Chapter 9.48

UNIFIED HAZARDOUS MATERIALS PROGRAMS

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Section 9.48.010 Definitions.

The purpose of the chapter is to consolidate, coordinate, and make consistent the administrative requirements, permits, inspections, and enforcement activities of the six unified hazardous waste and hazardous materials management regulatory programs in the City of Riverside.

This Chapter is also to prevent or minimize the damage to public health and safety and the environment, from a release or threatened release of hazardous materials, and to satisfy the community right-to-know laws. This is accomplished by requiring businesses that handle hazardous materials in quantities equal to or greater than 55 gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, or any amount of an extremely hazardous substance (EHS), explosives, organic peroxides, pyrophoric, unstable and water reactive, or radioactive materials to submit a report electronically using CalEPA's California Environmental Reporting System (CERS) or directly to the City’s electronic portal. Exemptions to this requirement can be found in section 9.48.070.

The City of Riverside entered into an agreement in 1997, in accordance with Health and Safety Code Sections 25404, et seq., as a Participating Agency for the County of Riverside

Department of Environmental Health to implement the Unified Programs.

The Fire Department shall be responsible for implementing and enforcing four of the six Unified Programs set forth in Chapter 9.48 of the Riverside Municipal Code. The elements of the Unified Programs consist of:

a. Hazardous Materials Release Response Plans and Inventories (Business Emergency Plans),
b. California Accidental Release Prevention (CalARP) Program,
c. Aboveground Petroleum Storage Act (APSA/SPCC), California Fire Code: Hazardous Material Management Plans and Hazardous Material Inventory Statements. (Ord. 7330 § 1, 2016; Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

Section 9.48.020 Definitions.

"**Business**" means all of the following:

a. An employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, limited liability partnership or company, or other business entity.
b. A business organized for profit and a nonprofit business.
c. The federal government, to the extent authorized by law.
d. An agency, department, office, board, commission, or bureau of state government, including, but not limited to, the campuses of the California Community Colleges, the California State University, and the University of California.
d. An agency, department, office, board, commission, or bureau of a city, county, or district.
e. A handler that operates or owns a unified program facility.

"**California Environmental Protection Agency**" or "**CalEPA**" means the California Environmental Protection Agency for the State of California.

"**Certified Unified Program Agency**" or "CUPA" means the agency certified by the secretary to implement the unified program specified in Chapter 6.11 (commencing with Section 25404) within a jurisdiction.

"**Compressed gas**" means a material, or mixture of materials, that meets either of the following:

a. The definition of compressed gas or cryogenic fluid found in the California Fire Code.
b. Compressed gas that is regulated pursuant to Part 1 (commencing with Section 6300) of Division 5 of the Labor Code.

"**Consumer product**" means a commodity used for personal, family, or household purposes, or is present in the same form, concentration, and quantity as a product prepackaged for distribution to and use by the general public.

"**Cumulative Quantity**" means the total amount of hazardous materials categorized into one Department of Transportation, Hazard Class number, as described in 49 Code of Federal Regulations (CFR).

"**Department of Environmental Health (DEH)**" means the County of Riverside, Community Health Agency Department of Environmental Health.

"**Emergency response personnel**" means a public employee, including, but not limited to, a firefighter or emergency rescue personnel, as defined in Section 245.1 of the Penal Code, or personnel of a local emergency medical services (EMS) agency, as designated pursuant to Section 1797.200, who is responsible for response, mitigation, or recovery activities in a medical, fire, or hazardous material incident, or natural disaster where public health, public safety, or the environment may be impacted.

"**Fire Code Official**" means the Fire Chief of the Riverside Fire Department or other designated authority charged with the administration and enforcement of the fire code, or a duly authorized representative.

"**Handle**" means all of the following:

a. To use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion.
b. For purposes of subparagraph (a), "store" does not include the storage of hazardous materials incidental to transportation, as defined in Title 49 of the Code of Federal Regulations, with regard to the inventory requirements of Section 25506.
c. The use or potential use of a quantity of hazardous material by the connection of a marine vessel, tank vehicle, tank car, or container to a system or process for any purpose.
d. For purposes of subparagraph (c), the use or potential use does not include the immediate transfer to or from an approved atmospheric tank or approved portable tank that is regulated as loading or unloading incidental to transportation by Title 49 of the Code of Federal Regulations.

"**Handler**" means a business that handles a hazardous material.

"**Hazardous Material**" means a material, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment, or a material specified in an ordinance adopted pursuant to paragraph (f). Hazardous materials include any product or waste that has been abandoned, discarded, or recycled on the property and as a result represents a continuing hazard. A hazardous material also includes any contaminated soil or groundwater.

Hazardous materials include all of the following:

a. A substance or product for which the manufacturer or producer is required to prepare a material safety data sheet (MSDS or SDS) pursuant to the Hazardous Substances Information and Training Act (Chapter 2.5 (commencing with Section 6360) of Part 1 of Division 5 of the Labor Code) or pursuant to any applicable federal law or regulation.
b. A substance listed as a radioactive material in Appendix B of Part 30 (commencing with Section 30.1) of Title 10 of the Code of Federal Regulations, as maintained and updated by the Nuclear Regulatory Commission.
c. A substance listed pursuant to Title 49 of the Code of Federal Regulations.

d. A substance listed in Section 339 of Title 8 of the California Code of Regulations.
e. A material listed as a hazardous waste, as defined by Sections 25115, 25117, and 25316.
f. The governing body of a unified program agency may adopt an ordinance that provides that, within the jurisdiction of the unified program agency, a material not listed by definition as a hazardous materials is a hazardous material for purposes of this article if a handler has a reasonable basis for believing that the material would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment, and requests the governing body of the unified program agency to adopt that ordinance, or if the governing body of the unified program agency has a reasonable basis for believing that the material would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. The handler or the unified program agency shall notify the secretary no later than 30 days after the date an ordinance is adopted pursuant to this paragraph.

