APPLICATION -- ISSUANCE.

Within 30 days of receipt of an application, the Permit Officer shall make a determination regarding the issuance of the applied for permit.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.205. APPLICATION -- DENIAL.

The Permit Officer may order the denial of an application for a permit or a renewal thereof if he/she finds:

(a) The applicant, or any partner, officer, director, representative or agent thereof has knowingly made a false, misleading or fraudulent statement of a material fact in the application or in any reports or other documents required to be filed with the Permit Officer pursuant to this Division;

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(b) The applicant is not the legal owner or operator of the ambulance or critical care transport service;

(c) The applicant was previously the holder of a permit issued under this Division, which permit has been suspended or revoked and the terms or conditions of the suspension or revocation have not been fulfilled;

(d) The applicant has acted in the capacity of a permitted person or firm under this Division without having a valid permit therefor;

(e) The applicant has entered a plea of guilty to, or been found guilty of, or been convicted of a felony or a crime involving moral turpitude; or

(f) The applicant has violated any provisions of this Division or any provisions of any other ordinance or law relating to ambulance or critical care transport services.

The Permit Officer shall notify the applicant in writing of the denial within 30 days of the receipt of the completed application. Such notice shall be either sent by mail to the applicant's last address provided in the application or be personally delivered, and shall set forth the reasons for such denial of application. Whenever an application for a Permit is denied, the applicant may request a hearing from the Permit Officer. Such request shall be made in writing and filed with the Permit Officer within ten days of personal delivery of the notice of denial. If the notice of denial is mailed, applicant has an additional five days to file a hearing request. The hearing shall be held not more than 20 days from the date of receipt of said request for hearing and the Permit Officer should notify the applicant of the time and place of such hearing. The hearing shall be conducted in the manner prescribed in Title 1, Division 6, Chapter 1 of the San Diego County Code of Regulatory Ordinances. The applicant shall also be entitled to the appeal provisions of Section 610.405 following the hearing before the Permit Officer. Upon denial of an application, re-application will not be considered until after a minimum of twelve months after the date of initial denial.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.206. DECISIONS: FINALITY.

The decision of the Permit Officer rendered pursuant to this Chapter shall be final, unless an appeal is filed with the Clerk of the Board of Supervisors.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.207. TERM.

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Provider permits issued under this Division shall be valid for a period of one year unless earlier suspended, revoked or terminated.

(a) Vehicle permits shall expire concurrently with provider permit regardless of when the permit was issued.

(b) Partial year vehicle permits shall be issued for vehicles or aircraft put into operation within eleven months or less of current provider's permit expiration. Partial year vehicle permits will be issued at one twelfth the cost of a full year vehicle permit for each month remaining on the Ambulance Provider's Permit.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.208. APPLICATION -- CHANGE OF NATURE OR SCOPE OPERATIONS.

Each applicant and Permit Owner shall report to the Permit Officer any change in the nature or scope of operations, including, but not limited to, changes in ownership, address, contact information, vehicle maintenance program, and any significant training and orientation programs within ten days of the effective date of the change.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.209. TRANSFER OF PROVIDER PERMIT.

A Provider's Permit may be transferred to another person, partnership, corporation, or other entity ("Permit Transferee"). If the Transferee is another San Diego County Permitted Provider, then the Transferee shall complete a Permit Transfer Form. If the Transferee is not another San Diego County Permitted Provider, then the Transferee shall complete a new application for an Ambulance Provider's Permit.

The Permit Transferee shall notify the Permit Officer of the transfer at least 30 days in advance of the effective date of such transfer. Within ten days of receipt of the notification, the Permit Officer shall deliver to the transferee a notice of requirement for either a new Permit Transfer Form or a new application for an Ambulance Provider's Permit. Each transferee who submits an application for an Ambulance Provider's Permit under this section shall submit the same required information as is also provided in section 610.203 of this document.

(a) In the event one permitted provider acquires the operations of another permitted provider, the acquiring provider shall submit to the Permit Officer within 30 days, a complete listing of all vehicles acquired or liquidated.

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(b) Vehicles transferred from one permitted provider to another permitted provider as a consequence of a merger/acquisition, shall have the existing County EMS Office decal retired, removed and returned to the Permit Officer. Each vehicle shall be submitted for reinspection (fees prorated with respect to subsequent operator's permit cycle) and issued a new decal following reinspection by the Permit Officer, prior to being placed in service by the subsequent owner.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.210. RENEWAL OF PERMIT.

Applicants for renewal of an Ambulance Provider's and/or Critical Care Transport Provider's Permit under this Division shall annually file with the Permit Officer an application in writing, on a form furnished by the Permit Officer, which shall include any changes in the information required in Section 610.203 hereof from the current application on file. The application for renewal shall be filed with the Permit Officer at least 30 days prior to the expiration date of the current permit, and be accompanied by the appropriate renewal fee. Renewal of an Ambulance Provider's or Critical Care Transport Provider's Permit shall require conformance with all requirements of this Ordinance as upon issuance of an initial permit. Nothing in this Ordinance shall be construed as requiring the automatic renewal of a Permit upon its expiration and the burden of proof respecting compliance of all the requirements of this Division and of entitlement of a Permit shall be with the applicant for renewal.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.211. TEMPORARY PERMIT.

The Permit Officer may authorize a temporary permit of up to 30 event days to a ground ambulance provider based outside the County, properly permitted in another county and properly licensed by the California Highway Patrol for special events. Temporary Permittees shall meet all requirements of this Division.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.212. ABANDONMENT OF PROVIDER PERMIT.

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Upon closure, sale or liquidation of business, provider shall remove all permit decals from vehicles and return the decals to the EMS Office within 30 days. Provider shall also return, within 30 days, all other County owned property (in good operating condition) issued or loaned to the provider or be liable for the cost of same.

(Added by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

### CHAPTER 3. NON-EMERGENCY MEDICAL TRANSPORT PERMITS

#### SEC. 610.301. PERMIT REQUIRED.

No person (either as owner, agent or otherwise) shall furnish, operate, conduct, maintain, or otherwise engage in or advertise, offer or profess to engage in non-emergency medical transport service within the unincorporated areas of the County unless the person holds a currently valid County of San Diego Non-Emergency Medical Transport Permit.

Providers who are currently permitted by the Metropolitan Transit System (MTS), or any other incorporated municipality, will be considered as having met the requirements of this Division and issued a County of San Diego Non-Emergency Medical Transport Provider's Permit upon submitting the appropriate documents outlined in Section 610.303 of this ordinance.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.302. APPLICATION -- FORMS.

Each application for a Non-Emergency Medical Transport Provider's Permit shall be made upon forms prescribed by the County.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.303. APPLICATION -- REQUIRED DATA.

Applications may be approved by two separate processes by which persons seeking the required County of San Diego Non-Emergency Medical Transport Provider's Permit may apply. Potential providers may apply for a Permit by Endorsement of the MTS or any other municipality's Permit or a Permit by Direct Application to the County. Each applicant for a Non-Emergency Medical Transport Provider's Permit shall submit the following data:

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(a) Permit by Endorsement of the MTS Permit or any other municipality's permit

- (1) Copy of completed and approved permit application;
- (2) Applicant's name and business address;
- (3) The name(s), under which the applicant has, does, or proposes to engage in non-emergency medical transport service;
- (4) The name and addresses of the applicant, registered owner(s), partner(s), officer(s), director(s) and all shareholders who hold or control 10% or more of the stock of the applicant;
- (5) A statement of fact and good faith from the principal owner;
- (6) A Certificate of Consent to Self Insure issued by the California State Director of Industrial Relations, or a Certificate of Worker's Compensation Insurance as required in section 610.805;
- (7) Proof of liability insurance as required in Section 610.804;
- (8) A description of each gurney van and/or wheelchair van including the make, model, year of manufacture, mileage and vehicle identification number;
- (9) A description of the applicant's training and orientation programs for transport personnel, including proof of ability to staff each non-emergency medical transport vehicle with persons possessing at a minimum a current CPR completion certificate and an American Red Cross First Aid Certificate, or equivalent;
- (10) An accompanying Permit fees pursuant to Section 610.601 of this Division;
- (11) The applicant may be required to submit such other information as the Permit Officer deems necessary for determination of compliance with this Division; or,
- (12) An accompanying Permit fees pursuant to Section 610.601 of this Division;
- (13) The applicant may be required to submit such other information as the Permit Officer deems necessary for determination of compliance with this Division;

or,

(b) Permit by Direct Application to the County (if MTS jurisdiction is not applicable):

