

## Chapter 4.92 - STORAGE OF HAZARDOUS SUBSTANCES

## Sections:

## 4.92.010 - Purpose.

The purpose of this chapter is the protection of health, life, resources, and property through prevention and control of unauthorized discharges of hazardous materials in underground storage tanks.

(Prior code § 4971; Ord. 2865, 12/20/83)

## 4.92.020 - General obligation—Safety and care.

- (a) No person, firm or corporation shall cause, suffer, or permit the storage of hazardous materials:
  1. In a manner which violates a provision of this chapter or any other local, federal, or state statute, code, rule or regulation relating to hazardous materials; or
  2. In a manner which causes an unauthorized discharge of hazardous materials or poses a significant risk of such unauthorized discharge.
- (b) The Health Officer shall have discretion to exempt an application from any specific requirement of this chapter, other than the requirement for secondary containment in underground storage facilities.

(Prior code § 4971.1; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95)

## 4.92.030 - Specific obligation.

- (a) Any person, firm, or corporation which stores any material regulated by section 4.92.050 which is not excluded by other sections of this chapter shall obtain and keep current a Hazardous Materials Storage Permit.
- (b) All such hazardous materials shall be contained in conformity with sections 4.92.060 to 4.92.080 of this chapter.

(Prior code § 4971.2; Ord. 2865, 12/20/83)

## 4.92.040 - Definitions.

Unless otherwise expressly stated, whenever used in this chapter, the following terms shall have the meanings set forth below:

- (a) Abandoned, when referring to a storage facility, means out of service and not safeguarded in compliance with this chapter.
- (b) Facility means any one, or combination of, underground storage tanks used by a single business entity at a single location or site.
- (c) Hazardous Material or Substance means any material which is subject to regulation pursuant to section 4.92.050 of this chapter. A mixture shall be deemed to be a hazardous material or substance if it is a waste and contains any material regulated pursuant to section 4.92.050 of this chapter.
- (d) Officer means the County Health Officer or any designee of such employee.
- (e) Permit Quantity Limit means the maximum amount of hazardous material that can be stored in a storage facility. Separate permit quantity limits will be set for each storage facility for which a permit is obtained in accordance with the requirements of this chapter.
- (f) This section not currently in use.
- (g) Owner means the owner of an underground storage tank or facility.
- (h) Operator means the operator of an underground storage tank or facility.
- (i) Person means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, and association. Person also includes any city, County, district, the State, or any department or agency thereof.

- Department of Agency Services
- (j) Pipe means any pipeline or system of pipelines which is used in connection with the storage of hazardous substances and which are not intended to transport hazardous substances in interstate or intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.
  - (k) Primary containment means the first level of containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.
  - (l) Product-Tight means impervious to the substance which is contained, or is to be contained, so as to prevent the seepage of the substance from the primary containment. To be product-tight, the tank shall not be subject to physical or chemical deterioration by the substance which it contains over the useful life of the tank.
  - (m) Secondary Containment means the level of containment external to and separate from the primary containment.
  - (n) Single-Walled means construction with walls made of but one thickness of material. Laminated, coated, or clad materials shall be considered as single-walled.
  - (o) Special Inspectors means a professional engineer registered pursuant to Business and Professional Code, who is qualified to attest, at a minimum, to structural soundness, seismic safety, the compatibility of construction materials with contents, cathodic protection, and the mechanical compatibility of the structural elements.
  - (p) Substantially beneath the surface of the ground means that at least 10 percent of the underground tank system volume, including the volume of any connected piping, is below the ground surface or enclosed below earthen materials.
  - (q) Storage or Store means the containment, handling or treatment of hazardous substances, either on a temporary basis or for a period of years. Storage or store does not mean the storage of hazardous wastes in an underground storage tank if the person operating the tank has been issued a hazardous waste facilities permit.
  - (r) Unauthorized Release means any release or emission of any hazardous substance which does not conform to the provisions of this chapter, unless this release is authorized by the State Water Resources Control Board pursuant to division 7 (commencing with section 13000) of the Water Code.
  - (s) Underground Storage Facility means any one or combination of tanks, including pipes connected thereto, which is used for the storage of hazardous substances and which is substantially or totally beneath the surface of the ground.
  - (t) Underground storage tanks means any one or combination of tanks, including pipes connected thereto, which is used for the storage of hazardous substances and which is substantially or totally beneath the surface of the ground. For the purposes of permitting, monitoring and surveillance, "Underground storage tank" does not include the following:
    - (1) A tank with capacity of 1,100 gallons or less which is located on a farm and which stores motor vehicle fuel used primarily for agricultural purposes and not for resale.
    - (2) A tank which is located on a farm or at the residence of a persons, which has a capacity of 1,100 gallons or less, and which stores home heating oil for consumptive use on the premises where stored. A tank which is no longer used to store home heating oil on a farm or residence, or motor vehicle fuel on a farm is not exempt from tank closure, release reporting and initial abatement, or corrective action requirements.
  - (u) Board means the State Water Resources Control Board. Regional board means a California regional water quality control board.
  - (v) SMCEH means San Mateo County Environmental Health Division.

