

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE, CALIFORNIA, AMENDING CHAPTER 9.48 OF THE RIVERSIDE MUNICIPAL CODE.

The City Council of the City of Riverside does ordain as follows:

Section 1: The Table of Contents for Chapter 9.48 of the Riverside Municipal Code entitled “Unified Hazardous Materials Programs” is hereby amended to read as follows:

“Chapter 9.48 – Unified Hazardous Materials Program

Sections:

9.48.010 Finding and purpose.

...

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

9.48.040 Content of the Business Emergency Plan.

...

~~**9.48.090 California Accidental Release Prevention Program.**~~

...”

Section 2: Section 9.48.010 of the Riverside Municipal Code is hereby amended as follows:

“Section 9.48.010 Findings and purpose.

...

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

1 The Unified Programs consist of:

- 2 a. Hazardous materials release response plans and inventories (Business ~~Emergency~~ Plans),
3 ~~b. California Accidental Release Prevention (CalARP) Program,~~
4 ~~be.~~ Aboveground Petroleum Storage Act (APSA/SPCC), California Fire Code: Hazardous
5 Material Management Plans and Hazardous Material Inventory Statements.
6 ~~c. California Fire Code: Hazardous Materials Management Plans and Hazardous~~
7 ~~Material Inventory Statements.~~

8 Section 3: Section 9.48.020 of the Riverside Municipal Code is hereby amended as
9 follows:

10 **“Section 9.48.020 Definitions.**

11 *Business* means all of the following:

12 ...

13 d. An agency, department, office, board, commission, or bureau of state government,
14 including, but not limited to, the campuses of the California Community Colleges, the California State
15 University, and the University of California, and including educational institutions.

16 ...

17 *Certified Unified Program Agency* or *CUPA* means the agency certified by the secretary to implement
18 the unified program specified in Health & Safety Code (HSC), Chapter 6.11(commencing with Section
19 25404) within a jurisdiction.

20 ...

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

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

28 ...

1 *Handle* means all of the following:

2 ...

3 ~~b. For purposes of subparagraph (a), "store" does not include the storage of hazardous~~
4 ~~materials incidental to transportation, as defined in Title 49 of the Code of Federal Regulations,~~
5 ~~with regard to the inventory requirements of Section 25506.~~

6 ~~b.~~ The use or potential use of a quantity of hazardous material by the connection of a
7 marine vessel, tank vehicle, tank car, or container to a system or process for any purpose.

8 ~~d. For purposes of subparagraph (c), the use or potential use does not include the immediate~~
9 ~~transfer to or from an approved atmospheric tank or approved portable tank that is regulated as~~
10 ~~loading or unloading incidental to transportation by Title 49 of the Code of Federal Regulations.~~

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

17 ...

18 e. A material listed as a hazardous waste, as defined by HSC Sections 25115, 25117, and
19 25316.

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

22 a. Hazardous materials release response plans and inventories (Business ~~Emergency~~ Plans),

23 ...

24 For the purpose of this chapter, a hazardous materials permit encompasses the permitting
25 requirements of HSC Section 25404.6 and Chapter 16.32 of this Code. ~~Section 25284 of the Health~~
26 ~~and Safety Code but does not encompass the permitting requirements of a local ordinance that~~
27 ~~incorporates provisions of the California Fire Code or the California Building Code.~~

28 ...

1 *Class II violation* means a chronic or a recalcitrant violator, as provided in [H&S-HSC](#) Section
2 [25117.6 25404](#).

3 ...

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

8 ...

9 *Substantial change* means any change in a regulated facility that would inhibit immediate response
10 during an emergency by either site personnel or emergency response personnel, or that could inhibit
11 the handler's ability to comply with Section 25507, change the operational knowledge of the facility,
12 or impede implementation of the Business [Emergency](#) Plan.

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

23 ...”

24 Section 4: Section 9.48.030 of the Riverside Municipal Code is hereby amended as
25 follows:

26 “Section 9.48.030 Hazardous materials release response plans and inventories. (Business
27 [Emergency](#) Plan).
28

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

18 ...

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

25 H. Any person who, during the calendar year, for the first time becomes a user or
26 handler of hazardous material, must submit a completed Business Emergency Plan to the Fire
27 Department within 30 days of becoming a user or handler. The form shall be submitted
28 electronically using the California Environmental Reporting System (CERS). ~~or directly to the~~

1 ~~City's electronic portal.~~ Thereafter, said person shall comply with the provisions of subsection A
2 of this section.

