County of San Mateo
Environmental Health Services

Ordinance 4.92 Proposed Revisions

April 6, 2018
Background

• 1983 – County Ordinance chapter 4.92 was enacted
  – Has had only minimal changes in over 30 years
  – Only applies to underground storage tanks containing hazardous materials
  – Language duplicates and contradicts state laws and regulations
  – Requires that all UST system components be disposed as hazardous waste
Background

• 1997 – San Mateo County became a Certified Unified Program Agency, with authority over the following sets of State regulations:
  – Hazardous Waste generation and onsite treatment
  – Underground Storage Tanks
  – Hazardous Materials Business Plans
  – California Accidental Release Prevention
  – Aboveground Petroleum Storage Tanks (added in 2009)
4.92.010 – Purpose (Existing and Proposed)

The purpose of this Chapter is to protect health, life, the environment, and property through the prevention and control of the unauthorized discharge of Hazardous Substances.

*This Chapter is a supplement to, not a replacement for, applicable state and federal laws and regulations.*
4.92.020 Definitions (adding, deleting and clarifying)

- Previously 4.92.040

- Removed definitions that are clearly defined in State law or regulations

- Added a few definitions to clarify the use of the term in the ordinance
4.92.030 Hazardous Substances Regulated

- Previously 4.92.050

- Removed redundant definitions
4.92.040 – Safety and Care

• Previously 4.92.020
4.92.050 Requirement for CUPA Permit

- Required to submit an Hazardous Materials Business Plan by CA HSC 25507
- Generates, treats, stores or disposes of hazardous waste (other than household)
- Owns or operates a Underground Storage Tank (UST)
- Stores petroleum products in aboveground tanks regulated under Chapter 6.7, Division 20 (APSA)
- Operation of a process regulated by Chapter 6.95, Division 20 (CalARP)
4.92.050 - CUPA Permit Required

- Apply prior to commencing regulated activity (existing 4.92.200)
- Apply within 30 days of assuming ownership of existing facility (existing 4.92.200)
- Notify Environmental Health at least 10 business days prior to closing facility (some state regulations require greater notice, so this is a minimum)
- Current permit holders do not need to apply for existing permitted facilities
4.92.050 (e) Permit Denial

- Environmental Health may deny a permit if hazardous substance storage area is not suitable (original language is in 4.92.060)
  
  – Denial may be appealed
4.92.060 - Permit Suspension

• Environmental Health may suspend a permit if
  – Repeated failure to comply with permit conditions or applicable state laws/regulations
  – Imminent hazard based on inspection findings
  – Failure to pay annual fee or enforcement penalties.
  – Failure to make the facility available for inspection, after repeated attempts

• There is an appeal process

• Permit may be reinstated upon payment of all overdue fees/penalties and correction of violations
4.92.070 – Cleanup Responsibility

Existing language in 4.92.130
4.92.080 UST Permits

- Removed language that was redundant of State law and regulation

- Removed requirement that UST system components be disposed as hazardous waste
4.92.090 - Fees

- CUPA permit fees are due annually
- UST permit fees are due upon application
- Fee amounts are set by the Board of Supervisors per County Ordinance Chapter 5.64 (existing, 4.92.180)
4.92.100 Inspection Authority (Existing 4.92.170)

- Conduct unannounced inspections during normal business hours, M-F (7am-6pm)
  - Alternate times can be requested for valid reasons, with supervisor approval, but we may charge hourly rate for inspections outside these hours

- Any facility storing or reasonably suspected of storing regulated hazardous substances

- Facility still has right to deny entry, forcing Environmental Health to seek a judge’s permission (inspection warrant)
4.92.120 Concealment

• Existing 4.92.260
4.92.140 Civil Penalties

- Owner/operators are responsible for the actions of their employees that violate the ordinance (existing 4.92.240)

- Violations of the ordinance can lead to civil penalties (existing 4.92.270)
4.92.150 Administrative Enforcement

• Existing 4.92.280

• Establishing specific procedures (new)

• Appeals process (new)
4.92.160-190

- Standard legal language
  - Remedies not Exclusive
  - Disclaimer of Liability
  - Conflict with Other Laws
  - Severability
Next steps

- Send comments to me by 4/15/18
- Incorporate, as appropriate, any comments we receive
- Post updated version by 4/30 (depending on number of comments received) and send out notification via e-mail
- Revised Ordinance is considered by Board of Supervisors on May 22 (tentative)
Contact Information

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If you have questions, please call or e-mail
If you have comments, please e-mail so I can capture your comments accurately.