



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: NOVEMBER 28, 2023

FROM: FIRE DEPARTMENT WARDS: ALL

SUBJECT: CERTIFIED UNIFIED PROGRAM AGENCY PROGRAM FEE SCHEDULE

ISSUE:

To conduct a public hearing and adopt an Ordinance amending Chapter 3.30 Section 3.30.030VII of the Riverside Municipal Code (RMC) to add four additional categories to the Schedule of Regulations, Products and Services and a Resolution providing for Hazardous Materials Usage/Permit I (Business Emergency Plan) Fee of \$532, Hazardous Materials Usage/Permit II (Business Emergency Plan) Fee of \$610, Hazardous Materials Usage/Permit III (Business Emergency Plan) Fee of \$737, Hazardous Materials Usage/Permit IV (Business Emergency Plan) Fee of \$1,078, Hazardous Materials Usage/Permit V (Business Emergency Plan) Fee of \$1,195, Above Ground Petroleum Storage Act (ASPA) – Tier I Fee of \$649, Above Ground Petroleum Storage Act (ASPA) – Tier II Fee of \$805, and Above Ground Petroleum Storage Act (ASPA) – Tier III Fee of \$961 for the proposed Certified Unified Program Agency (CUPA) fees to reflect actual costs.

RECOMMENDATIONS:

That the City Council:

1. Hold a public hearing to adopt an Ordinance amending Chapter 3.30 Section 3.30.03VII of the Riverside Municipal Code to add four additional categories to the Schedule of Regulations, Products and Services titled Hazardous Materials Usage Permit IV (Business Emergency Plan), Hazardous Materials Usage Permit V (Business Emergency Plan), Above Ground Petroleum Storage Act (ASPA) – Tier I, Above Ground Petroleum Storage Act (ASPA) – Tier II, and Above Ground Petroleum Storage Act (ASPA) – Tier III Fees; and
2. Adopt a Resolution amending the City’s Fees and Charges Schedule providing for Hazardous Materials Usage/Permit I (Business Emergency Plan), Hazardous Materials Usage Permit II (Business Emergency Plan), Hazardous Materials Usage/Permit III (Business Emergency Plan), Hazardous Materials Usage/Permit IV (Business Emergency Plan), Hazardous Materials Usage/Permit V (Business Emergency Plan), Above Ground Petroleum Storage Act (ASPA) – Tier I, Above Ground Petroleum Storage Act (ASPA) – Tier II, and Above Ground Petroleum Storage Act (ASPA) – Tier III fees..

BACKGROUND:

Due to an increase in Hazardous Materials incidents over the past several years, regulatory programs and legislature have been implemented that impacted the business communities. In an effort to streamline this process, hazmat regulations were consolidated under one program called the Certified Unified Program Agencies (CUPA). The program consolidates the administration, permit, inspection, and enforcement activities of the following environmental and emergency management programs: Above ground Petroleum Storage Act (APSA) Program; Area Plans for Hazardous Materials Emergencies, California Accidental Release Prevention (CalARP) Program, Hazardous Materials Release Response Plans and Inventories (Business Plans), Hazardous Material Management Plan (HMMP) and Hazardous Material Inventory Statements (HMIS) (California Fire Code), Hazardous Waste Generator and Onsite Hazardous Waste Treatment (tiered permitting) Programs and Underground Storage Tank Programs. The Riverside County Department of Environmental Health (RCDEH) Hazardous Materials Branch is responsible for overseeing the six hazardous materials programs in the County of Riverside.

CUPA initially gave local jurisdictions an option to become either an Administering Agency or a Participating Agency. The City of Riverside Fire Department (RFD) has been a participating agency since 1998. As a participating agency, the RFD Fire Prevention Bureau is required to develop and implement a program for administering, permitting, inspecting and enforcement of the storage of hazardous materials. Aspects of the program include:

1. Enforce the California Health and Safety Code, California Fire Code, and Riverside Municipal Code; and
2. Complete required inspections on a triennial basis which is once every three years; and
3. A reconciliation of costs to administer the program.

As a result, the County of Riverside Department of Public Health implements a single fee billing system which incorporates fees and surcharges necessary to cover the costs incurred by the City to implement the program. In an April 2022 CUPA audit report, the Riverside County Department of Environmental Health directed the City to develop, implement and provide an action plan for a single fee system as confirmed by a fee study. In March 2021, the City engaged MGT of America Consulting, LLC to conduct a comprehensive citywide fees and charges study, including CUPA fees. In March 2022, the study was placed on hold due to the impending departure of the City Manager; the study is currently being refreshed with the goal of adopting updated citywide fees and charges in 2024.