3 I. Annually each handler shall submit its Business ~~Emergency~~ Plan electronically and
4 certify that it meets the requirements of this chapter prior to annual expiration date on the permit
5 issued by DEH. If, after review, the Fire Department determines that the handler's submission is
6 deficient in any way, the Fire Code Official shall notify the handler of these deficiencies. The
7 handler shall submit a corrected Business ~~Emergency~~ Plan within 30 days of the notice. If a handler
8 fails after reasonable notice to submit a Business ~~Emergency~~ Plan in compliance with this chapter,
9 the Fire Code Official shall immediately take appropriate action to enforce fines and penalties
10 specified in this chapter.

11 J. In addition, whenever a substantial change in the handler's operations occurs which
12 requires a modification of its Business ~~Emergency~~ Plan, the handler shall electronically submit the
13 revisions in CERS ~~or the City's electronic portal~~ within 30 days of the operational change. A
14 substantial change shall include, but shall not be limited to the following:

15 1. A ~~one hundred~~¹⁰⁰ percent or more increase in the quantity of a previously-disclosed
16 material.

17 2. Any handling of a previously-undisclosed hazardous material subject to the inventory
18 requirements of this chapter.

19 3. Change of business address.

20 4. Change of business ownership.

21 5. Change of business name.

22 6. A substantial change in the handler's operations occurs that requires modification to
23 any portion of the business plan.

24 K. On or before the annual due date established, the business owner, operator, or
25 officially designated representative of the business shall, in any case, review the Business
26 ~~Emergency~~ Plan. When submitted pursuant to subsections A and H, when given notice, and at least
27 once a year thereafter, to determine if revisions are needed to certify that the review was made and
28 that any necessary changes were made to the plan. All changes shall be submitted electronically in
CERS ~~or the City's portal~~ for acceptance.”

1 Section 5: Section 9.48.040 of the Riverside Municipal Code is hereby amended as
2 follows:

3 **“Section 9.48.040 Content of the Business ~~Emergency~~ Plan.**

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

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

12 B. A site map that contains north orientation, loading areas, internal roads, adjacent
13 streets, storm and sewer drains, access and exit points, emergency shutoffs, evacuation staging
14 areas, hazardous material handling and storage areas, and emergency response equipment. ~~Any~~
15 ~~required element not present on site, shall be indicated as “Not Applicable” on the site map.~~

16 ...”

17 Section 6: Section 9.48.050 of the Riverside Municipal Code is hereby amended as
18 follows:

19 **“Section 9.48.050 Disclosure Information.**

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

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

1 ...”

2 Section 7: Section 9.48.060 of the Riverside Municipal Code is hereby amended as
3 follows:

4 **“Section 9.48.060 Content of the Electronic Disclosure Form.**

5 A. Businesses must use the CERS business portal ~~or the City's local web portal~~ that
6 supports Unified Program electronic reporting. ~~Reporting to both CERS and a local reporting portal~~
7 ~~is prohibited to prevent duplicate reporting.~~ Business data reported is exchanged automatically
8 between Cal/EPA and the UPA so data is available to all agencies regardless of whether the
9 business reports to CERS ~~or to a local web portal~~. The contents will include, but not limited to,
10 business activities information, business owner/operator identification, hazardous materials
11 inventory, site map and storage map, emergency procedures, employee training plan, emergency
12 notification; and, any additional information such as hazardous waste related data must also be
13 reported electronically.”

14 Section 8: Section 9.48.070 of the Riverside Municipal Code is hereby amended as
15 follows:

16 **“Section 9.48.070 Exemptions.**

17 ...

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

23 ...

24 N. Any cellular communication facility that handles only batteries containing hazardous
25 material greater than or equal to 55 gallons and/or greater than or equal to 500 pounds, such as lead-
26 acid batteries will not fall under the EHS provision of any amount. Only those facilities within the
27 above thresholds listed will be required to provide a business plan.”

28 //

1 Section 9: Section 9.48.090 of the Riverside Municipal Code is hereby deleted in its
2 entirety:

3 ~~“Section 9.48.090 California Accidental Release Prevention Program.~~

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

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

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

15 ~~D.—— Any requested corrections to the risk management plan shall be submitted within 60~~
16 ~~days pursuant to H&S Section 25535 of the Health and Safety Code.”~~

17 Section 10: Section 9.48.120 of the Riverside Municipal Code is hereby amended as
18 follows:

19 **“Section 9.48.120 Responsibility for unauthorized release.**

20 ...