"**Hazardous Materials Permit**" means a permit issued pursuant by the CUPA for the following unified hazardous waste and hazardous materials management regulatory programs:

a. Hazardous Materials Release Response Plans and Inventories (Business Emergency Plans),
b. California Accidental Release Prevention (CalARP) Program,
c. Underground Storage Tank Program,
d. Aboveground Petroleum Storage Act,
e. Hazardous Waste Generator and Onsite Hazardous Waste Treatment (tiered permitting) Programs,
f. California Fire Code: Hazardous Material Management Plans and Hazardous Material Inventory Statements.

For the purpose of this chapter, a Hazardous Materials Permit encompasses the permitting requirements of Section 25284 of the Health and Safety Code but does not encompass the permitting requirements of a local ordinance that incorporates provisions of the California Fire Code or the California Building Code.

"**Minor violation**" means the failure of a person to comply with a requirement or condition of an applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive, of the unified program that the UPA is authorized to implement or enforce pursuant to this chapter.

"**Class II violation**" means a chronic or a recalcitrant violator, as provided in H&S Section 25117.6

"**Class I violation**" means any of the following:

a. A violation that results in injury to persons or property, or that presents a significant threat to human health or the environment.
b. A knowing, willful, or intentional violation.
c. A violation that is a chronic violation or that is committed by a recalcitrant violator. In determining whether a violation is chronic or a violator is recalcitrant, the UPA shall consider whether there is evidence indicating that the violator has engaged

in a pattern of neglect or disregard with respect to applicable regulatory requirements.

d. A violation that results in an emergency response from a public safety agency.

e. A violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.

"**Office**" means the Office of Emergency Services.

"**Participating Agency**" or "**PA**" means the City of Riverside which has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement or enforce one or more of the unified program elements specified in subdivision (c), in accordance with Sections 25404.1 and 25404.2.

"**Permittee**" means a business or person that holds a permit issued by the CUPA.

"**Secretary**" means the Secretary of the California Environmental Protection Agency.

"**Spill Prevention, Control, and Countermeasure Plan**" or "**SPCC**" means the document required by Code of Federal Regulations 112.3 that details the equipment, workforce, procedures, and steps to prevent, control, and provide adequate countermeasures to a discharge of petroleum products.

"**Substantial change**" means any change in a regulated facility that would inhibit immediate response during an emergency by either site personnel or emergency response personnel, or that could inhibit the handler's ability to comply with Section 25507, change the operational knowledge of the facility, or impede implementation of the business emergency plan.

"**Trade secret**" means trade secrets as defined in either subdivision (d) of Section 6254.7 of the Government Code or Section 1061 of the Evidence Code.

"**Transportation incident site**" means any highway, railway, waterway or other property along with any land, water or atmospheric space immediately surrounding a transportation incident which involves the release or threatened release of a hazardous material from any vehicle, portable tank, drum or container.

"**Unified Program Agency**" or "**UPA**" means the CUPA, or the City of Riverside which has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in 25404(c). The UPA has the responsibility and authority to implement and enforce the requirements listed in 25404(c), and the regulations adopted to implement the requirements listed in 25404(c), to the extent provided by Chapter 6.5 (commencing with Section 25100), Chapter 6.67 (commencing with Section 25270), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500), and Sections 25404.1 and 25404.2. After a CUPA has been certified by the secretary, the unified program agencies and the state agencies carrying out responsibilities under this chapter shall be the only agencies authorized to enforce the requirements listed in subdivision 25404(c) within the jurisdiction of the CUPA.

"**Unified Program Consolidated Form**" (**UPCF**) means the form designed for use by businesses providing a standardized format. This document consolidates information regulated businesses are required to provide for different program elements to the CUPA.

"**Unified Program Facility**" or "**facility**" means all contiguous land and structures, other appurtenances and improvements on the land which are subject to the requirements listed in subsection 25404(c) of the Health and Safety Code. (Ord. 7330 § 1, 2016; Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

9.48.030 Hazardous Materials Release Response Plans & Inventories. (Business Emergency Plan).

A. Any business or facility in the city that handles a hazardous material or waste, except as provided in subsection H, which handles hazardous materials or mixtures containing hazardous materials, equal to, or greater than, a total volume of 55 gallons or, a total weight of 500 pounds, or a total volume of 200 cubic feet for compressed gas, as defined in subdivision (i) of H&S, Section 25501 shall be regulated under this program. The physical state and quantity present of mixtures shall be determined by the physical state of the mixture as a whole, not individual components, at standard temperature and pressure. Any amount of an extremely hazardous substance (EHS), as defined in Section 355.61 of Title 40 of the Code of Federal Regulations, including but not limited to explosives, organic peroxides, pyrophoric, unstable and water reactive, or radioactive materials must submit an annual Business Emergency Plan electronically using the California Environmental Reporting System (CERS) or directly to the City's electronic portal. The form and content of the disclosure shall conform to the requirements of Section 9.48.040 & 9.48.060 of this chapter. For the purpose of this section, for compressed gases, if a hazardous material or mixture is determined to exceed threshold quantities at standard temperature and pressure, it shall be reported in the physical state at which it is stored. If the material is an EHS, as defined in Section 355.61 of Title 40 of the Code of Federal Regulations, all amounts shall be reported in pounds.