(Prior code § 4971.3; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95)

#### 4.92.050 - Materials regulated.

Hazardous materials shall be regulated by this chapter. "Hazardous materials" means all of the following liquid and solid

Hazardous materials shall be regulated by this chapter. "Hazardous materials" means all of the following liquid and solid substances, unless the California Environmental Protection Agency (Cal/EPA), in consultation with the State Water Resources Control Board, determines the substance could not adversely affect the quality of waters of the state:

- (1) Petroleum.
- (2) Substances on the list prepared by the Director of the Department of Industrial Relations pursuant to section 6382 of the Labor Code.
- (3) Hazardous substances, as defined in section 25316 of the Health and Safety Code.
- (4) Any material which is classified by the National Fire Protection Association (NFPA) as a flammable liquid, a class II combustible liquid, or a class III-A combustible liquid.
- (5) The comprehensive master list of hazardous materials compiled by the Cal/EPA pursuant to Health and Safety Code section 25281.
- (6) Any material which has been determined to be hazardous based on any appraisal or assessment by or on behalf of the party storing the material in compliance with the requirements of the Federal EPA or Cal/EPA or which should have been, but was not, determined to be hazardous due to the deliberate failure of the party storing the material to comply with the requirements of the Federal EPA and/or Cal/EPA.
- (7) Any material which has been determined through testing or other objective means, to be likely to create a significant potential or actual hazard to public health, safety or welfare. This subsection shall not establish a requirement to test for the purposes of this chapter.

(Prior code § 4972; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95; Ord. 3737, 9/24/96)

#### 4.92.060 - Containment of hazardous materials.

- (a) No person, firm or corporation shall store any hazardous materials in underground storage tanks regulated by this chapter until a permit or approval has been issued pursuant to this chapter and to Chapter 6.75 of the Health and Safety Code and the Chapter 18, Title 23 regulations. No permit or approval shall be granted pursuant to this chapter unless permit applicant demonstrates to the satisfaction of SMCEH by the submission of appropriate plans and other information, that the design and construction of the storage facility will result in a suitable manner of storage for the hazardous material or materials to be contained therein.
- (b) All installation, construction, repair or modification, closure, and removal shall be to the satisfaction of SMCEH which shall have the discretion to impose reasonable additional or different requirements in order to better secure the purpose and general obligation of this chapter for protection of public health, safety, and welfare.

(Prior code § 4973; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95; Ord. 3737, 9/24/96)

#### 4.92.070 - New underground storage facilities.

Every underground storage tank installed after January 1, 1984, shall meet the following requirements:

- (a) Be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in them in accordance with the following performance standards:
  - (1) Primary containment shall be product-tight.
  - (2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing, for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.
  - (3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.
  - (4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.
  - (5) If the facility is open to rainfall, then the secondary containment must be able to additionally

accommodate the volume of a 24-hour rainfall as determined by a 25-year storm history.