- (1) Completed County non emergency vehicle permit application;
- (2) Applicant's name and business address;
- (3) The name and addresses of the applicant, registered owner(s), partner(s), officer(s), director(s), and all the shareholders who hold or control 10% or more of the stock of the applicant;
- (4) A statement of fact and good faith from the principal owner;

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(5) A statement of legal history, one each from the applicant, all registered owner(s), partner(s), officer(s), director(s), and controlling shareholder(s), including criminal convictions and civil judgments;

(6) An application for a criminal history report, one each from the applicant, all registered owner(s), partner(s), officer(s), director(s), controlling shareholder(s), including criminal convictions and civil judgments. Each application for criminal history report will be processed by the San Diego County Sheriff's Department. Each person required to submit an application for criminal history report will also be required to complete a Department of Justice fingerprint card;

(7) A resume specifying the education, training, and experience of the applicant in the business of transportation services;

(8) A description of the applicant's program for maintenance of vehicles;

(9) A description of the applicants training and orientation programs for transport personnel, including proof of ability to staff each non-emergency medical transport vehicle with person(s) possessing, at a minimum, a current American Red Cross First Aid Certification, or equivalent;

(10) A Certificate of Consent to Self Insure issued by the California State Director of Industrial Relations, or a Certificate of Worker's Compensation Insurance as required in Section 610.805;

(11) Proof of liability insurance as required in Section 610.804;

(12) A description of each non-emergency medical transport vehicle including the make, model, year of manufacture, mileage and vehicle identification number;

(13) A roster of all transport personnel that lists the type and expiration date of each person's standard first aid certification and each person's California driver's license number and expiration date;

(14) The accompanying Permit fee pursuant to Section 610.601 of this Division;

(15) The applicant may be required to submit such other information as the Permit Officer deems necessary for determination of compliance with this Division;

(16) The applicant shall allow the Permit Officer or his/her designee to inspect all vehicles to be used for non-emergency medical transport services.

(17) Proof of financial viability with an ability to operate for a minimum of 6 months, with profit-loss information provided and proof of current tax payment status.

(18) Proof of business license(s) for all areas and/or cities where applicant will operate.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)



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**SEC. 610.304. APPLICATION -- PERMIT ISSUANCE.**

Within 30 days of receipt of a completed County application, the Permit Officer shall make a determination of whether the applicant meets all requirements of this Division.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

**SEC. 610.305. APPLICATION -- DENIAL.**

The Permit Officer may order the denial of an application for a permit or a renewal thereof if he/she finds:

(a) The applicant, or any partner, officer, director, representative or agent thereof has knowingly made a false, misleading or fraudulent statement of a material fact in the application or in any reports or other documents required to be filed with the Permit Officer pursuant to this Division;

(b) The applicant is not the owner or operator of the non-emergency medical transport service;

(c) The applicant was previously the holder of a permit issued under this Division which has been suspended or revoked and the terms or conditions of the suspension or revocation have not been fulfilled;

(d) The applicant has acted in the capacity of a permitted person of firm under this Division without having a valid permit therefor;

(e) The applicant has entered a plea of guilty to, or been found guilty of, or been convicted of a felony or a crime involving moral turpitude; or

(f) The applicant has violated any provisions of this Division or any provisions of any other ordinance or law relating to or regulating non-emergency medical transport services.

The Permit Officer shall notify the applicant in writing of the denial within 30 days of the receipt of the application. Such notice shall be either sent by mail to the applicant's last address provided in the application or be personally delivered, and shall set forth the reasons for such denial of application.

Whenever an application for a Permit is denied, the applicant may request a hearing from the Permit Officer. Such request shall be made in writing and filed with the Permit Officer within ten days of personal delivery of the notice of denial. If the notice of denial is mailed, applicant has an additional five days to file a hearing request. The hearing shall be held not more than 20 days from the date of receipt of said request for hearing and the Permit Officer should notify the applicant of the time and place of such hearing. The hearing shall be conducted in the manner prescribed in Title 1, Division 6, Chapter 1 of the San Diego

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County Code of Regulatory Ordinances. The applicant shall also be entitled to the appeal provisions of Section 610.505 following the hearing before the Permit Officer. Once an application is denied, re-application will not be considered until after a minimum of twelve months after the date of the initial denial.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.306. DECISIONS: FINALITY.

The decision of the Permit Officer rendered pursuant to this Chapter shall be final, unless an appeal is filed with the Clerk of the Board of Supervisors.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.307. TERM.

Provider permits issued under this Division shall be valid for a period of one year unless earlier suspended, revoked or terminated.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.308. APPLICATION -- CHANGE OF DATA.

Each applicant and Permit Owner shall report to the Permit Officer any change in the data required in Section 610.303 within ten days of the effective date of the change.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.309. APPLICATION -- TRANSFER OF PROVIDER PERMIT.

A Provider's Permit may be transferred to another person, partnership, corporation, or other entity ("Permit Transferee"). If the Transferee is another San Diego County Permitted Provider, then the Transferee shall complete a Permit Transfer Form. If the Transferee is not another San Diego County Permitted Provider, then the Transferee shall complete a new application for an Ambulance Provider's Permit.

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The Permit Transferee shall notify the Permit Officer of the transfer at least 30 days in advance of the effective date of such transfer. Within ten days of receipt of the notification, the Permit Officer shall deliver to the transferee a notice of requirement for either a new Permit Transfer Form or a new application for an Ambulance Provider's Permit. Each transferee who submits an application for an Ambulance Provider's Permit under this section shall submit the same required information as is also provided in section 610.303 of this document.

(a) In the event one permitted provider acquires the operations of another permitted provider, the acquiring provider shall submit to the EMS Permit Officer within 30 days, a complete listing of all vehicles acquired (put into operation or liquidated).

(b) Vehicles transferred from one permitted provider to another permitted provider as a consequence of a merger/acquisition, must have the existing County EMS decal removed and returned to the County of San Diego EMS Office. New EMS decals shall be issued for all vehicles placed into operation.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.310. ABANDONMENT OF PROVIDER PERMIT.

Upon closure, sale or liquidation of business, provider must remove all permit decals from vehicles and return the decals to the County of San Diego EMS Office.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.311. RENEWAL OF PROVIDER PERMIT.

Applicants for renewal of a Non-Emergency Medical Transport Provider's Permit under this Division shall annually file with the Permit Officer an application in writing, on a form furnished by the Permit Officer, which shall include any changes in the information required in Section 610.303. The application for renewal shall be submitted to the Permit Officer at least 30 days prior to the expiration of the current permit and be accompanied by a renewal fee. Renewal of a Non-Emergency Medical Transport Provider's Permit shall require conformance with all requirements of this Division as upon issuance of the initial permit. Nothing in this Division shall be construed as requiring automatic renewal of a Permit upon its expiration and the burden of proof respecting compliance of all the requirements of this Division and of entitlement of a Permit shall be with the applicant for renewal.