B. Any business required to submit chemical inventory information pursuant to Section 11022 of Title 42 of the United States Code shall be regulated under this program.

C. Except as provided in subparagraph (D) any business that handles at any one time during the reporting year a total weight of 5,000 pounds for solids or a total volume of 550 gallons for liquids, when the material is a solid or liquid substance that is classified solely as an irritant or sensitizer for purposes of Section 5194 of Title 8 of the California Code of Regulations shall be regulated under this program.

D. If the hazardous material handled by the business is a paint that will be recycled or otherwise managed under an architectural paint recovery program approved by the Department of Resources Recovery and Recycling pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code, the business is required to establish and implement a business plan only if the business handles at any one time during the reporting year a total weight of 10,000 pounds of solid hazardous materials or a total volume of 1,000 gallons of liquid hazardous materials.

E. A business that handles at any one time during the reporting year cryogenics, refrigerated or compressed gas in a quantity of 1,000 cubic feet or more at standard temperature and pressure shall be regulated under this program, if the gas is any of the following:

1. Classified as a hazard for the purposes of Section 5194 of Title 8 of the California Code of Regulations only for hazards due to simple asphyxiation or the release of pressure.
2. Oxygen, nitrogen, and nitrous oxide ordinarily maintained by a physician, dentist,

podiatrist, veterinarian, pharmacist, or emergency medical service provider at his or her place of business.

3. Carbon dioxide.
4. Nonflammable refrigerant gases, as defined in the California Fire Code that are used in refrigeration systems.
5. Gases used in closed fire suppression systems.

F. The business handles a radioactive material at any one time during the reporting year in quantities for which an emergency plan is required to be considered pursuant to Schedule C, Section 30.72 of Part 30, commencing with Section 30.1, Part 40, commencing with Section 40.1, or Part 70, commencing with Section 70.1, of Chapter 1 of Title 10 of the Code of Federal Regulations, or pursuant to any regulations adopted by the state in accordance with those regulations shall be regulated under this program.

G. If the business handles perchlorate material, as defined in subdivision (c) of Section 25210.5, in a quantity at any one time during the reporting year that is equal to, or greater than, the thresholds listed in paragraph (A) shall be regulated under this program.

H. Any person who, during the calendar year, for the first time becomes a user or handler of hazardous material, must submit a completed business emergency plan to the Fire Department within thirty days of becoming a user or handler. The form shall be submitted electronically using the California Environmental Reporting System (CERS) or directly to the City's electronic portal. Thereafter, said person shall comply with the provisions of Subsection A of this section.

I. Annually each handler shall submit its business emergency plan electronically and certify that it meets the requirements of this chapter prior to annual expiration date on the permit issued by DEH. If, after review, the Fire Department determines that the handler's submission is deficient in any way, the Fire Code Official shall notify the handler of these deficiencies. The handler shall submit a corrected business emergency plan within thirty days of the notice. If a handler fails after reasonable notice to submit a business emergency plan in compliance with this chapter, the Fire Code Official shall immediately take appropriate action to enforce fines and penalties specified in this chapter.

J. In addition, whenever a substantial change in the handler's operations occurs which requires a modification of its business emergency plan, the handler shall electronically submit the revisions in CERS or the City's electronic portal within thirty days of the operational change. A substantial change shall include, but shall not be limited to the following:

1. A one hundred percent or more increase in the quantity of a previously-disclosed material.
2. Any handling of a previously-undisclosed hazardous material subject to the inventory requirements of this chapter.
3. Change of business address.
4. Change of business ownership.
5. Change of business name.

K. On or before the annual due date established, the business owner, operator, or officially designated representative of the business shall, in any case, review the business emergency plan. When submitted pursuant to Subsections A and H, when given notice, and at least once a year thereafter, to determine if revisions are needed to certify that the review was

made and that any necessary changes were made to the plan. All changes shall be submitted electronically in CERS or the City's portal for acceptance. (Ord. 7330 § 1, 2016; Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

Section 9.48.040 Content of the Business Emergency Plan.

The completed Business Emergency Plan shall include all the information required for Business Plans pursuant to Chapter 6.95 CH&SC and the UPCF. Business Emergency Plans shall include all of the following:

A. The inventory of information required by this chapter and whatever additional information that the Fire Department finds is necessary to protect the health and safety of persons, property, or the environment. Any such information is, however, subject to trade secret protection pursuant to Section 9.48.080(B). The Fire Code Official shall notify the secretary within 30 days after those requirements are adopted.

B. A site map that contains north orientation, loading areas, internal roads, adjacent streets, storm and sewer drains, access and exit points, emergency shutoffs, evacuation staging areas, hazardous material handling and storage areas, and emergency response equipment.

