

1 [Health Code - Hazardous Materials]

2 **Ordinance amending the Health Code to require electronic applications for registration**
3 **of hazardous materials and for underground storage tanks be filed through the**
4 **California Environmental Reporting System, to eliminate the requirement that**
5 **registration of hazardous materials plans include a program for reduction of hazardous**
6 **materials, and to provide for fee adjustment; and making environmental findings.**

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8 NOTE: Additions are *single-underline italics Times New Roman*;
9 deletions are ~~*strike-through italics Times New Roman*~~.
10 Board amendment additions are double-underlined;
11 Board amendment deletions are ~~strikethrough normal~~.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. The Planning Department has determined that the actions contemplated in
14 this ordinance comply with the California Environmental Quality Act (California Public
15 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the
16 Board of Supervisors in File No. ____ and is incorporated herein by reference.

17 Section 2. The San Francisco Health Code is hereby amended by amending Sections
18 1110.1, 1120, and 1120.1, and adding Section 1176.1 to read as follows:

19 **SEC. 1110.1. HAZARDOUS MATERIALS PLANS AND APPLICATION FOR**
20 **CERTIFICATE OF REGISTRATION.**

21 Every business, or owner of real property upon which an establishment is located, that
22 is required by this Article to register and implement a hazardous materials plan shall obtain a
23 certificate of registration by filing ~~an written~~ application ~~with the Director of Health~~ through the
24 California Environmental Reporting System ("CERS") upon forms furnished for that purpose,
25 certifying that the hazardous materials plan as described in the application meets the

1 requirements of ~~this Article~~ California Health & Safety Code 25404, et seq., and paying the
2 required fees. ~~A complete application shall include, without limitation, all of the following:~~

3 (a) ~~— Part 1. General business information, which shall include, but not be limited to:~~

4 ~~— (1) The name and address of the establishment and business phone number of~~
5 ~~applicant, the name and titles and 24-hour emergency phone numbers of the primary response person~~
6 ~~and an alternate, the number of employees, number of shifts, hours of operation, and principal business~~
7 ~~activity and its SIC Code number;~~

8 ~~— (2) The names and addresses of the persons who own and operate the business and, if~~
9 ~~different, the name and address of the person or persons who own the real property upon which the~~
10 ~~business or any portion thereof is located;~~

11 ~~— (3) Such other information as is necessary to enable the Director of Health to~~
12 ~~determine that employees and the general public are protected from exposure to hazardous materials.~~

13 (b) ~~— Part 2. A chemical inventory reporting form, including but not limited to the following~~
14 ~~information:~~

15 ~~— (1) The information required pursuant to Health and Safety Code Section 25509 and~~
16 ~~any implementing regulations;~~

17 ~~— (2) Any additional inventory information required by Section 11022 of Title 42 of the~~
18 ~~United States Code, as that section read on August 1, 1997, or as it may be subsequently amended,~~
19 ~~until such time as the inventory information required above is determined, pursuant to federal law or~~
20 ~~regulation, to be substantially equivalent to the inventory information required under the Emergency~~
21 ~~Planning and Community Right-to-Know Act of 1986 (Title 42 of the United States Code, commencing~~
22 ~~with Section 11001);~~

23 ~~— (3) For mixtures, the inventory information reported shall be the required information~~
24 ~~on the entire mixture;~~

1 ~~—— (4) — For hazardous materials handled by freight forwarding and freight transportation~~
2 ~~services, the establishment is not required to report hazardous materials stored for less than 30 days.~~

3 ~~—— (c) — Part 3. A plan for emergency response to a release or threatened release of a~~
4 ~~hazardous material, including but not limited to the following information:~~

5 ~~—— (1) — Immediate notification to appropriate local emergency rescue personnel;~~

6 ~~—— (2) — Procedures for the mitigation of a release or threatened release to minimize any~~
7 ~~potential harm or damage to persons, property or the environment;~~

8 ~~—— (3) — Evacuation plans and procedures, including immediate notice, for the business site~~
9 ~~and for the affected public;~~

10 ~~—— (4) — Information on the availability, testing, and maintenance of emergency equipment.~~

11 ~~—— (d) — Part 4. A program and implementation plan for training all new employees and annual~~
12 ~~training, including refresher courses, for all employees in safety procedures in the event of a release or~~
13 ~~threatened release of a hazardous material, including but not limited to, familiarity with the plans and~~
14 ~~procedures specified in Part 3. Businesses shall maintain written records of such training including,~~
15 ~~but not limited to, descriptions of the training classes held and lists of attendees, including names,~~
16 ~~dates, and signatures. Such documentation shall be provided to the Director upon request.~~