(Added by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

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## CHAPTER 4. AIR AMBULANCE TRANSPORT PERMITS

### SEC. 610.401. REQUIRED.

No person (either as owner, agent or otherwise) shall furnish, operate, conduct, maintain or otherwise engage in, or offer or profess to engage in air ambulance service in the unincorporated areas of the County unless the person holds a currently valid Air Ambulance Provider's Permit.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

### SEC. 610.402. APPLICATION -- FORMS.

Each application for an Air Ambulance Provider's Permit shall be made upon forms prescribed by the County.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

### SEC. 610.403. APPLICATION -- REQUIRED DATA.

Each applicant who desires an Air Ambulance Provider's Permit shall submit the following data:

- (a) Applicant's name and business address;
- (b) The name(s) under which the applicant has engaged, does, or proposes to engage in air ambulance service;
- (c) The names and addresses of the applicant, registered owner(s), partner(s), officer(s), director(s) and all shareholders who hold or control 10% or more of the stock of the applicant;
- (d) A statement of fact and good faith (one from principal owner and one from designated physician medical director);
- (e) A copy of the designated physician medical director's State of California physician's/surgeon's license;
- (f) A statement of legal history, one each from the applicant, all registered owner(s), partner(s), officer(s), director(s), and controlling shareholder(s), including criminal convictions and civil judgments;
- (g) An application for a criminal history report, one each from the applicant, all registered owner(s), partner(s), officer(s), director(s), and controlling shareholder(s);

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- (h) A resume specifying the education, training, and experience of the applicant in the care and transportation of patients;
- (i) A description of the applicant's program for maintenance of the vehicles;
- (j) A description of the applicant's training and orientation programs for pilots, medical personnel, dispatchers, and maintenance staff;
- (k) Evidence of insurance coverage as required by Sections 610.904 and 610.905;
- (l) A list of the full names and California physician and surgeon license numbers of all other physicians employed by provider;
- (m) A list of the full names and California Registered Nurse license numbers including expiration date of all registered nurses employed;
- (n) A description of the locations from which air ambulance services will be offered, noting the hours of operation;
- (o) A description of each air ambulance including the make, model, year of manufacture, vehicle identification number;
- (p) A list of the full names of all other medical personnel which identifies each persons' EMT certification number or paramedic license number and issuing jurisdiction, and CPR Certification, including expiration dates;
- (q) The applicant may be required to submit such other information as the Permit Officer deems necessary for determination of compliance with this Division;
- (r) Proof of financial viability with ability to operate for a minimum of 6 months, with profit-loss information provided and proof of current tax payment status.
- (s) Proof of required business license(s) for areas and/or cities in which applicant will operate.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.404. APPLICATION -- ISSUANCE.

Within 30 days of receipt of an application, the Permit Officer shall make a determination regarding the issuance of the applied for permit.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.405. APPLICATION -- DENIAL.

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The Permit Officer may order the denial of an application for a permit or a renewal thereof if he/she finds:

- (a) The applicant, or any partner, officer, director, representative or agent thereof has knowingly made a false, misleading or fraudulent statement of a material fact in the application or in any reports or other documents required to be filed with the Permit Officer pursuant to this Division;
- (b) The applicant is not the legal owner or operator of the air ambulance service;
- (c) The applicant was previously the holder of a permit issued under this Division, which permit has been suspended or revoked and the terms or conditions of the suspension or revocation have not been fulfilled;
- (d) The applicant has acted in the capacity of a permitted person or firm under this Division without having a valid permit therefor;
- (e) The applicant has entered a plea of guilty to, or been found guilty of, or been convicted of a felony or a crime involving moral turpitude; or
- (f) The applicant has violated any provisions of this Division or any provisions of any other ordinance or law relating to air ambulance services.

The Permit Officer shall notify the applicant in writing of the denial within 30 days of the receipt of the application. Such notice shall be either sent by mail to the applicant's last address provided in the application or be personally delivered, and shall set forth the reasons for such denial of application. Whenever an application for a Permit is denied, the applicant may request a hearing from the Permit Officer. Such request shall be made in writing and filed with the Permit Officer within ten days of personal delivery of the notice of denial. If the notice of denial is mailed, applicant has an additional five days to file a hearing request. The hearing shall be held not more than 20 days from the date of receipt of said request for hearing and the Permit Officer should notify the applicant of the time and place of such hearing. The hearing shall be conducted in the manner prescribed in Title 1, Division 6, Chapter 1 of the San Diego County Code of Regulatory Ordinances. The applicant shall also be entitled to the appeal provisions of Section 610.505 following the hearing before the Permit Officer.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.406. DECISIONS: FINALITY.

The decision of the Permit Officer rendered pursuant to this Chapter shall be final, unless an appeal is filed with the Clerk of the Board of Supervisors.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

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SEC. 610.407. TERM.

Provider permits issued under this Division shall be valid for a period of one year unless earlier suspended, revoked or terminated.

(a) Vehicle permits shall expire concurrently with provider permit regardless of when vehicle permit was issued.

(b) Partial year permits shall be issued for aircraft put into operation within eleven months or less of current providers permit expiration. Partial year permits will be issued at one twelfth the cost of a full year permit for each month remaining on the Air Ambulance Provider's Permit.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

SEC. 610.408. APPLICATION -- CHANGE OF NATURE OR SCOPE OF OPERATIONS.

Each applicant and Permit Owner shall report to the Permit Officer any change in the nature or scope of operations, including, but not limited to, changes in ownership, address, contact information, vehicle maintenance program, and any significant training and orientation programs within ten days of the effective date of the change.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

SEC. 610.409. TRANSFER OF PROVIDER PERMIT.

A Provider's Permit may be transferred to another person, partnership, corporation, or other entity ("Permit Transferee").

The Permit Transferee shall notify the Permit Officer of the transfer at least 30 days in advance of the effective date of such transfer. Within ten days of receipt of the notification, the Permit Officer shall deliver to the transferee a notice of requirement for an Air Ambulance Provider's Permit. Each applicant who desires to receive transfer for an Air Ambulance Provider's Permit shall submit the same required information as also provided in section 610.403 of this document.

(a) In the event one permitted provider acquires the operations of another permitted provider, the acquiring provider shall submit to the Permit Officer within 30 days, a complete listing of all vehicles acquired or liquidated.

(b) Vehicles transferred from one permitted provider to another permitted provider as a consequence of a merger/acquisition, shall have the existing County EMS decal retired, removed and returned to the Permit Officer. Each vehicle shall be submitted for

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reinspection (fees prorated with respect to subsequent operator's permit cycle) and issued a new decal following reinspection by the Permit Officer, prior to being placed in service by the subsequent operator.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.410. RENEWAL OF PERMIT.

Applicants for renewal of an Air Ambulance Provider's Permit under this Division shall annually file with the Permit Officer an application in writing, on a form furnished by the Permit Officer, which shall include any changes in the information required in Section 610.203 hereof from the current application on file. The application for renewal shall be filed with the Permit Officer at least 30 days prior to the expiration date of the current permit, and be accompanied by the appropriate renewal fees. Renewal of an Air Ambulance Provider's Permit shall require conformance with all requirements of this Ordinance as upon issuance of an initial permit. Nothing in this Ordinance shall be construed as requiring the automatic renewal of a Permit upon its expiration and the burden of proof respecting compliance of all the requirements of this Division and of entitlement of a Permit shall be with the applicant for renewal.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.411. ABANDONMENT OF PROVIDER PERMIT.

Upon closure, sale or liquidation of business, provider shall remove all permit decals from vehicles and return the decals to the EMS Office within 30 days. Provider shall also return, within 30 days, all other County owned property (in good operating condition) issued or loaned to the provider or be liable for the cost of it.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

### CHAPTER 5. PERMIT SUSPENSION OR REVOCATION

#### SEC. 610.501. PERMIT SUSPENSION OR REVOCATION.

In the event that any person holding a permit issued pursuant to this Division shall violate or cause or permit to be violated any of the provisions of this Division, or any provisions of any other ordinance or law relating to air ambulance, ambulance, critical care, or non-emergency transportation services, or for any reason for which the permit application could have been denied, the Permit Officer may suspend or revoke the permit after the permittee has been given the opportunity for a hearing as provided for in Section 610.502.



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The Permit Officer shall post for a period of ten days the name and business address of any permittee receiving a notice of suspension or revocation along with the fact that any interested member of the general public can submit information regarding the proposed suspension or revocation. Such information shall be submitted in writing and shall be delivered to the office of the Permit Officer within five days of the last day of posting. The names and business addresses shall be posted in the office of the Permit Officer.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.502. HEARINGS -- PERMIT OFFICER.

In any case where the Permit Officer determines that a permit issued pursuant to this Division should be suspended or revoked, the Permit Officer shall prepare a written notice of suspension or revocation, which includes a statement of the proposed action, a concise explanation of the reasons for the proposed action, the statutory basis relied upon for such action, and an explanation of the permittee's right to request a hearing from the Permit Officer. Such notice shall be sent by certified mail to the permittee's last address provided in the application or be personally delivered, at least ten days prior to the effective date of such action. If within five days after receipt of such mailing or delivery the permittee or an authorized representative requests in writing a hearing from the Permit Officer, the Permit Officer shall set a hearing and shall set forth in writing and send to the permittee by means of certified mail or hand delivery, notice of the time, date, and place of such hearing. The hearing shall be held not more than 30 days from the date of receipt of said request for hearing. The hearing shall be conducted by a person designated by the Permit Officer. The person designated as Hearing Officer shall not have been connected in any manner in the decision to take the proposed action which is the subject of such hearing. No hearings shall be continued except upon hearing good cause.