C. Emergency response plans and procedures in the event of a release or threatened release of a hazardous material, including, but not limited to, all of the following:

1. Immediate notification to the appropriate local emergency rescue personnel.
2. Procedures for the mitigation of a release or threatened release to minimize any potential harm or damage to persons, property or the environment.
3. Evacuation plans and procedures, including immediate notice, for the business site.
4. Training for all new employees and annual training, including refresher courses, for all employees in safety procedures in the event of a release or threatened release of a hazardous material, including, but not limited to, familiarity with the plans and procedures specified in subsections (C)(1)--(3). These training programs may take into consideration the position of each employee.
5. Emergency phone numbers have been posted appropriately.
6. Hazardous materials storage area(s) have been posted appropriately.

D. Any business required to file a pipeline operations contingency plan in accordance with the California Pipeline Safety Act of 1981 pursuant to Chapter 5.5 commencing with Section 51010 of Part 3 of Division 1 of Title 5 of the Government Code, and the regulations of the Department of Transportation, found in Part 195 of Title 49 of the Code of Federal Regulations, may file a copy of those plans with the Fire Department instead of filing an emergency response plan specified in subsection C of this section.

E. The emergency response plans and procedures, the inventory of information required by this chapter, and the site map required by this section shall be readily available to personnel of the business or the facility with responsibilities for emergency response or training pursuant to this section. (Ord. 7330 § 1, 2016; Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

Section 9.48.050 Disclosure Information.

A. Upon receipt of a business plan, the Fire Code Official shall forward the information to the County of Riverside, Environmental Protection & Oversight Division for the required fees that have been establish by City Council.

B. The Fire Code Official shall maintain files of all existing business emergency plans received, indexed by street and company name. The business plan and revisions shall be available for public inspection during the regular business hours of the Fire Department, except that those portions of the business plan specifying the precise location where hazardous materials are stored and handled onsite, including any maps of the site, and any information subject to the provisions of Section 9.48.080 relating to trade secrets, shall not be available for public inspection. All new submission will be kept electronically.

C. The Fire Code Official shall keep a record of all persons who request access to the hazardous materials disclosure forms. The record shall include:

1. The person's name, address and telephone number, as determined by the showing of appropriate identification;
2. Name and address of the person, business or governmental agency such person represents;
3. Identity of the specific file(s) examined or requested to be copied. (Ord. 7330 § 1, 2016; Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

Section 9.48.060 Content of the Electronic Disclosure Form.

A. Businesses must use the CERS business portal or the City's local web portal that supports Unified Program electronic reporting. Reporting to both CERS and a local reporting portal is prohibited to prevent duplicate reporting. Business data reported is exchanged automatically between Cal/EPA and the UPA so data is available to all agencies regardless of whether the business reports to CERS or to a local web portal. The contents will include Business Activities Information, Business Owner/Operator Identification, Hazardous Materials Inventory, Site Map and Storage Map, Emergency Procedures, Employee Training Plan, Emergency Notification; and, any additional information such as hazardous waste related data must also be reported electronically. (Ord. 7330 § 1, 2016; Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

Section 9.48.070 Exemptions.

A. Refrigerant gases, other than ammonia or flammable gas in a closed cooling system that are used for comfort or space cooling for computer rooms.

B. Compressed air in cylinders, bottles, and tanks used by fire departments and other emergency response organizations for the purpose of emergency response and safety.

C. Lubricating oil, if the total volume of each type of lubricating oil handled at a facility does not exceed 55 gallons and the total volume of all types of lubricating oil handled at that facility does not exceed 275 gallons, at any one time. For purposes of this paragraph, "lubricating oil" means oil intended for use in an internal combustion crankcase, or the transmission, gearbox, differential, or hydraulic system of an automobile, bus, truck, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion or electric powered engine. "Lubricating oil" does not include used oil.

D. Both of the following, if the aggregate storage capacity of oil at the facility is less than 1,320 gallons:

1. Fluid in a hydraulic system.
2. Oil-filled electrical equipment that is not contiguous to an electric facility.

E. Hazardous material contained solely in a consumer product, handled at, and found in, a retail establishment and intended for sale to, and for the use by, the public. The exemption provided for in this paragraph shall not apply to a consumer product handled at the facility which manufactures that product, or a separate warehouse or distribution center of that facility, or where a product is dispensed on the retail premises.

F. Propane that is for on-premises use, storage, or both, in an amount not to exceed 500 gallons, that is for the sole purpose of cooking, heating employee work areas, and heating water within that business, unless the uniform program agency finds, and provides notice to the business handling the propane, that the handling of the on-premises propane requires the submission of a business plan, or any portion of a business plan, in response to public health, safety, or environmental concerns.

G. The Fire Code Official may, in exceptional circumstances, following notice and public hearing, exempt a hazardous material specified in subdivision (n) of Health and Safety Code, Section 25501 from Section 25506, if it is found that the hazardous material would not pose a present or potential danger to the environment or to human health and safety if the hazardous material was released into the environment. The Fire Department shall send a notice to the office and the secretary within 15 days from the effective date of any exemption granted pursuant to this subdivision.

H. The Fire Code Official, upon request by a handler, may exempt a handler under the conditions it deems proper from any portion of the business plan upon a written finding that the exemption would not pose a significant present or potential hazard to human health or safety or to the environment or affect the ability of the Fire Department and emergency rescue personnel to effectively respond to the release of a hazardous material and that there are unusual circumstances justifying this exemption. The Fire Department shall specify in writing the basis for any exemption under this subsection.