- (6) Single-walled containers do not fulfill the requirements of an underground storage tank providing for both a primary and secondary containment.
- (b) Be designed and constructed with a monitoring system capable of detecting the entry of the hazardous material stored in the primary containment into the secondary containment. If water could intrude into the secondary containment, a means of monitoring for water intrusion and for safety removing the water shall also be provided.
- (c) A means of overflow protection for any primary tank, including an overflow prevention device or an attention-getting high level alarm, or both shall be provided. Primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this paragraph.
- (d) Different substances that in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, shall be separated in both the primary and secondary containment so as to avoid potential intermixing.
- (e) If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of removing the water by the owner or operator. This removal system shall also provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

(Prior code § 4973.1; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95)

#### 4.92.080 - Other underground storage facilities.

For every underground storage tank installed on or before January 1, 1984, and used for the storage of hazardous substances the following actions shall be taken:

- (a) On or before January 1, 1985, the owner shall outfit the facility with a monitoring system capable of detecting unauthorized releases of any hazardous substances stored in the facility, and thereafter, the operator shall monitor each facility, based on materials stored and the type of monitoring installed.
- (b) Provide a means for visual inspection of the tank, wherever practical, for the purpose of the monitoring required by paragraph (a). If visual monitoring is not possible, the tank owner/operator shall use a quantitative or qualitative monitoring method as described in California Code of Regulations, Title 23, Division 3, Chapter 16, Article 4, section 2643 through section 2648.

(Prior code § 4973.2; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95)

#### 4.92.090 - Variance.

- (a) It is the intent of this ordinance to protect the public health and safety and enhance water quality while respecting the rights of private property owners economically viable use of land. It is not the intent of this ordinance to prohibit all economically viable use of private lands, nor to result in a confiscatory impact. Accordingly, the purpose of this section is to provide for an administrative procedure for a waiver of modification of a particular provision of this ordinance in the event that the strict application of this ordinance would result in the denial of all economically viable use of real property.
- (b) An applicant for a waiver of a provision of this ordinance shall file a waiver application with the Director of the Division of Environmental Health on a form provided by the Director identifying the provision sought to be waived or modified. The applicant shall file a complete form and shall provide all documentation and information required by the Director to determine whether application of the provision in question will prohibit any economically viable use of the land in question or otherwise have a confiscatory impact.
- (c) The Director may approve, deny, or conditionally approve a waiver application upon determining whether:
  - (1) The application of the provision in question will prohibit any economically viable use of the land in question or otherwise have a confiscatory result.
  - (2) Approval of such a waiver will not result in a public nuisance which would constitute a direct threat to the

(2) Approval of such a waiver will not result in a public nuisance which would constitute a direct threat to the public health and safety.

(3) A waiver granted under this section must be consistent with State law and regulations.

(d) The determination made by the Director of Environmental Health on any waiver application shall be final.

(Prior code § 4973.3; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95; Ord. 3737, 9/24/96)