The hearing shall be conducted to determine the existence of any facts which constitute grounds for the suspension or revocation of the permit. The permittee may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. In the event that the permittee or counsel representing the permittee fails to appear at the hearing, the evidence of the existence of facts which constitute grounds for the suspension or revocation of the permit shall be considered unrefuted. The decision of the Hearing Officer shall be based solely on the evidence presented at the hearing. Upon conclusion of the hearing, the Hearing Officer may give a verbal decision; provided, however, that in the discretion of the Hearing Officer, the decision may be delayed and given in writing within five days. In any case where a verbal decision is given at the close of the hearing, the Hearing Officer shall confirm the decision in writing within five days. The written decision shall set forth the findings of fact and the reasons for the decision and a copy mailed to the permittee or an authorized representative. The decision of the Hearing Officer shall be posted in the office of the Permit Officer for a period of five days along with the available procedures for appeal. A hearing held under this section or the failure of the

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permittee to request such a hearing or to appear at the scheduled time for such hearing in no way deprives the permittee of the right to appeal as provided for in Section 610.505 of this chapter.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### **SEC. 610.503. STAY OF SUSPENSION OR REVOCATION.**

The effect of a decision of the Hearing Officer to suspend or revoke a permit shall be stayed while an appeal to the Board of Supervisors is pending or until the time for filing such appeal has expired. There shall be no stay of the effect of the decision of the Hearing Officer upholding the denial of any permit.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### **SEC. 610.504. EXCEPTION TO HEARING PROCEDURE.**

When, in the opinion of the Permit Officer, there is a clear and immediate threat to the safety and protection of the public, the Permit Officer may suspend a permit without a hearing. The Permit Officer shall prepare a written notice of suspension, which includes a statement of the action; the statutory basis relied upon for such action, and an explanation of the permittee's right to request a hearing from the Permit Officer. Such notice shall be either sent by certified mail to the permittee's last address provided in the application or be personally delivered. The permittee may request a hearing from the Permit Officer within five days of receipt of notification that the permit has been suspended. The Permit Officer shall notify the permittee of the time and place of such hearing and the hearing shall be conducted in the manner prescribed in Section 610.402 of this chapter. The hearing shall be held not more than 15 days from the date of receipt of said request for hearing. Following the hearing the permittee affected may appeal the decision in the manner prescribed in Section 610.405 of this chapter. The decision shall not be stayed while such hearing or appeal is pending.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### **SEC. 610.505. APPEAL.**

Within ten days after receipt of the decision of the Hearing Officer any permittee affected by the decision may appeal such decision by filing with the Clerk of the Board of

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Supervisors a written appeal briefly setting forth the reasons why such denial, suspension, revocation or other decision is not proper.

Upon receipt of such written appeal, the Clerk of the Board of Supervisors shall assign the appeal to a Hearing Officer selected by the Clerk on a rotating basis from a list of qualified Hearing Officers approved by the Board of Supervisors. The Hearing Officer so assigned shall schedule a date for hearing within ten days after the date of assignment of the appeal by the Clerk. The hearing shall be held not more than 30 days from time of assignment by the Clerk to the Hearing Officer. At least ten days prior to the date of the hearing on the appeal the Clerk shall notify the appellant and the Permit Officer of the date and place of the hearing. The Clerk of the Board shall also have posted in the office of the Permit Officer the time and place set for the appeal for a period of five days prior to the date of such appeal. The Hearing Officer is authorized to issue subpoenas, to administer oaths and to conduct the hearing on the appeal. At such hearing the Permit Officer and the appellant may present evidence relevant to the denial, suspension, revocation or other decision of the Permit Officer. The Hearing Officer shall receive evidence and shall rule on the admissibility of evidence and on questions of law. At the hearing any person may present evidence in opposition to, or in support of, appellant's case.

At the conclusion of the hearing, the Hearing Officer may uphold the denial, suspension, revocation or other decision of the Permit Officer, or the Hearing Officer may allow that **which has been denied, reinstate that which has been suspended or revoked, or modify or reverse any other Permit Officer's decision, which is subject of the appeal.** The Hearing Officer shall, within five days of the announcement of a decision, file with the Clerk of the Board of Supervisors written findings of fact and conclusions of law and the decision. The decision of the Hearing Officer is final when filed with the Clerk.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.506. EVIDENCE.

(a) Oral evidence shall be taken only on oath or affirmation.

(b) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called the witness to testify; and to rebut the evidence against the party. If respondent does not testify in his own behalf, the respondent may be called and examined as if under cross-examination.

(c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the

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admission of such evidence over objection in civil actions, hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions and irrelevant and unduly repetitious evidence shall be excluded.

(d) The hearing shall be conducted in the English language. The proponent of any testimony to be offered by a witness who does not proficiently speak the English language shall provide an interpreter, approved by the Hearing Officer conducting the proceedings as proficient in the English language and the language in which the witness will testify, to serve as interpreter during the hearing. The cost of the interpreter shall be paid by the party providing the interpreter. The Board of Supervisors may compile and publish a list of interpreters known to be proficient in various languages. Any person whose name appears upon such list shall be deemed to be approved by the Hearing Officer hearing the case.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### CHAPTER 6. FEES

##### SEC. 610.601. FEES.

The County Board of Supervisors shall set the Application and Permit fees for ambulance services, air ambulance services, critical care transport services, and non-emergency transport services, by resolution. The fees shall not exceed the reasonable costs of administering and enforcing this Division as determined by the Board of Supervisors.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### CHAPTER 7. OPERATIONAL STANDARDS AND REQUIREMENTS GROUND AMBULANCE AND CRITICAL CARE TRANSPORT SERVICES

##### SEC. 610.701. AMBULANCE DRIVERS AND AMBULANCE ATTENDANTS.

Any ambulance attendant or ambulance driver utilized by a Permittee shall be at least 18 years of age; shall be trained and competent in the proper use of all emergency ambulance equipment; shall hold current certification as an Emergency Medical Technician (EMT) or licensure as a Paramedic in California; or be licensed as a physician or registered nurse in the State of California; and shall demonstrate compliance with all applicable State laws and regulations.

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All ambulance attendants and ambulance drivers are required to keep a copy of requisite certification(s) /license(s) in their immediate possession while on duty.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.702. UNIFORM AND APPEARANCE.

Each person providing ambulance service or critical care transportation service under this Ordinance shall staff each ambulance with appropriate personnel who shall wear clean uniforms that identify employer or sponsoring agency, have visible identification of name and credential level, and comply with the requirements of this Ordinance.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.703. DISPATCHERS.

Each person providing ambulance service or critical care transportation service under this Division shall assign at least one person or an agency to be responsible for receiving calls and dispatching ambulances.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.704. CHP PERMIT.

Except for those ambulances operated by a governmental agency, every ambulance shall carry a current and valid California Highway Patrol Inspection Permit authorizing the use of the vehicle as an ambulance.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.705. INSPECTION.

The ambulance provider or critical care transport provider shall allow the Permit Officer or his/her designee to inspect, on an announced or unannounced basis, all ambulances used to provide ambulance service. The inspections should be held, whenever possible,

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during normal business hours; provided, however, that the inspection of an ambulance will be stopped should the ambulance be needed to respond to an Emergency Call. If, at any time during an inspection, an agency representative, officer, director or agent thereof knowingly makes a false, misleading or fraudulent statement or engages in fraudulent behavior, the Permit Officer may order the suspension or revocation of the ambulance permit as provided for in Section 610.501. The purpose of such inspections may include, but shall not be limited to, determining if:

(a) the ambulance is properly maintained and equipped for the provision of Ambulance Service;

(b) the description of the ambulance, required by Section 610.203(o) is accurate;

(c) the ambulance contains two-way radios; the radios are in good working order and that the radios are compatible with the County's emergency medical communications system;

(d) if the ambulance is used for critical care transport, that the communication system allows the ambulance driver and ambulance attendant to communicate with the medical staff at both the discharging and receiving facilities;

(e) the ambulance will be properly equipped with fully-functioning heat and air conditioning in patient care area and driver compartment;

(f) the permitted agency is providing services at the care level authorized by the permit issued.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.706. INSURANCE.