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

1 reimburse the UPA for all costs incurred in preventing the threatened release or remedying the
2 effects of such unauthorized release.

3 ...”

4 Section 11: Section 9.48.140 of the Riverside Municipal Code is hereby amended as
5 follows:

6 **“Section 9.48.140 Permit required.**

7 ...

8 B. A permit issued pursuant to this chapter shall be posted and conspicuously
9 displayed at the Unified Program facility location. A current copy of the Hazardous Material
10 Business ~~Emergency~~ Plan shall be available at the unified facility location.”

11 Section 12: Section 9.48.200 of the Riverside Municipal Code is hereby amended as
12 follows:

13 **“Section 9.48.200 Administration and enforcement.**

14 ...

15 G. Any administrative citation fine paid pursuant to Chapter 1.17 of this Code
16 ~~subsection C~~ shall be refunded ~~in accordance with RMC, Section 1.17.150~~ if it is determined, after
17 a hearing, ~~that if~~ the person charged in the Administrative Citation was not responsible for the
18 violation or that there was no violation as charged in the administrative citation.

19 ...

20 J. If the Responsible Party fails to correct the violation, additional enforcement action
21 may be implemented pursuant to HSC 25404.1.1 in its entirety.

22 KJ. Due to the significant risks of certain violations to public health, safety and welfare,
23 the amount of fine to be imposed for the following violations of this Code and assessed by means
24 of an administrative citation shall be \$500.00 for the first and each subsequent occurrence of the
25 same type of violation. Notwithstanding this section, the amount of fine to be assessed by means
26 of an administrative citation may be established by resolution of the City Council.

- 27 1. RMC 16.32.020, CFC 5003.3; Release of hazardous materials.
28 2. RMC 16.32.020, CFC 5003.3.1; Unauthorized discharge.
3. RMC 16.32.020, H&S 25189; Abandonment of a hazardous material.

1 4. RMC 16.32.020, CFC 5001.6.3; Failure to submit a facility closure plan.

2 5. RMC 16.32.020, CFC, 105.7.~~89~~; Failure to obtain a permit to install, alter, remove,
3 abandon or otherwise dispose of a flammable, combustible or any hazardous materials liquid tank,
4 container or cylinder.

5 6. 19 CCR 4 2703, ~~H&S~~ HSC 25507; Failure to report a release of a hazardous material to
6 the UPA or OES.

7 LJ. All administrative, civil and or criminal penalties collected will be accounted for
8 separately for auditing and accounting purposes and shall be placed into the CUPA Cost Center
9 restricted account (~~101215~~-2356001).

10 MK. The imposition or payment of the penalty imposed by this section shall not prevent
11 the imposition of any other penalty prescribed by this Code or any ordinance nor prosecution for
12 violation of this Code or any ordinance.

13 NL. Notwithstanding any other provisions of this ordinance, a hazardous materials
14 handler regulated by any state or federal agency will be exempt from any conflicting provision of
15 this ordinance. Whenever any provision of this ordinance conflicts with a provision in the
16 California Fire Code as adopted by the City Council, the more restrictive provision shall prevail.”

17 Section 13: The City hereby finds that this ordinance is not subject to review under the
18 California
19 Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060, subdivision (c)(2)
20 (the activity will not result in a direct or reasonably foreseeable indirect physical change in the
21 environment) and 15061, subdivision (b)(3) (there is no possibility the activity in question may have
22 a significant effect on the environment). In addition to the foregoing general exemptions, the City
23 Council further finds that this ordinance is categorically exempt from review under CEQA under the
24 Class 8 Categorical Exemption (regulatory activity to assure the protection of the environment),
25 CEQA Guidelines section 15308.

26 //

27 //

28 //

//

1 ADOPTED by the City Council this _____ day of _____, 2019.

2

3

4

Mayor of the City of Riverside

5 Attest:

6

7 _____
City Clerk of the City of Riverside

8

9 I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the
10 foregoing ordinance was duly and regularly introduced and adopted at a meeting of the City Council
11 on the _____ day of _____, 2019, by the following vote, to wit:

12 Ayes:

13 Noes:

14 Absent:

15 Abstain:

16 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the
17 City of Riverside, California, this _____ day of _____, 2019.

18

19

20

City Clerk of the City of Riverside

21

22

23

24

25

26

27

28 19-1120 KJS 09/26/19