17 ~~(e) Part 5. A program for reducing the use of hazardous materials and the generation of~~
18 ~~hazardous waste if required of the applicant pursuant to this subsection.~~

19 ~~—— (1) — For an applicant subject to the Hazardous Waste Reduction and Management~~
20 ~~Review Act (HWRMRA) (Article 11.9 of Chapter 6.5 of Division 20 of the California Health and Safety~~
21 ~~Code, commencing with Section 25244.12), which Act is incorporated into this Article by reference, the~~
22 ~~applicant shall, on request of the Director of Health, submit a copy of the applicant's current source-~~
23 ~~reduction evaluation review and plan, hazardous waste management performance report, and plan and~~
24 ~~report summaries prepared pursuant to Health and Safety Code Section 25244.18(g) and applicable~~
25 ~~regulations.~~

1 (2) ~~For an applicant not subject to HWRMRA, if a California Department of Toxic~~
2 ~~Substances Control Hazardous Waste Audit Study Checklist is available for the applicant's industry~~
3 ~~classification, the applicant shall, on request of the Director of Health, submit a completed copy of the~~
4 ~~most current applicable checklist and a certification by the applicant that the information contained in~~
5 ~~the completed checklist is true and correct to the best of the applicant's knowledge. An applicant may~~
6 ~~exempt from the audit any waste stream which is exempted from the requirements of HWRMRA and its~~
7 ~~implementing regulations. The audit shall be reviewed and updated every four years.~~

8 —(3)—(A) ~~For each applicant covered by Subsection (e)(1) or (2) above, whose inventory~~
9 ~~includes one or more hazardous materials that do not enter a waste stream, the applicant shall submit~~
10 ~~a hazardous materials reduction plan that takes into account all hazardous materials stored and~~
11 ~~identifies hazardous materials reduction measures that are technically feasible and economically~~
12 ~~practicable.~~

13 —(B) ~~The plan shall identify technically feasible product substitutions or product use~~
14 ~~reduction or elimination measures.~~

15 —(C) ~~The plan shall estimate hazardous materials use expected to be reduced~~
16 ~~annually, a timetable for implementation of each reduction measure and certification that the~~
17 ~~information submitted in the plan is true and correct to the best of the knowledge of the applicant.~~

18 (fe) ~~Part 65. A map of the business establishment drawn at a scale and in a format and~~
19 ~~detail that meets the Director's requirements. The map shall be updated whenever the business is~~
20 ~~required to obtain an addendum to the certificate of registration or any additional approvals.~~

21 —(gf) ~~In the event the business determines that some or all of the information contained in~~
22 ~~the hazardous materials application for registration constitutes a trade secret, the business shall place~~
23 ~~such information on a separate hazardous materials application for registration and clearly mark each~~
24 ~~sheet of said form "Trade Secret." The Director shall take measures to ensure that the information~~
25 ~~contained on the hazardous materials application for registration not be disclosed except pursuant to~~

1 ~~the protections and according to the procedures and standards set down in Section 1142 and any~~
2 ~~regulations adopted by the Health Commission pursuant to the provisions of this Article.~~

3 ~~—(hg)—In addition to the information previously specified in this Section, the Department~~
4 ~~may require a business or the owner of real property upon which a business establishment is located to~~
5 ~~submit hazard characteristic information on the hazardous materials stored, including but not limited~~
6 ~~to, applicable Material Safety Data Sheets, and any additional information that it finds is necessary to~~
7 ~~protect the health and safety of persons, property, or the environment. Following submittal of hazard~~
8 ~~characteristic information, the Department may require the applicant to revise any part of the~~
9 ~~application to accurately reflect hazards identified by the Department through review of such~~
10 ~~information.~~

11 **SEC. 1120. PERMIT TO OPERATE AN UNDERGROUND STORAGE TANK.**

12 (a) Except as otherwise authorized by this Article, Chapter 6.7 of the California
13 Health and Safety Code, commencing with Section 25280, and any implementing regulations,
14 no person shall own or operate an underground storage tank ("UST") unless a permit for its
15 operation has been issued by the Department as required by this Article, Chapters 6.7 and
16 6.75 of the California Health and Safety Code, commencing with Section 25280, and any
17 implementing regulations.