I. The Fire Code Official upon request by a handler may exempt a hazardous material from the inventory provisions of this chapter upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. The Fire Department shall specify in writing the basis for any exemption under this subsection.

J. The Fire Code Official shall exempt a business operating a farm for purposes of cultivating the soil or raising or harvesting any agricultural or horticultural commodity from filing the information with the exception of the inventory in the business plan if all the following requirements are met:

1. The handler annually provides the inventory of information required by Section 9.48.060 to the County Agricultural Commissioner before January 1st of each year.
2. Each building in which hazardous materials subject to this chapter are stored is posted with signs, in accordance with regulations which the office shall adopt, which provide notice of the storage of any of the following:
    a. Pesticides.
    b. Petroleum fuels and oils.
    c. Types of fertilizers.
3. The agricultural handler provides the training programs specified in paragraph (4) of subdivision (a) of H&S Section 25505.

K. The Fire Code Official shall exempt a business operating an unstaffed facility located at least one-half mile from the nearest occupied structure from H&S Sections 25508.2 and 25511, and shall subject the business to Sections 25505, 25506, and 25507 only as specified in this section, if the business is not otherwise subject to the requirements of applicable federal law, and all of the following requirements are met:

1. The types and quantities of materials onsite are limited to one or more of the following;

    a. one thousand standard cubic feet of compressed inert gases (asphyxiation and pressure hazards only).
    b. 500 gallons of combustible liquid used as a fuel source.
    c. Corrosive liquids, not to exceed 500 pounds of extremely hazardous substances, used as electrolytes, and in closed containers.
    d. 500 gallons of lubricating and hydraulic fluids.
    e. 1,200 gallons of hydrocarbon gas used as a fuel source.
    f. Any quantity of mineral oil contained within electrical equipment, such as transformers, bushings, electrical switches, and voltage regulators, if the spill prevention control and countermeasure plan has been prepared for quantities that meet or exceed 1,320 gallons.
    g. The facility is secured and not accessible to the public.
    h. Warning signs are posted and maintained for hazardous materials pursuant to the California Fire Code.

L. Notwithstanding H&S Sections 25505 and 25507, a one-time business plan, except for the emergency response plan and training elements specified in paragraphs (3) and (4) of subdivision (a) of Section 25505, is submitted to the statewide information management system. This one-time business plan submittal is subject to a verification inspection by the unified program agency and the unified program agency may assess a fee not to exceed the actual costs of processing and for inspection, if an inspection is conducted.

M. The Fire Department has adopted procedures in RMC, Section 16.32.46 (Board of Appeals) to provide for public input when approving any applications submitted pursuant to Subsections H and I of this Section. (Ord. 7330 § 1, 2016; Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

Section 9.48.080 Trade Secrets.

A. If a business believes that a request for information made by either the disclosure form or otherwise pursuant to this chapter involves the release of a trade secret, the user shall notify the Fire Department in writing. As used herein, trade secret shall have the meaning given to it by Section 6254.7 of the Government Code and Section 1061 of the Evidence Code.

B. Subject to the provisions of this section, the Fire Department shall protect from disclosure any trade secret coming into its possession when requested to do so in writing by the user.

C. Any information reported to or otherwise obtained by the Fire Department, or any of its representatives or employees, which is exempt from disclosure pursuant to subsection B shall not be disclosed to anyone except the following:

1. An officer or employee of the City, the State of California, or the United States of America, in connection with the official duties of such officer or employee under any law for the protection of health or to contractors with the City and their employees if, in the opinion of the Fire Chief, such disclosure is necessary and required for the satisfactory performance of a contract for performance of work, or to protect the health and safety of the employees of the contractor.
2. Any physician where the physician determines that such information is necessary to the medical treatment of his or her patient.
3. Any physician who has been furnished information or who has obtained information pursuant to subsection (C)(2) of this section and who, knowing that the disclosure of the information is prohibited, knowingly and willfully discloses the information, shall be guilty of a misdemeanor.

D. For the purposes of this section, fire and emergency response personnel and County Health personnel operating within the jurisdiction of the City shall be considered employees of the City.

E. Any officer or employee of the City or former officer or employee, who by virtue of such employment or official position has obtained possession of or has access to information, the disclosure of which is prohibited by this section, and who, knowing that disclosure of the information is prohibited, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor. Any contractor with the City and any employee of such contractor, who has been furnished information as authorized by this section, shall be considered to be an employee of the City for purposes of this section.

F. Information certified by appropriate officials of the United States, as necessarily kept secret for national defense purposes, shall be accorded the full protections against disclosure as specified by such officials or in accordance with the laws of the United States.

G. Upon receipt of a request for the release of information to the public which includes information which the user has notified the Fire Department is a trade secret pursuant to subsection A of this section, the Fire Department shall notify the user in writing of said request by certified mail. The Fire Department shall release the information thirty days after the day of mailing said notice unless, prior to the expiration of said thirty days, the user institutes an action in an appropriate court for a declaratory judgment that said information is subject to protection under subsection B of this section and/or an injunction prohibiting disclosure of said information to the general public.

H. The provisions of this Section shall not permit a user to refuse to disclose information required to be disclosed pursuant to this Chapter. (Ord. 7330 § 1, 2016; Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

Section 9.48.090 California Accidental Release Prevention Program.