Every applicant for an ambulance Provider's and/or Critical Care Transport Provider's Permit shall obtain and maintain in full force and effect liability insurance, including, but not limited to, comprehensive auto liability, each with a combined single limit of not less than \$3,000,000 per occurrence, and professional liability, with a limit of not less than \$3,000,000 per claim.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.707. WORKERS' COMPENSATION INSURANCE REQUIREMENT.

The County EMS Office shall not grant any Ambulance Provider's and/or Critical Care Transport Provider's Permit unless the applicant files with the Permit Officer a policy of

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Workers' Compensation Insurance or a Certificate of Consent to Self Insure issued by the California State Director of Industrial Relations, applicable to all employees of the applicant. The Permittee shall thereafter maintain in full force and effect such coverage during the term of the Permit. Certificates or copies evidencing such coverage shall be provided to and maintained by the County EMS Office. Workers' compensation and employers' liability insurance shall comply with California Labor Code requirements.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.708. SERVICE REQUIREMENTS.

(a) Each ambulance provider shall provide ambulance service on a continuous 24 hours per day basis, excluding circumstances beyond the control of the provider.

(b) If for any reason an ambulance provider stops having the capability of providing ambulance service on a continuous 24 hours per day basis, any advertisement of emergency services which have not been discontinued will stop and immediate notification will be given to the Permit Officer.

(c) Special event permittees shall be exempt from the requirement of 24 hours per day provision of service.

(d) Each ambulance provider will cooperate with the ambulance coordinator during a San Diego County Emergency Operations Plan Mass-Casualty Incident (MCI) Operations Annex D event to provide adequate transporting units for the incident.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.709. FACILITIES.

(a) Each ambulance provider shall establish at least one ambulance station within the geographic borders of San Diego County, and shall occupy this station on a continuing basis. All such locations shall comply with all applicable zoning, building, and occupational health and safety regulations.

(b) Each ambulance station shall be adequate to house the ambulance drivers and ambulance attendants required for the ambulances based at that location. There shall be facilities sufficient for all personnel in accordance with all local, state and federal regulations.

(c) The Permit Officer shall cause to be made an inspection of the facilities, equipment and methods of operation of each permittee.

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(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.710. INVESTIGATIONS.

Ambulance Provider and Critical Care Transport Provider Permittees shall cooperate with the Permit Officer, or his/her designee, in any investigations of possible violations of this Division and shall make all dispatch logs and similar dispatch records, including tape recordings, available for inspection and copying at reasonable times at the permittee's regular place of business. All tape recordings will remain available for a minimum of 90 days from the date the recordings are made.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.711. POLICIES/PROCEDURES/ PROTOCOLS.

The Permit Officer shall make necessary and reasonable policies/procedures/protocols covering ambulance service/critical care transport service operations, equipment, personnel, and standards of dispatch for the effective and reasonable administration of this Division.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.712. GENERAL REQUIREMENTS.

Ambulance providers and critical care transport providers shall:

(a) Refer any Private Call of a life threatening nature or a Private Call requiring Advanced Life Support (ALS) level care where ALS care is timely, appropriate and available, to the 911 emergency operator;

(b) Dispatch an ambulance within a reasonable time in response to an emergency call from a person, unless such person is immediately advised of a delay in responding to a call;

(c) Disclose to any person requesting service those instances when an ambulance is not available for an emergency call;

(d) Provide prompt transportation of the patient to the most appropriate medical facility, licensed, equipped, and staffed to meet the needs of the patient in accordance with applicable laws, rules, regulations and policies;



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(e) Record all telephone and radio calls for ambulance service and be able to provide call recordings as requested by County of San Diego during inspections or investigations. Records shall be maintained for no less than ten years; and

(f) Report all motor vehicle accidents involving an ambulance, involving bodily harm of staff or patient, or significant damage to the vehicle exceeding \$500, to the County of San Diego, EMS Office, within 24 hours of occurrence.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.713. PROHIBITIONS.

Ambulance providers and critical care transport providers are hereby prohibited from engaging in the following activities:

(a) Using a scanner or radio monitoring device for the purposes of responding to a call when not requested to respond to that call by an individual requesting that service or the appropriate public safety dispatch center;

(b) Permitting the operation of an ambulance in any manner contrary to the provisions of this Division or contrary to any applicable statute, rule or regulation;

(c) Performing ambulance services or services of a critical care transport provider unless possessing a current, valid Ambulance Provider's Permit or a current, valid Critical Care Transport Provider's Permit, respectively;

(d) Providing advanced life support services to any person or institution without a contract or subcontract with the County for the provision of such services;

(e) Announcing, advertising, or offering:

(1) Ambulance service without possessing a current, valid, Ambulance Provider's Permit; or

(2) Advanced life support services without being authorized by the County to provide such service; or

(3) Critical care transport services without possessing a current, valid Critical Care Transport Provider's Permit.

(f) Causing or allowing ambulances to respond to a location without first receiving a specific request for ambulance service at that location;

(g) Use of lights and sirens when responding to a non-emergency call;

(h) Operation in County of San Diego as Critical Care Transporter, BLS or ALS provider without proper authorization to do so.

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(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

## CHAPTER 8. OPERATIONAL STANDARDS AND REQUIREMENTS NON EMERGENCY MEDICAL TRANSPORTATION

### SEC. 610.801. PERSONNEL STANDARDS.

(a) All persons serving as gurney van and/or wheelchair van drivers shall be at least 18 years of age and possess a current California Driver's License, designated class III/C or higher.

(b) All persons serving as gurney van and/or wheelchair van attendants shall possess at least a current CPR certificate and an American Red Cross First Aid Certification or equivalent. Attendants must have knowledge of and follow MTS rules and guidelines for public transportation.

(c) No person shall act in the capacity of a gurney van and/or wheelchair van driver or attendant if such person is required by law to register as a sex offender or has been convicted of any criminal offense involving force, duress, threat, or intimidation within the last five years.

(1) Any exempt organization or entity may request for a fee to have any driver who operates a non-emergency medical vehicle receive a pre-employment criminal records check in accordance with the standards set forth by this Division.

(2) The fee for this service shall be established in the fee document and shall cover the actual cost of administering the provisions of (c)(1).

(d) All persons acting as gurney van and/or wheelchair van drivers or attendants shall wear clean uniforms that identify employer or sponsoring agency, have visible identification of name and comply with the requirements of this Division.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

### SEC. 610.802. VEHICLE COMPLIANCE.

Each gurney van and/or wheelchair van used by a non emergency transport provider shall, at all times:

- (a) Comply with all applicable federal, state, and local licensing requirements.
- (b) Be configured, licensed and maintained pursuant to all state and federal laws, and local policies.

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(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8572 (N.S.), effective 9-14-95; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.803. VEHICLE INSPECTION.

The non-emergency transport provider will allow the Permit Officer or his/her designee to inspect, on an announced or unannounced basis, all vehicles used to provide non-emergency transport service. The inspections should be held, whenever possible, during normal business hours. If, at any time during an inspection, an agency representative, officer, director or agent thereof knowingly makes a false, misleading or fraudulent statement or engages in fraudulent behavior, the Permit Officer may order the suspension or revocation of the ambulance permit as provided for in Section 610.501. The purpose of such inspections may include, but shall not be limited to determining if the vehicle is properly maintained and equipped for the provision of non-emergency transport service.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.804. INSURANCE.

Every applicant for a Non-Emergency Transport Providers Permit shall obtain and maintain in full force and effect liability insurance, including, but not limited to, comprehensive auto liability in an amount and coverage type determined by the County's risk manager to be adequate.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13; amended by Ord. No. 10755 (N.S.), effective 12-2-21)

#### SEC. 610.805. WORKERS COMPENSATION INSURANCE REQUIREMENT.

The County EMS Office shall not grant a Non-Emergency Medical Transport Provider's Permit unless the applicant files with the Permit Officer a policy of Workers' Compensation Insurance or a Certificate of Consent to Self Insure issued by the California State Director of Industrial Relations, applicable to all employees of the applicant. The Permittee shall thereafter maintain in full force and effect such coverage during the term of the Permit. Certificates or copies evidencing such coverage shall be provided to and maintained by the County EMS Office.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

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**SEC. 610.806. POLICIES/PROCEDURES/ PROTOCOLS.**

The Permit Officer shall make necessary and reasonable policies/procedures/protocols covering non-emergency medical transport service operations, equipment, and personnel, for the effective and reasonable administration of this Division.

