

Article 4: Public Hazards and Public Nuisances

Division 7: Investigation and Cleanup of Contaminated Property

*(“Investigation and Cleanup of Contaminated Property”
added 12-9-2002 by O-19130 N.S.)*

§54.0701 Findings

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

- (a) Abandoned, underused, or blighted properties which may be adversely affected by *hazardous material* contamination exist within the City.
- (b) *Property* within the City containing *hazardous material* is a *public nuisance*.
- (c) The City desires to encourage remediation of these *properties* both to address the public health and safety and environmental concerns they may pose and to encourage the transformation of such *properties* into developable properties that contribute services, jobs, and other benefits to the City.
- (d) The City endorses the use of the *Act* for the above purposes.
- (e) The City has determined that it is in the best interests of the City to implement and enforce the *Act* and to designate the City Manager or designee as the City office responsible for implementing and enforcing the *Act*.

(“Findings” added 12-9-2002 by O-19130 N.S.)

§54.0702 Purpose

It is the purpose of this Division to implement and enforce the *Act*, as currently constituted and as may be amended from time to time, and to designate the City Manager or designee as the City office responsible for implementing and enforcing the *Act*.

(“Purpose” added 12-9-2002 by O-19130 N.S.)

§54.0703 Definitions

All defined terms in this Division appear in italics. The definitions found in the *Act*, as currently constituted and as may be amended from time to time, shall be applicable to this Division. To the extent not defined therein, the words and phrases in this Division have the meanings set forth in this section.

“*Act*” means the California Land Environmental Restoration and Reuse Act located at California Health and Safety Code sections 25401-25402.3 and sections 57008-57010, as constituted on October 11, 2001 and as may be amended from time to time.

“*Enforcement official*” has the same meaning as that in Municipal Code section 11.0210.

“*Hazardous material*” has the same meaning as that in California Health and Safety Code section 25401.1(b).

“*Local agency*” has the same meaning as that in California Health and Safety Code section 25401.1(c).

“*Oversight agency*” has the same meaning as that in California Health and Safety Code section 25401.1(d).

“*Person*” has the same meaning as that in California Health and Safety Code section 25401.1(e).

“*Properties*” or “*Property*” has the same meaning as that in California Health and Safety Code section 25401.1(h).

“*Public nuisance*” has the same meaning as that in Municipal Code section 11.0210.

“*Remedial action*” has the same meaning as that in California Health and Safety Code section 25401.1(k).

(“*Definitions*” added 12-9-2002 by O-19130 N.S.)

§54.0704 Designation of Local Agency

For purposes of satisfying the requirements of the *Act*, the City Council hereby designates the City Manager or designee as the City office responsible for implementing and enforcing the *Act*.

(“*Designation of Local Agency*” added 12-9-2002 by O-19130 N.S.)

§54.0705 Enforcement Authority

The City Manager or designee is hereby authorized to implement and enforce the provisions of the *Act* and this Division. The City Manager or anyone designated by the City Manager to be an *enforcement official* may exercise any enforcement powers provided in Division 1, Article 2, Chapter I, of this Code.

(“*Enforcement Authority*” added 12-9-2002 by O-19130 N.S.)

§54.0706 Geographical Boundaries

This Division and the *Act* shall be applicable within the city limits of the City of San Diego.

(“*Geographical Boundaries*” added 12-9-2002 by O-19130 N.S.)

§54.0707 Authorized Actions

The City Manager or designee is authorized to take any and all actions which are authorized by the *Act* and are in compliance with all laws, ordinances, and regulations of the City of San Diego.

(“*Authorized Actions*” added 12-9-2002 by O-19130 N.S.)

§54.0708 Authority to Enter Into Agreement With Oversight Agency

The City Manager is authorized to enter into agreements with one or more *oversight agencies*, selected in accordance with the *Act*. These agreements are intended to provide for review, oversight, and related activities as required under the *Act*, and for cost reimbursement to such *oversight agencies*.

(“*Authority to Enter Into Agreement With Oversight Agency*” added 12-9-2002 by O-19130 N.S.)

§54.0709 Council Approval of Remedial Actions

A *remedial action* pursuant to the *Act* may only be initiated after the San Diego City Council, by resolution adopted by a majority vote:

- (a) approves the *remedial action*;
- (b) affirms the finding set forth in the *Act* at section 25401.4(j)(3); and
- (c) makes one or both of the findings set forth in the *Act* at section 25401.7(a)(1).

In addition, notice must be given to the *property* owner or operator pursuant to section 25401.7(b)(1) of the *Act* prior to initiating a *remedial action*.

(“*Council Approval of Remedial Actions*” added 12-9-2002 by O-19130 N.S.)

§54.0710 Violations

It is unlawful for any *person* to violate any provision of this Division which includes all provisions of the *Act*.

(“*Violations*” added 12-9-2002 by O-19130 N.S.)

§54.0711 Enforcement Remedies

Violations of the provisions of this Division and the *Act* may be prosecuted as misdemeanors subject to the fines and custody provided in Municipal Code section 12.0201. The City Manager or designee may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code section 12.0202 or pursue an administrative remedy provided in Chapter I of this Code.

(“*Enforcement Remedies*” added 12-9-2002 by O-19130 N.S.)

§54.0712 Strict Liability Offenses

Violations of the provisions of this Division and the *Act* shall be treated as strict liability offenses regardless of intent.

(“*Strict Liability Offenses*” added 12-9-2002 by O-19130 N.S.)