#### 4.92.100 - Abandoned underground storage tanks.

- (a) No person shall abandon an underground storage tank or close or temporarily cease operating an underground storage tank, except as provided in this section. This section applies to underground storage tanks subject to permitting and monitoring requirements as well as home heating oil and agricultural tanks 1100 gallons or less in capacity.
- (b) An underground storage tank which is temporarily taken out of service, but which the person intends to return to use, within the next 12 consecutive months, shall continue to be subject to all the permit, inspection, and monitoring requirements of this chapter, unless the person complies with the provision of paragraph (c) of this section for the period of time the underground tank is not in use.
- (c) Any person shall comply with all of the following requirements to complete and maintain temporary closure of any underground storage tank:
- (1) All residual liquid, solids or sludges have been removed and handled in accordance with the applicable provisions of Chapter 6.5 and 6.7 of Division 20 of the Health and Safety Code.
  - (2) If the underground storage tank contained a substance that could produce flammable vapors at standard temperature and pressure, it shall be inerted as often as necessary, to levels that will preclude an explosion or to lower levels as required by the local agency.
  - (3) The underground storage tank may be filled with a noncorrosive liquid that is not a hazardous substance. This liquid shall be tested and test results submitted to the local agency prior to removal from the underground storage tank at the end of the temporary closure period.
  - (4) Except for required venting, all fill and access locations and piping shall be sealed using locking caps or concrete plugs.
  - (5) Power service shall be disconnected from all pumps associated with the use of the underground storage tank unless the power services other equipment which is not being closed, such as impressed-current cathodic protection system.
  - (6) The underground storage tank shall be inspected by said person at least once every three months to verify that the temporary closure measures are still in place.
  - (7) At the end of the temporary closure period said person may reuse the underground storage tank only if the tank meets the requirements for new underground storage tanks or is upgraded to meet the requirements of CCR, Title 23, Chapter 16, Article 6, section 2662.
- (d) Persons with responsibility for underground storage tanks subject to permanent closure shall comply with either paragraph (1) for underground storage tank removal or paragraph (2) for closure in place. It is not essential that all portions of an underground storage tank be permanently closed in the some manner; however, all closure actions shall be conducted in accordance with this section. Paragraphs (3) and (4) apply to all underground storage tanks subject to permanent closure.
- (1) Persons with responsibility for underground storage tanks subject to permanent closure shall comply with applicable provisions of Chapter 6.5 of Division 20 of the Health and Safety Code and with the following requirements: a) All residual liquid solids, or sludges shall be removed, and handled as a hazardous waste or recyclable material in accordance with Chapter 6.5 of the Health and Safety Code; b) If the underground storage tank contained a hazardous substance that could produce flammable vapors at standard temperature and pressure, it shall be inerted to levels that shall preclude explosion or to lower levels as required by SMCEH; c) All underground storage tanks or any part thereof subject to permanent closure shall be managed as hazardous waste. The person responsible for the underground storage tank shall document to SMCEH that proper disposal has been completed.

- (2) Persons with responsibility for underground storage tanks subject to permanent closure where the tanks are approved to be closed in place shall comply with the applicable provisions of Chapters 6.5 and 6.7 of Division 20 of the Health and Safety Code and with the following requirements: a) Closure in place shall only be approved in situations where underground storage tank removal will jeopardize the structural integrity of a building or other permanent structure; b) All residual liquid, solids, or sludges shall be removed and handled as a hazardous waste or recyclable material in accordance with Chapter 6.5 and 6.7 of the Health and Safety Code; c) If the underground storage tank contained a hazardous substance that could produce flammable vapors at standard temperature and pressure, it shall be inerted to levels that shall preclude explosion or to lower levels as may be required by SMCEH; d) All piping associated with the underground storage tank shall be removed and disposed of unless the removal might damage structures or other pipes that are being used and that are contained in a common trench, in which case the piping to be closed shall be emptied of all contents and capped; e) The underground storage tank, except for piping that is emptied and capped shall be completely filled with an inert solid.
- (3) Any person responsible for an underground storage tank being closed pursuant to this section shall demonstrate to the satisfaction of SMCEH that no unauthorized release has occurred. This demonstration shall be based on soil sample analysis and/or water analysis if water is present in the excavation. This analysis shall be performed during or immediately after closure activities. If the demonstration is based on soil sample analysis, soil samples shall be taken and analyzed as follows: a) If the underground storage tank or any portion thereof is removed, soil samples shall be taken immediately beneath the removed portions of the tank, a minimum of two feet into native material at each end of the tank. A separate sample shall be taken for each 20 lineal-feet of trench for piping; b) If the underground storage tank or any portion thereof is not removed, at least one boring shall be taken as close as possible to the midpoint beneath the tank using a slant boring (mechanical or manual), or other appropriate method such as vertical borings drilled on each long dimension side of the tank as approved by SMCEH; c) Soils shall be analyzed for all constituents of the previously stored hazardous substances and their breakdown or transformation products. SMCEH may waive the requirement for analysis of all constituents, breakdown or transformation product when key constituents that pose a significant threat to water quality or the environment can be identified for analysis.
- (4) The detection of any reportable unauthorized release shall require compliance with the applicable requirements of sections 4.92.110 and 4.92.130 of this chapter.