DISCUSSION:

The California Health and Safety Code, Chapter 6.95 dictates the necessity of the implementation of business and area plans related to the handling and release of hazardous materials. In addition, Section 25513 of this chapter, states that “each administering county or city may, upon a majority vote of the governing body, adopt a schedule of fees to be collected from each business required to submit a business plan pursuant to this article that is within its jurisdiction. The governing body may provide for the waiver of fees when a business, as defined in paragraph (3), (4), or (5) of subdivision (c) of Section 25501, submits a business plan. The fee shall be set in an amount sufficient to pay only those costs incurred by the unified program agency in carrying out this article.

In determining the fee schedule, the unified program agency shall consider the volume and degree of hazard potential of the hazardous materials handled by the businesses subject to this article.”

The City of Riverside currently recovers 40% to 100% of costs of Hazmat Inspection Fees. The City is seeking full implementation of the FY 2020/21 CUPA fee survey results to fulfill the agreed upon terms with the County without further delay. The Fire Department is recommending full recovery of actual costs per the FY 2020/21 study, as shown in the following table.

	# Facilities	Current Fees			Proposed Fees		
		Each	Total Revenue	% Recovery	Each	Projected Revenue	% Recovery
Hazardous Materials Usage / Permit I (Business Emergency Plan)	470	\$ 226.75	\$106,572.50	40%	\$ 532.00	\$250,040.00	100%
Hazardous Materials Usage / Permit II (Business Emergency Plan)	279	\$ 363.25	\$101,346.75	55%	\$ 610.00	\$170,190.00	100%
Hazardous Materials Usage / Permit III (Business Emergency Plan)	160	\$ 635.25	\$101,640.00	81%	\$ 727.00	\$116,320.00	100%
Hazardous Materials Usage / Permit IV (Business Emergency Plan)	39	\$ 953.25	\$ 37,176.75	82%	\$1,078.00	\$ 42,042.00	100%
Hazardous Materials Usage / Permit V (Business Emergency Plan)	268	\$1,195.00	\$320,260.00	100%	\$1,195.00	\$320,260.00	100%
Above Ground Petroleum Storage Act (APSA) - Tier I	83	\$ 136.50	\$ 11,329.50	20%	\$ 649.00	\$ 53,867.00	100%
Above Ground Petroleum Storage Act (APSA) - Tier II	22	\$ 363.25	\$ 7,991.50	42%	\$ 805.00	\$ 17,710.00	100%
Above Ground Petroleum Storage Act (APSA) - Tier III	2	\$ 545.00	\$ 1,090.00	53%	\$ 961.00	\$ 1,922.00	100%
Totals:	1,323		\$687,407.00			\$972,351.00	

Projected Additional Cost Recovery \$284,944.00

STRATEGIC PLAN ALIGNMENT:

This item contributes to Strategic Priority No. 2 *Community Well-Being* and Goal No. 2.5 – Foster relationships between community members, partner organizations, and public safety professionals to define, prioritize, and address community safety and social service needs.

This item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust** – Through this contract the City of Riverside has provided hazardous materials services since 1998. Continuing to utilize city staff to perform this service maintains community trust with a zero cost to the general fund.
2. **Equity** – By locally administering the CUPA Program we can ensure the equity of its application. The entire community benefits from a safe community where known hazards are mitigated reducing risk to all.

3. **Fiscal Responsibility** – The cost of this program is funded through the CUPA agreement between the City of Riverside and the County of Riverside and maintains a zero cost to the general fund.
4. **Innovation** – Utilization of outside funds to comply with federal, state, and local regulations is an innovative approach in meeting regulation requirements.
5. **Sustainability & Resiliency** – Hazardous materials enforcement is mandated at the federal, state, and local levels. This program’s goal is to maintain a safe and livable community. Through enforcement, we can ensure a safe and livable community for generations.

FISCAL IMPACT:

The proposed fees are estimated to recover \$284,944 of actual costs. Council approval of the updated fee structure will result in additional revenue which will help offset the actual cost of the service provided. CUPA fees will be included in the 2024 citywide fees and charges study refresh to determine whether they continue to represent full cost recovery or if adjustments are needed.

Prepared by: Craig Kodat, Fire Marshal/Division Chief
Approved by: Michael Moore, Fire Chief
Certified as to
availability of funds: Kristie Thomas, Finance Director/Assistant Chief Financial Officer
Approved by: Mike Futrell, City Manager
Approved as to form: Phaedra A. Norton, City Attorney

Attachments:

1. Resolution and Exhibit “A”: FY 2023-24 Schedule of Fees & Charges
2. Proposed Changes to City of Riverside Schedule of Fees and Charges
3. Public Notice
4. Presentation