A. The City of Riverside assumed the responsibility for implementing Chapter 6.95 of Division 20 of the Health and Safety Code, Article 2, commencing with Section 25531, will continue to be the UPA. The requirements set forth in Chapter 6.95, Division 20 of the Health and Safety code commencing with Section 25531, as they now exist and as they may be amended from time to time, are hereby incorporated by reference as the standards of the City of Riverside.

B. Any business which is required to prepare, submit, and implement, pursuant to Health and Safety Code Sections 25531 through 25543.3, a risk management plan must be completed and submitted to the Fire Department.

C. Any risk management plan requested pursuant to subsection 25536(b) of the Health and Safety Code shall be submitted in accordance with the schedule established by the Fire Department.

D. Any requested corrections to the risk management plan shall be submitted within 60 days pursuant to H&S Section 25535 of the Health and Safety Code. (Ord. 7330 § 1, 2016; Ord. 5569 § 1, 1987; Ord. 5134 § 1, 1983)

Section 9.48.100 Aboveground Petroleum Storage Act.

A. The City of Riverside assumed the responsibility for full implementation of Chapter 6.67 of Division 20 of the Health and Safety Code commencing with Section 25270 and will continue to be the UPA. The requirements set forth in Chapter 6.67, Division 20 of the Health and Safety code commencing with Section 25270, as they now exist and as they may be amended from time to time, are hereby incorporated by reference as the standards of the City of Riverside.

B. The owner or operator shall develop, implement and maintain a Spill Prevention, Control and Countermeasures Plan which meets the requirements set forth in Chapter 6.67 of Division 20 of the Health and Safety Code, as such Chapter may be amended. (Ord. 7330 § 1, 2016; Ord. 5569 § 1, 1987)

Section 9.48.110 Response to Threaten or Actual Release.

A. Those costs of an emergency response incurred by any UPA, including costs of any hazardous materials specialist, emergency response personnel public officer, and/or related personnel, necessary to protect the public from a threat to health and safety by actions to confine, prevent, or mitigate the release, escape, burning, or threatened release of a hazardous material, are a charge against any person whose intentional or negligent action causes the incident, if one or more of the following occurs:

1. A response is necessary to mitigate an emergency on any business property or transportation incident site to prevent loss of life or injury.
2. The incident results in the spread of hazardous materials or fire posing a real and imminent threat to health and safety of any person on or near the business property or any transportation incident site.
3. Evacuation beyond the business property or transportation incident site where the incident originates is necessary to prevent loss of life or injury due to a release or threatened release.
4. The incident results in the spread of hazardous material or fire posing a real and imminent threat to public health and safety beyond the property lines of a business or the immediate surroundings of a transportation incident site.
5. The incident results in any threat to the environment.
6. A response to investigate the possible abandonment of a hazardous material. (Ord. 7330 § 1, 2016

Section 9.48.120 Responsibility for Unauthorized Release.

A. As soon as any person in charge of a facility, of transportation to or from a facility, or responsible for emergency response at a facility, has knowledge of any unauthorized release or threatened release of a hazardous material, such person shall take all necessary steps to ensure the discovery, containment and cleanup of such release and shall notify the Fire Department.

B. The Fire Code Official, upon a determination that the responsible party is not adequately containing and disposing of such hazardous material, shall have the power and authority to undertake and direct an emergency response in order to protect the public health and/or safety and the environment.

C. Any person responsible for storing and transporting any hazardous material shall have the responsibility to institute and complete all actions necessary to prevent a threatened release or to remedy the effects of any unauthorized release of any hazardous material, whether accidental or intentional, sudden or gradual. This responsibility is not conditioned upon evidence of willfulness or negligence of the party storing or transporting the hazardous material(s) in causing or allowing such release or threatened release. The UPA shall undertake actions to prevent a threated release or remedy the effects of such unauthorized release itself only if it determines that it is reasonably necessary under the circumstances to do so. The responsible party shall be liable to reimburse the UPA for all costs incurred in preventing the threatened release or remedying the effects of such unauthorized release.

D. Costs reimbursable to the UPA under this chapter are a debt of the person liable therefore, and shall be collectable in the same manner as in the case of an obligation under contract, express or implied. However, any costs incurred by the UPA which assigns one or more of its representatives to respond to, or to investigate, an intentional or negligent release, escape, abandonment, burning or threatened release of hazardous materials shall be assessed to the person liable therefore.

E. The charge created against a person by this chapter is also a charge against the person's employer if the intentional or negligent release, escape, abandonment, burning or threated release causing the incident occurs in the course of the person's employment.

F. An action to recover costs under this chapter may be joined with any civil or criminal action for penalties, fines, injunctions or other relief brought against the responsible person or employer, or both, arising out of the same incident.

G. There shall be deducted from any amount otherwise recoverable under this chapter, the amount of any reimbursement for eligible costs paid to the UPA by the State Hazardous Substance Cleanup Fund pursuant to Section 25360 of Chapter 6.8 (commencing with Section 25300) of Division 20 of the California Health and Safety Code. (Ord. 7330 § 1, 2016)

Section 9.48.130 Closure Work Plan & Closure Reports.

A. Any person or business, which has previously been required to submit a Hazardous Material Business Plan, shall submit a closure work plan to the UPA at least 30 days prior to the closure, relocation, sale or exchange of the business and/or the real property on which the business is located, describing the work to be performed to properly clean, inspect, sample and close the facility. The closure work plan shall be approved by the UPA before the

removal of hazardous or potentially hazardous materials or hazardous wastes from property prior to implementation.