(Prior code § 4973.4; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95; Ord. 3737, 9/24/96)

#### 4.92.110 - Unauthorized releases—Reporting and recording requirements.

- (a) Any unauthorized release from the primary containment which the operator is able to cleanup within eight hours, and which does not escape from the secondary containment, does not increase the hazard of fire or explosion and does not cause any deterioration of the secondary containment of the underground storage tank shall be reported by the operator to the Health Officer within 24 hours of detection, and shall be recorded on the operator's monitoring reports. The operator's monitoring records shall include:
- (1) The operator's name and telephone number;
  - (2) A list of the types, quantities, and concentrations of hazardous substances released;
  - (3) A description of the actions taken to control and clean up the release;
  - (4) The method and location of disposal of the released hazardous substances (the monitoring record shall indicate whether a hazardous waste manifest was or will be used);
- (b) The integrity of the secondary containment shall be reviewed for possible deterioration under the following conditions:
- (1) Hazardous substances in contact with the secondary containment is not compatible with the material used for secondary containment;
  - (2) The secondary containment is prone to mechanical damage from the mechanical equipment used to remove or clean up the hazardous substance collected in the secondary containment; or
  - (3) Hazardous substances, other than those stored in the primary containment system, are added to the

- (b) Hazardous substances, other than those stored in the primary containment system, are added to the secondary containment to treat or neutralize the released hazardous substance and the added substance or resulting substance form such a combination is not compatible with the secondary containment.
- (c) Any unauthorized release which escapes from the secondary containment, increases the hazard of fire or explosion, or causes any deterioration of the secondary containment of the underground tank shall be reported to the Health Officer by the operator within 24 hours after the release has been detected or should have been detected. A full written report shall be transmitted to the Health Officer by the owner or operator of the underground storage tanks within five working days of the occurrence of the release. The report shall describe the nature and volume of the unauthorized release, any corrective or remedial actions undertaken, and any further corrective or remedial actions, including investigative actions, which will be needed to clean up the unauthorized release and abate the effects of the release and a time schedule for implementing these actions.
- (d) The Health Officer shall review the permit whenever there has been an unauthorized release or when the Health Officer determines that the underground storage tank is unsafe. In determining whether to modify or terminate the permit, the Health Officer shall consider the age of the tank, the methods of containment, the methods of monitoring, the feasibility of any required repairs, the concentration of the hazardous substances stored in the tank, the severity of potential unauthorized releases, and the suitability of any other long-term preventive measures which would meet the requirements of this chapter.

(Prior code § 4973.5; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95)

#### 4.92.120 - Unauthorized releases—Repairs.

If there has been any unauthorized release, as defined in 4.92.110(a) and (b), from an underground storage tank containing motor vehicles fuel not under pressure, the permit holder may repair the tank once by an interior-coating process if the tank meets all of the following requirements:

- (a) An ultrasonic test, or comparable test, has been conducted to determine the thickness of the storage tank. If the result of the test indicates that a serious corrosion problem exists with regard to the tank, or if the tank's average metal thickness is less than 75% of the original wall thickness, or if the tank has an open split or seam longer than 3 inches, a perforation larger than one and one half inches in diameter except directly below a gauging opening at the bottom of a tank where the perforation shall be no larger than two and one half inches in diameter, five or more perforations in any one square foot area, or multiple perforations of which any single perforation is larger than one half inch in diameter the Health Officer may require additional corrosion protection for the tank or may deny the authorization to repair.
- (b) A vacuum test has been conducted with a result indexed at not more than 5.3 inches of mercury. This requirement shall not be applicable if technology is not available for testing the tank on site using accepted engineering practices.
- (c) Following repair, the standard installation testing for requirements for underground storage tanks specified in section 2-7.3 of the Flammable and Combustible Liquids Code, by the National Fire Protection Association on November 20, 1981 (NFPA 30-1981), and published in the 1982 edition of the National Fire Code shall be followed.
- (d) The material used to repair the tank by an interior-coating process is compatible with the motor vehicle fuel that is stored, as approved by the State Water Resources Control Board by regulation.
- (e) The material used to repair the tank by an interior-coating process is applied in accordance with nationally recognized engineering practices such as the American Petroleum Institute's recommended practice no. 1631 for the interior lining of existing underground storage tanks.
- (f) Any regulations developed by the State Water Resources Control Board, in consultation with the State Fire Marshal, for the repair of underground storage tanks, and the standards in this section shall remain in effect until the adoption of these regulations.