(Added by Ord. No. 8192 (N.S.), effective 2-4-93; amended by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

**CHAPTER 9. OPERATIONAL STANDARDS AND REQUIREMENTS EMERGENCY MEDICAL SERVICES AIRCRAFT TRANSPORTATION SERVICES**

**SEC. 610.901. PURPOSE.**

To establish minimum standards for the integration of emergency medical services (EMS) aircraft and personnel into the County of San Diego prehospital patient transport system as a specialized resource for the transport and care of emergency medical patients. EMS aircraft must be authorized by the County of San Diego EMS Office in order to provide prehospital patient transport within San Diego County.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

**SEC. 610.902. SAN DIEGO COUNTY STANDARDS.**

(a) Standard A-1: EMS aircraft operations shall be an integrated component of the regional Emergency Medical Services Plan with provisions for timely response, communications, access to appropriate care, quality improvement and evaluation, and disaster preparedness.

(1) The County of San Diego EMS Office shall:

a. Maintain an inventory of the number and type of authorized EMS aircraft, the patient capacity of authorized EMS aircraft, the level of patient care provided by EMS aircraft personnel, and receiving facilities with landing sites approved by the State Department of Transportation, Aeronautics Division.

b. Establish policies and procedures to assure compliance with Federal, State and local statutes.

c. Establish policies and procedures that:

1. Apply to air ambulance service providers and medical flight crews for medical control.

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2. Apply to EMS aircraft operations in the County of San Diego for record keeping, quality assurance, and continuous quality improvement.

(b) Standard A-2: Air ambulances shall be appropriately equipped and staffed to safely respond, meet the needs of the patient and to transport him/her to an appropriate receiving facility equipped and staffed to care for the patient.

(c) Standard A-3: At least one permitted air ambulance provider shall be available to provide primary response rotorcraft services to medical incident scenes 7 days a week, 24 hours a day.

(1) Unless specifically exempted by the ordinance, all air ambulance operators offering services to, from or between hospitals located in San Diego County shall obtain an Ambulance Operators Permit issued by the County of San Diego EMS Office .

(2) Air Ambulance Providers shall:

a. Respond to all medically appropriate requests without financial screening (weather and aircraft airworthiness excluded).

b. Respond to scenes (Primary Response Air Ambulance) when an authorized requesting agency determines the need for air ambulance transport meets the County of San Diego, EMS policies.

c. Have a written agreement with the County of San Diego EMS Office specifying operational and aircraft capabilities, which meet or exceed requirements of applicable EMS aircraft classifications.

d. Obtain and maintain accreditation by the Commission on Accreditation of Medical Transport Systems (CAMTS).

1. Air ambulance providers requesting initial licensure that are ineligible to apply for CAMTS accreditation based upon stated CAMTS requirements, must provide documentation to demonstrate equivalence with CAMTS standards, and within four months must have completed an onsite CAMTS consultation.

2. Documentation must be provided after completion of the onsite CAMTS consultation demonstrating a conditional CAMTS accreditation. Air ambulance providers must apply for full CAMTS accreditation within one year.

3. A provisional license will be granted for no longer than two years at which time they must provide documentation that the service is fully CAMTS accredited.

(3) Primary Response Air Ambulance: The designation as a Primary Response Air Ambulance for purposes of the EMS system of the County of San Diego confers upon the service operator the recognition that it has the commitment, personnel and resources necessary to provide optimum medical care for the patient.

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a. An air ambulance provider which is designated or permitted as a primary response air ambulance shall meet or exceed the requirements set out in California Code of Regulations, Title 22, Division 9, Chapter 8, Section 100302 and 100306.

b. In addition, primary response air ambulance providers shall:

1. Meet or exceed all state, federal licenses and permits necessary to provide air ambulance services.

2. Maintain valid ambulance operator and equipment permits issued by the County of San Diego EMS Office .

3. Maintain adequate resources located in San Diego County to provide services on a continuous basis 24 hours a day, 7 days a week.

4. Maintain minimum staffing of two (2) attendants certified or licensed in advanced life support, one of which is a Registered Nurse (RN), for each responding flight crew.

5. Operate at all times under medical direction and control of a designated base hospital and a licensed physician and surgeon with relevant experience in the provision of emergency medical care.

6. Comply with the County of San Diego EMS Office quality improvement process to include representative participation on the Prehospital Audit Committee.

7. Submit prehospital reports as per the County of San Diego EMS Office policies.

8. Establish and maintain radio/ telephone communication capability, 24 hours a day, 7 days a week, capable of maintaining constant communication with the aircraft and local public safety dispatch entities.

9. Maintain all equipment, and adhere to all standards set forth in the County of San Diego policies, protocols and procedures and prescribed in the EMS Plan.

10. Maintain at a minimum one (1) similarly configured back up aircraft, which is available within a maximum of twenty-four (24) hours to maintain service continuity 7 days per week, 24 hours per day.

(4) Interfacility Air Ambulance. The designation as an Interfacility Air Ambulance for purposes of the EMS system of the County of San Diego confers upon the service operator the recognition that it has the commitment, personnel and resources necessary to provide optimum medical care for the patient.

a. An air ambulance provider which is designated or permitted as an Interfacility air ambulance shall meet or exceed the requirements set out in California Code of Regulations, Title 22, Division 9, Chapter 8, Section 100302 and 100306.

b. In addition, Interfacility air ambulance providers shall:

1. Meet or exceed all state, federal licenses and permits necessary to provide air ambulance services.

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2. Maintain valid ambulance operator and equipment permits issued by the County of San Diego EMS Office .

3. Enter into a MOA with the County of San Diego EMS Office for purposes of ALS Air Ambulance services, which meet or exceed provider performance and aircraft specifications.

4. Maintain adequate resources located in San Diego County to provide services on a continuous basis 24 hours a day, 7 days a week.

5. Maintain minimum staffing of one Registered Nurse and one Emergency Medical Technician Paramedic (EMT-P) for each responding flight crew.

6. Operate at all times under medical direction and control of a designated base hospital and a licensed physician and surgeon with relevant experience in the provision of emergency medical cares.

7. Comply with the EMS Office Quality Assurance/ Quality Improvement (QA/QI) process to include representative participation on applicable audit committee.

8. Submit prehospital patient reports as per the County of San Diego EMS Office Policies.

9. Establish and maintain radio/telephone communication capability, 24 hours a day, 7 days a week, capable of maintaining constant communication with the aircraft and local public safety dispatch entities.

10. Maintain all equipment, and adhere to all standards set forth in County of San Diego's policies, protocols and procedures and prescribed in the EMS Plan.

(5) Rescue Aircraft:

a. Must have an entry that allows loading and unloading without excessive maneuvering of the patient.

b. Must be configured in such a way that the air medical personnel have access to the patient in order to begin and maintain both basic and advanced (if an ALS personnel is on board) life support during flight.

c. Must be equipped with a stretcher sturdy and rigid enough that it can support cardiopulmonary resuscitation.

d. The stretchers shall be large enough to carry the 95th percentile adult patient in the U.S., full length in the supine position. (The 95th percentile adult male in the U.S. is 6 ft. and 212 lbs.)

e. Must have the necessary radios that are capable of communicating with emergency ground units, the air medical communications center, all hospitals in San Diego County, and all law enforcement agencies in the County.

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f. Must be equipped with medical supplies and equipment for the various types of missions to which it will respond, as need indicates. These supplies must include, but not be limited to:

1. Airway management equipment, including oxygen and suction equipment
2. Bandages and dressings
3. Stethoscope
4. Blood pressure kit
5. Cervical collars
6. Assorted splints

g. Must be climate controlled to prevent temperature extremes that would adversely affect patient care.

h. Must have interior lighting to ensure adequate observation of the patient.

i. Shall be configured to ensure that the pilot and controls are protected from inadvertent contact by the patient or air medical care providers.

j. All patients must be properly restrained to ensure the safety of the patients as well as the air medical personnel located in the patient care area.

k. The aircraft must be equipped with appropriate survival equipment and supplies.

(d) Standard A-4: Primary response air ambulance services shall be made available to sick and injured persons in the county whenever it is safe, appropriate and necessary to optimize the care of the patient. The pilot in command shall have the full authority to abort or decline response to any request for service when mechanical, geographic, or flight condition might endanger the crew or others.