18 (b) Any person required to obtain a UST permit pursuant to this Article shall
19 submit an application through the California Environmental Reporting System ("CERS") and any
20 required information and fees upon notification by the Department. Any person so notified by
21 the Department who fails to submit the required information and fees within the time specified
22 in the notice shall be assessed an additional fee and a site investigation fee, if a site
23 investigation is required, as a penalty. The amount of the additional fee and site investigation
24 fee is specified in Section 1176. A person assessed such fees may appeal the amount of the
25 fee levied by requesting a Director's hearing pursuant to Section 1137.

1 **SEC. 1120.1. APPLICATION FOR PERMIT.**

2 (a) Any person that is required to obtain one or more UST permits shall obtain the
3 permits by filing the required application form through the California Environmental Reporting
4 System ("CERS") application forms required by the Department, paying the required permit fee and
5 demonstrating compliance with this Article, and Article 31, if the permit is for a site located in
6 Hunters Point Shipyard Parcel A as determined by inspection of the UST by the Department.
7 For permits in the area of San Francisco subject to the requirements of Article 31, such permit
8 application shall not be deemed complete until the department receives written notification
9 from the Director that the applicant has complied with all provisions of Article 31 that are
10 required to be met prior to permit issuance.

11 (b) Any person required to obtain a UST permit shall submit the information
12 required by the Department, Article 31 and Chapters 6.7 and 6.75 of the California Health and
13 Safety Code (commencing with Section 25280) and implementing regulations adopted by the
14 State Water Resources Control Board and the Health Commission. No permit shall be granted
15 to the owner or operator of a UST unless the applicant demonstrates compliance with this
16 Article and its implementing regulations, Article 31 and all applicable provisions of Chapters
17 6.7 and 6.75 of the California Health and Safety Code (commencing with Section 25280) and
18 implementing regulations, as the law and regulations may be amended.

19 (c) All modifications, repairs, closures and removals of USTs shall require
20 approval of the Department, compliance with this Article and its implementing regulations,
21 compliance with Article 31 if the approval is for a site in Hunters Point Shipyard Parcel A,
22 compliance with applicable provisions of Chapters 6.7 and 6.75 of the California Health and
23 Safety Code (commencing with Section 25280) and its implementing regulations, and
24 payment of applicable fees. Any person who performs unauthorized modifications, repairs,
25 removals or closures, or fails to schedule a site inspection with the Department prior to

1 performing such work shall be assessed additional fees and a site investigation fee, if a site
2 investigation is required, as a penalty. The amount of the additional fees and site investigation
3 fee is specified in Section 1176. A person assessed such fees may appeal the amount of the
4 fee levied by requesting a Director's hearing pursuant to Section 1137.

5 (d) No permit may be granted pursuant to this Article until the Department has
6 inspected the UST and unless the applicant has corrected any Code violations cited by the
7 Department; the applicant has furnished all requested information and paid the required
8 permit fees; and the applicant demonstrates to the satisfaction of the Director of Health, by the
9 submission of appropriate plans and other required information, that the design and
10 construction of the UST meets all applicable City, State and federal laws and regulatory
11 requirements.

12 (e) Each permit shall include requirements that the person reimburse the City for
13 extraordinary costs, in addition to applicable permit fees, for inspection and monitoring,
14 administration, incidental expenses and cleanup and remediation costs resulting from
15 releases of hazardous substances or failure by the permittee to handle hazardous substances
16 in accordance with the requirements of this Article. Permits shall not be renewed unless all
17 such costs have been paid to the City.

18 **SEC. 1176.1. FEE ADJUSTMENT.**

19 Fees are calculated based on the current information on file with the San Francisco
20 Department of Public Health. If the fees in a facility's invoice from the Department do not accurately
21 reflect the facility's activities, the facility's business owner or operator, or the owner of real property
22 upon which a business establishment is located, may submit a Fee Adjustment Form, available from the
23 Department, to show the corrected information and activities. In order to have the fees recalculated by
24 the Department, this form must be submitted with fee payment.

1 Section 3. Effective Date. This ordinance shall become effective 30 days from the
2 date of passage.

3 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to
4 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
5 punctuation, charts, diagrams, or any other constituent part of the Health Code that are
6 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
7 Board amendment deletions in accordance with the "Note" that appears under the official title
8 of the legislation.

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10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: _____
13 VIRGINIA DARIO ELIZONDO
14 Deputy City Attorney

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