(Prior code § 4973.6; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95)

## 4.92.130 - Unauthorized releases—Cleanup responsibility.

Any person, firm or corporation responsible for storing the hazardous material shall institute and complete all actions necessary to remedy the effects of any unauthorized discharge, whether sudden or gradual. These actions shall include but not be limited to the procedures outlined in CCR, Title 23, Division 3, Chapter 16, Article 5 for release reporting requirements and Article 11 for corrective action requirements. The Health Officer shall undertake actions to remedy the effects of such unauthorized discharge itself, only if it determines that it is reasonably necessary under the circumstances for the County to do so. The responsible party shall be liable to reimburse the County for all costs incurred by the County in remedying the effects of such unauthorized discharge, including the costs of fighting fires to the extent allowed by law. This responsibility is not conditioned upon evidence of willfulness or negligence of the party storing the hazardous material(s) in causing or allowing such discharge. Any responsible party who undertakes action to remedy the effects of unauthorized discharge(s) shall not be barred by this chapter from seeking to recover appropriate costs and expenditures from other responsible parties unless otherwise excluded by this chapter or State law.

(Prior code § 4973.7; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95)

## 4.92.140 - Public participation.

For each confirmed unauthorized release that requires a corrective action plan, SMCEH shall follow the requirements outlined in California Code of Regulations, Title 23, Division 3, Article 11, section 2728.

(Ord. 3687, 11/14/95)

## 4.92.150 - Unauthorized releases—Indemnification.

As a condition of the issuance of a permit under this chapter, the Health Officer may require the permittee to agree in writing to indemnify, hold harmless and defend the County against any claim, cause of action, disability, loss, liability, damage, cost or expense, howsoever arising, which occurs by reason of an unauthorized discharge in connection with permittee's operations under this permit, except as arises from County's sole willful act or sole active negligence.

(Prior code § 4973.8; Ord. 2865, 12/20/83)

## 4.92.160 - Handling, emergency procedures and access.

- (a) Dispensing and mixing of hazardous materials must not be done in such a manner as to substantially increase the risk of an unauthorized discharge. When hazardous materials are moved into or out of a storage facility, they shall remain in the travel path only for the time reasonably necessary to transport the hazardous materials and such movement shall be in a manner which will not result in an unauthorized discharge.
- (b) Access to the storage facilities shall be secured by means of fences and/or locks. The access to the storage facilities shall be kept securely locked when unattended.
- (c) Emergency equipment shall be provided which is reasonable and appropriate for potential emergencies presented by the stored hazardous materials. Such equipment shall be regularly tested and adequately maintained.
- (d) Simplified emergency procedures shall be posted conspicuously in locations where hazardous materials are stored.

(Prior code § 4973.9; Ord. 2865, 12/20/83)

## 4.92.170 - Inspections and records—Authority.

In order to carry out the purposes of this chapter, the Health Officer has the authority specified in Health and Safety Code section 25185 with respect to any place where underground storage tanks are located, and in Health and Safety Code section 25185 with respect to real property which is within 2,000 feet of any place where underground storage tanks are



SECTION 49705 with respect to real property which is within 2,000 feet of any place where underground storage tanks are located.

(Prior code § 4974; Ord. 2865, 12/20/83)

#### 4.92.180 - Inspections.

- (a) The Health Officer shall inspect every underground storage tank within its jurisdiction at least once every three years. The purpose of the inspection is to determine whether the tank complies with design and construction standards, whether the operator has monitored and tested the tank as required by the permit, and whether the tank is in a safe operating condition. After an inspection, the Health Officer shall prepare a compliance report detailing the inspection and shall send a copy of this report to the permit holder.
- (b) In addition to, or instead of, the inspections specified in paragraph (a), the Health Officer may require the permit holder to employ, periodically, special inspectors to conduct an audit or assessment of the permit holder's facility to determine whether the facility complies with the factors specified in paragraph (a) and to prepare a special inspection report with recommendations concerning the safe storage of hazardous materials at the facility. The report shall contain recommendations consistent with the provisions of this chapter, where appropriate. A copy of the report shall be filed with the Health Officer at the same time the inspector submits the report to the permit holder. Within 30 days after receiving this report the permit holder shall file with the Health Officer, a plan to implement all recommendations contained in the report or shall demonstrate to the satisfaction of the Health Officer why these recommendations should not be implemented.
- (c) The permittee shall pay for each inspection a fee as established by resolution of the Board of Supervisors.