B. The closure work plan shall describe procedures for terminating the storage of hazardous materials and/or hazardous wastes in each facility in a manner that:

1. Eliminates or minimizes the need for further maintenance;
2. Controls to the extent that a threat to public health or safety or to the environment from residual hazardous materials and/or hazardous wastes in the facility is minimized or eliminated; and;
3. Demonstrates that the hazardous materials and/or hazardous wastes that were stored in the facility will be removed, disposed of, neutralized or reused in an appropriate manner.

C. If underground storage tanks are also being closed, a separate tank closure permit must be obtained from the CUPA and the Fire Department and must be referenced in the overall closure plan.

D. A closure report shall be submitted to the UPA within 30 days of completion of work outlined in the closure work plan. (Ord. 7330 § 1, 2016)

Section 9.48.140 Permit Required.

A. Except as provided in Chapter 6.5; Chapter 6.67; Chapter 6.7; and Chapter 6.95 of Health and Safety Code, no person shall operate or maintain a business where hazardous materials, or a mixture containing hazardous materials, are handled without a valid Hazardous Materials Permit issued by the CUPA. The owner or operator of a business shall obtain a permit for handling hazardous materials or hazardous waste from the DEH. A permit may be issued at any time during the year.

B. A permit issued pursuant to this chapter shall be posted and conspicuously displayed at the Unified Program facility location. A current copy of the Hazardous Material Business Emergency Plan shall be available at the unified facility location. (Ord. 7330 § 1, 2016)

Section 9.48.150 Operating without a Permit.

A. Any person who violates the requirements of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Section 9.48.200 of this Code. Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of these provisions is committed, continued or permitted by such person, and shall be punishable as herein provided.

B. In addition to the penalties hereinabove provided, any conditions caused or permitted to exist in violation of any of the provisions of this chapter shall be deemed a public nuisance and may be, by the UPA or Fire Department, summarily abated as such, and each day such condition continues shall be regarded as a new and separate offense.

C. Any person who violates the requirements of this chapter may be enjoined from such violation by any court of competent jurisdiction. The remedy provided by this section is additional to and cumulative with any other remedy provided by law. (Ord. 7330 § 1, 2016)

Section 9.48.160 Inspections.

A. The UPA or Fire Department may make periodic inspections of persons or businesses where hazardous materials and/or hazardous waste is generated, stored, handled, disposed, treated or recycled and to inspect aboveground and underground storage tank systems and all persons or businesses where the UPA has reasonable cause to believe that hazardous materials or hazardous waste is generated, stored, handled, disposed, treated or recycled. Such inspections may be made without prior notice to the owner or operator of such business. (Ord. 7330 § 1, 2016)

Section 9.48.170 Violations.

A. Violations for all Unified Programs will be categorized in a three-tiered system of violation classifications as follows:

1. "Class I" violations are those violations that are willful, intentional, negligent, knowing or should have known, include false documents, violations that pose a significant threat of harm to the environment or human life. Chronic violations may be considered Class I. Violations committed by a recalcitrant violator may also be considered Class I.
2. "Class II" violations are those violations that do not meet the criteria for Class I violations, but are also not minor. Failure to correct or certify correction of a minor violation within the prescribed timeframe is a Class II violation.
3. "Minor" violation means the failure of a person to comply with any requirement or condition of any applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive. (Ord. 7330 § 1, 2016)

Section 9.48.180 Fees.

A. The City Council shall by resolution establish, from time to time, a schedule of fees to be paid by persons using or handling hazardous materials which is sufficient to cover the costs to the City for administering this chapter.

B. No person, corporation, association, firm, business or entity shall operate, perform, carry on, conduct or engage in any of the unified hazardous waste and hazardous materials management regulatory programs without paying the fees imposed by the DEH. (Ord. 7330 § 1, 2016)

Section 9.48.190 Penalties for late filling.

A. The City Council shall by resolution establish, from time to time, a schedule of fees to be paid by persons using or handling hazardous materials which is sufficient to cover the costs to the City for administering this chapter. Said resolution shall include a schedule of penalties to be assessed for the late filing of any electronic UPCF's.

B. Any person who fails to submit documentation required or requested by the UPA within the time limits set forth pursuant to subsection 9.48.040 or upon notice of the Fire Code Official or his authorized representative, shall pay a penalty for said late filing as established pursuant to Section 9.48.040. Said penalty shall be submitted to the UPA and shall be in addition to regularly assessed fees. (Ord. 7330 § 1, 2016)

Section 9.48.200 Administration and Enforcement.

A. The City of Riverside Fire Department and its representatives shall have the authority and responsibility to administer and implement the provisions of this chapter on behalf

of the UPA.

B. Any person who willfully prevents interferes with or attempts to impede the enforcement of this chapter by any authorized representative of the Fire Department or who willfully fails to fulfill the reporting requirements herein is, upon conviction, guilty of a misdemeanor.

C. Unless otherwise provided in this code, the amount of fine to be imposed for a violation of this code and assessed by means of an administrative citation shall be one hundred dollars ($100.00) for the first occurrence of a violation, two hundred dollars ($200.00) for the second occurrence of the same type of violation, and five hundred dollars ($500.00) for the third and each subsequent occurrence of the same type of violation. Notwithstanding this section, the amount of fine to be assessed by means of an administrative citation may be established by resolution of the City Council.