(1) No person or organization shall provide or hold himself or herself out as providing prehospital Air Ambulance or Air Rescue services unless that person or organization has aircraft which have been classified by the County of San Diego EMS Office with the exception of State or Federal aircraft.

(2) Operation of State or Federal aircraft in San Diego County

a. A request from a designated dispatch center shall be deemed as authorization of aircraft operated by the California Highway Patrol, Department of Forestry, National Guard or the Federal Government.

(e) Standard A-5: All personnel involved in the provision of EMS aircraft services shall be licensed, certified, equipped and trained to levels required to safely and consistently respond and provide care in the flight environment.

(f) Standard A-6: Air ambulances designated or permitted as primary response rotorcraft shall be considered to be the air response asset of choice for incident scene



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operations. Rescue rotorcraft may be used to supplant or extend the availability of air medical transportation.

(1) General Aircraft Standards: Designated EMS aircraft operators shall adhere to appropriate Federal Aviation Regulations (FAR) including but not limited to Parts 135, 91, 61, 43 and Advisory Circular 135-14A as it pertains to flight operations, maintenance inspections, pilot flight and duty time. The aircraft operator will also hold "Air Ambulance Operations Specifications".

#### Interface Air Ambulances With Rescue Aircraft

a. Nothing in the Ordinance should be considered to limit the operation of a rescue aircraft in responding to medical emergencies.

b. Rescue aircraft will notify the air ambulance communication center(s) when requested for medical services or responses via radio or appropriate ground relay.

c. ALS/BLS Rescue aircraft medical personnel may, based on the needs of the patient, prevailing weather or availability of a primary response air ambulance:

1. Rescue/extricate/treat the patient and transport

2. Rescue/extricate/treat patient and await an air or ground ambulance

d. ALS Rescue aircraft medical personnel, upon making the decision to transport, shall notify their base hospital, which shall notify or facilitate communication with the appropriate receiving hospital.

e. BLS Rescue aircraft medical personnel, upon making the decision to transport, shall notify the communication center, which shall notify or facilitate communication with the appropriate receiving hospital.

f. Auxiliary Rescue aircraft medical personnel may rescue/extricate/treat the patient and await or rendezvous with an air or ground ambulance, but shall not transport the patient to a receiving hospital.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.903. PERSONNEL.

All personnel involved in the provision of EMS aircraft services in San Diego County shall be licensed, certified, equipped and trained to levels required to safely and consistently respond and provide care in the flight environment.

(a) EMS aircraft Medical Flight Crew shall have relevant training and experience in the care of the patient and meet the qualifications of the role within which they are functioning.

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(1) Primary Response air ambulances shall maintain minimum staffing of at least two  
(2) attendants licensed in advanced life support for each responding flight crew, one of which is a Registered Nurse (RN).

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.904. INSURANCE.

Every applicant for an Air Ambulance providers permit shall obtain and maintain in full force liability insurance including but not limited to comprehensive aircraft liability, each with a combined single limit of not less than \$10,000,000 per occurrence and professional liability with a limit of not less than \$1,000,000 per claim. Primary response air ambulance applicants shall obtain and maintain in full force liability insurance including but not limited to comprehensive aircraft liability, each with a combined single limit of not less than \$5,000,000 per occurrence and professional liability of not less than \$5,000,000 per claim.

(Added by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.905. WORKERS' COMPENSATION INSURANCE REQUIREMENT.

The County EMS Office shall not grant any Ambulance/Transport Permit unless the applicant files with the Permit Officer a policy of Workers' Compensation Insurance or a Certificate of Consent to Self Insure issued by the California State Director of Industrial Relations, applicable to all employees of the applicant.

The Permittee shall thereafter maintain in full force and effect such coverage during the term of the Permit. Certificates or copies evidencing such coverage shall be provided to and maintained by the County EMS Office.

(Added by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.906. SERVICE REQUIREMENTS.

(a) Primary Response Air Ambulance Providers shall be available to provide primary response air ambulance services to medical incident scenes seven (7) days a week, 24 hours per day. Notwithstanding the above, the pilot in command shall have full authority to abort or decline response to any request for service when mechanical, geographic, or flight conditions might endanger the crew or others.

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(b) Rescue Aircraft shall only transport patients in coordination and conjunction with primary response air ambulance agencies. This type of craft is to be available primarily for rescue purposes.

(c) Each air ambulance provider will cooperate with the ambulance coordinator during a San Diego County Emergency Operations Plan Mass-Casualty Incident (MCI) Operations Annex D event to provide adequate transporting units for the incident.

(1) Nothing in this ordinance shall be considered to abridge or supplant the primary jurisdiction of the United States Coast Guard over air medical and other rescue operations at sea or within the Port of San Diego. During activation of an San Diego County Emergency Operations Plan Mass-Casualty Incident (MCI) Operations Annex D event or declared states of emergency the following shall apply:

a. Directly request the assistance of the Coast Guard for any appropriate mission including inland river rescue. The air medical communication center shall maintain a mechanism for promptly contacting the Command Duty Officer Coast Guard Air Station, San Diego for such requests.

b. Based on the best information available, any incident scene commander or local emergency management official may request the assistance of local or regional military air medical assets. \* Such request will be routed through the air medical communication center with Commander Naval Air Pacific (COMNAVAIRPAC), Naval Air Station North Island being the primary point of contact for all requests. The air medical communication center shall maintain a mechanism for promptly contacting the command duty officer, COMNAVAIRPAC.

(2) Interface/Utilization with Non-medical Civilian or Public Safety Aircraft: Based on the best information available, any incident scene commander or local emergency management official may utilize non-medical civilian aircraft for the purpose of transporting the sick and injured. This should occur only after all alternative resources have been exhausted. Incident scene commanders shall make their best effort to configure and staff the aircraft appropriately based on conditions at scene and resources available. Non-medical aircraft pilots shall be provided with the air medical communication frequency. The air medical communication centers will assist said aircraft in accessing and notifying an appropriate receiving hospital.

(d) Air Medical Dispatch must be coordinated through a designated dispatch center so as to ensure the safety of all participants and patients in the EMS and Air Medical Systems. Should there be more than one permitted primary response rotorcraft agency in San Diego County there shall be a centralized dispatch agency designated by the County of San Diego.

(Added by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

SEC. 610.907. FACILITIES.

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(a) Each air medical services provider shall establish at least one base of operations within the geographic borders of San Diego County. All such locations shall comply with all applicable zoning, building, and occupational health and safety regulations.

(b) Each base of operations shall be adequate to house the aircraft crew required for the aircraft based at that location. Cooking facilities, rest rooms, showers, and beds sufficient for all personnel on duty are required for all bases. Alternate temporary posting locations shall be adequate to protect the crew and include toilet and rest facilities as determined by the Permit Officer.

(c) The Permit Officer shall make an inspection of the facilities, equipment and methods of operation of each permittee.

(Added by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.908. INVESTIGATIONS.

Air Medical Services Provider Permittees shall cooperate with the Permit Officer, or his/her designee, in any investigations of possible violations of this Division and shall make all dispatch logs and similar dispatch records, including tape recordings, available for inspection and copying at reasonable times at the permittee's regular place of business. All tape recordings will remain available for a minimum of 90 days from the date the recordings are made.

(Added by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.909. POLICIES/PROCEDURES/ PROTOCOLS.

The Permit Officer shall make necessary and reasonable policies/procedures/protocols covering air medical services operations, equipment, personnel, and standards of dispatch for the effective and reasonable administration of this Division.

(Added by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.910. GENERAL REQUIREMENTS.

Air medical services providers shall:

(a) Dispatch an aircraft within a reasonable time in response to an emergency call from a person, unless such person is immediately advised of a delay in responding to a call;

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(b) Disclose to any person requesting service those instances when an aircraft is not available for an emergency call;

(c) Provide prompt transportation of the patient to the most appropriate medical facility, licensed, equipped, and staffed to meet the needs of the patient in accordance with applicable laws, rules, regulations and policies; and

(d) Record all telephone and radio calls for air medical services.

(Added by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.911. PROHIBITIONS.