(Prior code § 4974.1; Ord. 2865, 12/20/83)

#### 4.92.190 - Maintenance of records.

- (a) The operator of the underground storage facility shall monitor the facility using the method specified on the permit for the facility. Records shall be kept in sufficient detail to enable the Health Officer to determine the operator has undertaken all monitoring activities required by the permit to operate.
- (b) If the operator is not the owner, the owner shall provide a copy of the permit to the operator, enter into a written contract with the operator which requires the operator to monitor the tank as set forth in the permit, and provide the operator with a summary of this section in an approved form. The owner shall notify the Health Officer of any change of operator.

(Prior code § 4974.2; Ord. 2865, 12/20/83)

#### 4.92.200 - Requirement for permit.

- (a) Except as provided in section 4.92.210, no person shall own or operate an underground storage tank unless a permit for its operation has been issued by the Health Officer to the owner, which permit shall specify the method to be used to monitor the facility. All permits are nontransferable.
- (b) Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid operating permit has been issued shall have 30 days after the date of assumption of ownership to apply for an operating permit. During the period from the date of application until the permit is issued or refused, the person shall not be held to be in violation of this section.
- (c) When, in its judgment, it is appropriate to do so, the Health Officer may issue a single permit to a person for a facility. Additional approvals shall be obtained for any storage facility thereafter connected, installed, constructed, repaired as required, substantially modified, replaced, closed or removed, or for any change or addition in hazardous materials stored, not in accordance with the prior approval.

(Prior code § 4975; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95)

#### 4.92.210 - Required information for permit application.

- (a) An application for a permit to operate an underground storage tank, or for renewal of the permit, shall be made, by the owner, on a standardized form prepared by the County and provided by the Health Officer and shall be accompanied by the appropriate fee.
- (b) The Health Officer shall store this information for the purpose of managing and appropriately cross referencing and indexing this data. The application form shall include, but not be limited to, requests for the following information:
  - (1) A description of the construction of the underground storage tank or tanks.
  - (2) A list of all the hazardous substances which are or will be stored in the underground storage tank or tanks, specifying the hazardous substances for each underground storage tank.
  - (3) A description of the monitoring program for the underground storage tank or tanks.
  - (4) The name and address of the person, firm, or corporation which owns the underground storage tank or tanks and, if different, the name and address of the person who operates the underground storage tank or tanks.
  - (5) The address of the facility at which the underground storage tank or tanks are located.
  - (6) The name of the person making the application.
  - (7) The name and 24-hour phone number of the contact person in the event of an emergency involving the facility.
  - (8) If the owner or operator of the underground storage tank is a public agency, the application shall include the name of the supervisor of the division, section or office which operates the tank.
- (c) As a condition of any permit to operate an underground storage tank, the permittee shall complete an annual report form, prepared by the Health Officer which will detail any changes in the usage of any underground storage tanks, including the storage of new hazardous substances, changes in monitoring procedure and unauthorized release occurrences.
- (d) If a permittee stores in an underground storage tank or tanks a hazardous substance which is not listed in the application, as required by paragraph (2) of subdivision (b), the permittee shall apply for a new or amended permit within 30 days after commencing the storage of that hazardous substance.

(Prior code § 4975.1; Ord. 2865, 12/20/83)

#### 4.92.220 - Approval of permit.

A permit shall not be approved until the Health Officer is satisfied that the storage approved adequately conforms to the provisions of this chapter.