D. All fines assessed shall be payable to the City within thirty (30) calendar days from the date of the administrative citation.

E. Any person who fails to pay to the City any fine imposed pursuant to the provisions of RMC Chapter 1.17 on or before the date that the fine is due shall also be liable for the payment of any applicable late payment charges set forth in the schedules of fines.

F. The City may collect any past due administrative citation fine or late payment charge by use of any available legal means. The City may also recover its collection costs.

G. Any administrative citation fine paid pursuant to Subsection C shall be refunded in accordance with RMC, Section 1.17.150 if it is determined, after a hearing, that the person charged in the Administrative Citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

H. Payment of the fine shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the City.

I. If the Responsible Party fails to correct the violation, subsequent administrative citations may be issued for the same violations. The amount of the fine shall increase at a rate specified by resolution of the City Council.

J. Due to the significant risks of certain violations to public health, safety and welfare, the amount of fine to be imposed for the following violations of this code and assessed by means of an administrative citation shall be Five Hundred Dollars ($500.00) for the first and each subsequent occurrence of the same type of violation. Notwithstanding this section, the amount of fine to be assessed by means of an administrative citation may be established by resolution of the City Council.

1. RMC 16.32.020, CFC 5003.3; Release of hazardous materials.
2. RMC 16.32.020, CFC 5003.3.1; Unauthorized discharge.
3. RMC 16.32.020, H&S 25189; Abandonment of a hazardous material.
4. RMC 16.32.020, CFC 5001.6.3; Failure to submit a facility closure plan.
5. RMC 16.32.020, CFC, 105.7.8; Failure to obtain a permit to install, alter, remove, abandon or otherwise dispose of a flammable, combustible or any hazardous materials liquid tank, container or cylinder.

6. 19 CCR 4 2703, H&S 25507; Failure to report a release of a hazardous material to the UPA or OES.

J. All administrative, civil and or criminal penalties collected will be accounted for separately for auditing and accounting purposes and shall be placed into the CUPA Cost Center (101-235600).

K. The imposition 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 nor prosecution for violation of this code or any ordinance.

L. Notwithstanding any other provisions of this Ordinance, a hazardous materials handler regulated by any state or federal agency will be exempt from any conflicting provision of this Ordinance. Whenever any provision of this Ordinance conflicts with a provision in the California Fire Code as adopted by the City Council, the more restrictive provision shall prevail. (Ord. 7330 § 1, 2016)

Section 9.48.210 Remedies.

A. Every civil action brought under this chapter shall be brought by the City Attorney, District Attorney or Attorney General in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

1. In any civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding any of the following:

    a. Irreparable damage will occur should the temporary restraining order, preliminary injunction or permanent injunction not be issued.
    b. The remedy at law is inadequate.

2. The court shall issue a temporary restraining order, preliminary injunction or permanent injunction in a civil action brought pursuant to this chapter without the allegations and without the proof specified in subdivision (1).

B. Any person who provides information which materially contributes to the imposition of a civil penalty, whether by settlement or court order, as determined by the City Attorney, District Attorney or the Attorney General filing the action, shall be paid a reward by the UPA or the State equal to ten percent of the amount of the civil penalty collected. No reward paid pursuant to this subdivision shall exceed five thousand dollars.

C. Any person who provides information which materially contributes to the conviction of a person or business under this chapter as determined by the City Attorney, District Attorney or the Attorney General filing the action, shall be paid a reward by the UPA or the State equal to ten percent of the amount of the fine collected. The reward shall be paid from the amount of the fine collected. No reward paid pursuant to this subdivision shall exceed five thousand dollars.

D. No informant shall be eligible for a reward for a violation known to the UPA unless the information materially contributes to the imposition of criminal or civil penalties for a violation specified in this section.

E. If there is more than one informant for a single violation, the person making the first notification received by the office which brought the action shall be eligible for the reward, except that if the notifications are postmarked on the same day or telephoned notifications are received on the same day, the reward shall be divided equally among those informants.

F. Public officers and employees of the United States, the State of California, or counties and cities in this State are not eligible for the reward pursuant to subsections B or C, unless the providing of the information does not relate in any manner to their responsibilities as public officers or employees.

G. An informant who is an employee of a business and who provides information that the business has violated this chapter is not eligible for a reward if the employee intentionally or negligently caused the violation or if the employee's primary and regular responsibilities included investigating the violation, unless the business knowingly caused the violation.

H. The UPA or the State shall pay rewards under this section pursuant to the following procedures:

1. An application shall be signed by the informant and presented to the UPA or the State within sixty days after a final judgment has been entered or the period for an appeal of a judgment has expired.
2. The determination by the District Attorney or City Attorney or Attorney General as to whether the information provided by the applicant materially contributed to the imposition of a judgment under this chapter shall be final.
3. The UPA or the State shall notify the applicant in writing of its decision to grant or deny a reward within a reasonable time period following the filing of an application.
4. Approved reward claims shall be paid by the UPA or the State within thirty days of the collection and deposit of the penalties specified in subsections B and C.

I. The names of reward applicants or informants shall not be disclosed by the UPA or the State unless the names are otherwise publicly disclosed as part of a judicial proceeding.

J. Notwithstanding any other provision of this section, rewards paid by the State shall only be paid after appropriation by the Legislature. (Ord. 7330 § 1, 2016)