Air medical services providers are hereby prohibited from engaging in the following activities:

(a) Using a scanner or radio monitoring device for the purposes of responding to a call when not requested to respond to that call by an individual requesting that service or the appropriate public safety dispatch center;

(b) *Permitting the operation of an aircraft in any manner contrary to the provisions of this Division or contrary to any applicable statute, rule or regulation;*

(c) Performing air medical services unless possessing a current, valid Air Ambulance Provider's Permit or a current, valid Critical Care Transport Provider's Permit, respectively;

(d) Announcing, advertising, or offering:

(1) Air medical services without possessing a current, valid Air Ambulance Provider's Permit; or

(2) Advanced life support services without being authorized by the County to provide such service; or

(3) Critical care transport services without possessing a current, valid Air Ambulance Provider's Permit.

(e) Causing or allowing aircraft to respond to a location without first receiving a specific request for air medical services at that location.

(Added by Ord. No. 8787 (N.S.), effective 4-29-97; amended by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

#### SEC. 610.912. AIRCRAFT COMPLIANCE.

(a) Air ambulances shall meet the following requirements:

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(1) Aircraft shall have sufficient patient cabin area to accommodate transportation of two patients, not stacked, on stretchers. Both patients must be accessible to care providers for ACLS interventions.

(2) Aircraft shall have an entry that allows loading and unloading without excessive maneuvering of the patient, and does not compromise functioning of monitoring systems, intravenous lines, or manual and mechanical ventilation.

(3) Aircraft must be configured in such a way that air medical personnel have access to any patient in order to begin and maintain both basic and advanced life support during flight.

(4) The stretchers shall be sturdy and rigid enough that it can support cardiopulmonary resuscitation. If a backboard or equivalent device is required to achieve this, such a device shall be readily available.

a. The stretcher and the means of securing it for flight must be consistent with FAR(s).

b. The stretchers shall be large enough to carry the 95th percentile adult patient in the U.S., full length in the supine position. (The 95th percentile adult male in the U.S. is 6 ft. and 212 lbs.)

c. The head of the stretcher is capable of being elevated at least 30 degrees for patient care and comfort.

(5) The aircraft must have heat and air conditioning capability to prevent temperature extremes that would adversely affect patient care.

(6) The aircraft should have an electric inverter with a minimum power output of 750 volt/amps, with two outlets, to convert DC current to AC current for operation of specialized equipment, such as transport isolette and balloon pumps.

(7) The aircraft must be equipped with medical supplies and equipment for the various types of missions to which it will respond, as need indicates, and as required by local and regional authorities and the program medical director. These supplies must include, but need not be limited to:

a. Airway management equipment including oxygen, mechanical suction, intubation equipment and ventilator support equipment.

b. Cardiac monitor/defibrillators for two patients.

c. Advanced cardiac life support drugs and therapeutic modalities; or equivalent specific to type of mission.

d. Other electronic devices deemed necessary to deliver specific patient care (i.e., pulse oximeter, IV pumps, ETCO<sub>2</sub> detector/monitor, external pacemaker, and Doppler).

(8) All medical equipment must be maintained according to the manufacturer's recommendations, be functional at all altitudes and must not interfere with the avionics.

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(9) A standardized written inventory for controlled drug administration shall be maintained pursuant to the County of San Diego EMS Air Medical Policies.

a. Drugs and equipment shall be maintained consistent with the County of San Diego EMS Policies and Protocols.

b. Additional drugs and treatments may be authorized by an agency medical director for use and/or administration by a registered nurse.

(10) Aircraft shall be a light or medium weight multiengine helicopter capable of routinely responding to unimproved landing sites under visual flight rule (VFR) conditions.

(11) Aircraft shall have a minimum operating range of 300 statute miles plus reserve without refueling.

(12) Aircraft shall be able to lift and hover out of ground effect (HOGE) with the following loading under the following conditions:

a. Loading: All required medical and safety equipment, 3-person flight crew, at mean male weight, one at mean female weight (total 500 pounds), 2 patients in the 95th percentile adult weight (total 424 pounds). Fuel sufficient to complete a non-stop flight of 120 statute miles plus reserve.

b. Conditions: Mean sea level at temperature of 115 degrees Fahrenheit as well as 3000 feet elevation at 88 degrees Fahrenheit.

(13) Aircraft shall be "hot load" capable.

(14) Aircraft shall be equipped for inadvertent Instrument Flight Rule (IFR) operation.

(17) Primary response air ambulances must meet the following requirements:

a. Must have separate communication equipment to ensure air medical personnel to ground exchange of information pertinent to the mission between individuals, EMS and law enforcement agencies, and health care facilities, including at a minimum medical control and air traffic control.

b. A similar configured backup rotorcraft of the same capability as the primary aircraft shall be maintained, ready and promptly available to replace the primary response rotorcraft in the event of mechanical failure. The aircraft must be equipped with appropriate survival equipment.

(b) EMS aircraft that are designated or permitted as rescue aircraft providers shall meet the following requirements:

(1) Aircraft shall have an entry that allows loading and unloading without excessive maneuvering of the patient and, for ALS rescue aircraft, does not compromise functioning of monitoring systems, intravenous lines, or other ALS treatments.

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(2) Aircraft must be configured in such a way that air medical personnel have access to any patient in order to begin and maintain basic and advanced life support (ALS rescue aircraft) during flight.

(3) Must have an entry that allows loading and unloading without excessive maneuvering of the patient.

(4) Must be configured in such a way that the air medical personnel have access to the patient in order to begin and maintain both basic and advanced (if a paramedic is on board) life support during flight.

(5) Must be equipped with a stretcher sturdy and rigid enough that it can support cardiopulmonary resuscitation.

(6) The stretchers shall be large enough to carry the 95th percentile adult patient in the U.S., full length in the supine position. (The 95th percentile adult male in the U.S. is 6 ft. and 212 lbs.)

(7) Must have the necessary radios that are capable of communicating with emergency ground units, the air medical communications center, all hospitals in the County, and all law enforcement agencies in the County.

(8) Must be equipped with medical supplies and equipment for the various types of missions to which it will respond, as need indicates. These supplies must include, but not be limited to:

- a. airway management equipment, including oxygen and suction equipment
- b. bandages and dressings
- c. stethoscope
- d. blood pressure kit
- e. cervical collars
- f. assorted splints

(9) All medical equipment must be maintained according to the manufacturer's recommendations, be functional at all altitudes, and must not interfere with the aircraft's avionics.

(10) The aircraft must be equipped with appropriate survival equipment and supplies.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

SEC. 610.913. AIRCRAFT INSPECTION.



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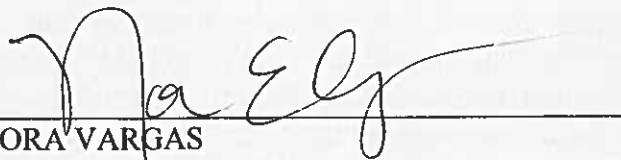
The air medical services provider shall allow the Permit Officer or his/her designee to inspect, on an announced or unannounced basis, all aircraft used to provide air medical services. The inspections should be held, whenever possible, during normal business hours provided, however, that the inspection of an aircraft would be stopped should the aircraft be needed to respond to an emergency call. If, at any time during an inspection, an agency representative, officer, director or agent thereof knowingly makes a false, misleading or fraudulent statement or engages in fraudulent behavior, the Permit Officer may order the suspension or revocation of the ambulance permit as provided for in Section 610.501. The purpose of such inspections may include, but shall not be limited to, determining if:

- (a) the aircraft is properly configured, maintained and equipped for the provision of air medical service.
- (b) the description of the aircraft required by this ordinance is accurate.
- (c) the permitted agency is providing services at the care level authorized by the permit issued.

(Added by Ord. No. 9668 (N.S.), effective 8-14-04; amended by Ord. No. 10274 (N.S.), effective 8-29-13)

APPROVED AS TO FORM AND LEGALITY  
CLAUDIA G. SILVA, County Counsel  
By: Inga Lintvedt, Senior Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 11<sup>th</sup> day of December 2024.


  
NORA VARGAS  
Chair, Board of Supervisors  
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Vargas, Lawson-Remer, Montgomery Steppe, Desmond  
ABSENT: Anderson

ATTEST my hand and the seal of the Board of Supervisors this 11th day of December 2024.

ANDREW POTTER  
Clerk of the Board of Supervisors

By   
Janelly Valdivia, Deputy



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