(Prior code § 4975.2; Ord. 2865, 12/20/83)

#### 4.92.230 - Fees for permit.

- (a) A fee shall be paid to the County by each person who submits an application for a permit to operate an underground storage tank or to renew or amend a permit. The Board of Supervisors shall adopt a fee schedule at a level sufficient to pay the necessary and reasonable costs incurred in administering this chapter, including, but not limited to, permitting and inspection responsibilities.
- (b) This fee shall include a surcharge, the amount of which shall be determined by the Legislature annually to cover the costs of the State Water Control Board in carrying out its responsibilities under this chapter.

(Prior code § 4975.3; Ord. 2865, 12/20/83)

#### 4.92.240 - Criminal penalties.

Any person who violates any provision of this chapter shall be liable for civil and criminal penalties as outlined in the Health and Safety Code, Chapter 6.7, section 25299 or Health and Safety Code, Chapter 6.75, commencing with section 25299.10.

- (1) Responsibility for Violations. The owner, manager, or operator of any facility is responsible for any violation by an employee of any provision of this chapter or any regulation adopted pursuant to this chapter.

(Prior code § 4976; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95; Ord. 3737, 9/24/96)

#### 4.92.250 - Continuing violations.

Unless otherwise provided, a person, firm, corporation or organization, shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person, firm, corporation, or organization and shall be punishable accordingly as herein provided.

(Ord. 3687, 11/14/95)

#### 4.92.260 - Concealment.

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation of such provision.

(Ord. 3687, 11/14/95)

#### 4.92.270 - Civil penalties.

Any person who violates any provision of this chapter shall be liable for the civil penalties provided in state law.

- (a) Civil Actions. In addition to any other remedies provided in this section, any violation of this section may be enforced by civil action brought by the County. In any such action, the County may seek, as appropriate, any or all of the following remedies, or any other such remedy deemed appropriate by the County:
  - (1) A temporary and/or permanent injunction.
  - (2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.
  - (3) Costs incurred in removing, correcting, or terminating the adverse effects from the violation, including reasonable attorney's fees and court costs.
  - (4) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection shall be paid to the County to be used exclusively for costs associated with implementing or enforcing the provisions of this ordinance.

(Prior code § 4976.1; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95)

#### 4.92.280 - Administrative enforcement powers.

In addition to other enforcement powers and remedies established by this ordinance, any authorized Enforcement Official has the authority to utilize administrative remedies.

(Ord. 3687, 11/14/95)

#### 4.92.290 - Remedies not exclusive.

Remedies under this chapter are in addition to and do not supersede or limit any and all other legal remedies and penalties, whether civil or criminal in nature.

(Prior code § 4976.2; Ord. 2865, 12/20/83)

## 4.92.300 - Disclaimer of liability.

- (a) The degree of protection required by this chapter is considered reasonable for regulatory purposes. The standards set forth herein are minimal standards and this chapter does not imply that compliance will ensure that there will be no unauthorized discharge of hazardous material. This chapter shall not create liability on the part of the County, any officer or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. All persons holding, storing, using, processing, and disposing of hazardous materials within the County should be and are advised to determine to their own satisfaction the level of protection in addition to that required by this chapter necessary or desirable to ensure that there is no unauthorized discharge of hazardous materials.

(Prior code § 4977; Ord. 2865, 12/20/83)

## 4.92.310 - Regulations.

The Health Officer shall implement California Code of Regulations, Title 23, Division 3, Chapter 16 as adopted by the State Water Resources Control Board January 1, 1984, including all subsequent and future amendments.

(Prior code § 4977.1; Ord. 2865, 12/20/83; Ord. 3687, 11/14/95)

## 4.92.320 - Conflict with other laws.

Notwithstanding any provision of this chapter:

- (a) Whenever any provisions of this chapter conflicts with any State or Federal regulations of storage facilities, the stricter provisions will prevail.
- (b) Whenever any provision of this chapter conflicts with the Fire Code as adopted by the County, the stricter provision shall prevail.

(Prior code § 4977.2; Ord. 2865, 12/20/83)

## 4.92.330 - Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The County Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

(Prior code § 4977.3; Ord. 2865, 12/20/83)