ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 24, ARTICLE I,
OF THE MOUNTAIN VIEW CITY CODE,
RELATING TO HAZARDOUS MATERIALS

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 24 of the Mountain View City Code is hereby amended to read as follows:

"**CHAPTER 24 - HAZARDOUS MATERIALS**

**ARTICLE I. - HAZARDOUS MATERIALS PERMIT CODE**

**DIVISION I. - GENERAL PROVISIONS**

**SEC. 24.1.0. - Purpose.**

The purpose of this chapter is the protection of health, safety or welfare of persons, resources or property through the regulation of hazardous materials and other regulated materials.

**SEC. 24.1.1. - General obligation—Safety and care.**

a. No person, firm or corporation shall cause, suffer or permit the storage, handling or dispensing of hazardous materials or other regulated materials:

1. In a manner which violates a provision of this chapter or any other local, federal or state statute, code, rule or regulation relating to hazardous materials or other regulated materials; or

2 In a manner which causes, or poses a significant risk of causing, an unauthorized discharge of hazardous materials or other regulated materials or threatens the health, safety, or welfare of persons, resources or property.

**SEC. 24.1.2. - Specific obligation.**

a. Any person, firm or corporation which stores, handles or dispenses any hazardous or other material regulated by Sec. 24.2.0 which is not excluded by Sec. 24.2.1 shall obtain and keep current a hazardous materials permit.

b. All such hazardous or other regulated materials shall be stored, handled and dispensed in conformity with Division III of this chapter.

c. The storage, handling and dispensing of such hazardous or other regulated materials shall be in conformance with the approved hazardous materials business plan.

d. The fire department shall be the agency within the city having authority to enforce the provisions of this chapter and related state and federal laws and regulations referenced in this chapter.

**SEC. 24.1.3. - Definitions.**

Unless otherwise expressly stated, whenever used in this chapter, the following terms shall have the meanings set forth below:

a. "Abandoned," when referring to a storage facility, means out of service and not safeguarded in compliance with this chapter.

b. "Acutely hazardous materials" means any chemical designated as an extremely hazardous substance which is listed in Appendix A of Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations (as referenced in California Health and Safety Code Division 20, Chapter 6.95, Article 2, Sec. 25532).

c. "Business" means an employer, self-employed individual, trust, firm, joint stock company, corporation, partnership or association. For purposes of this chapter, "business" includes a business organized for profit and a nonprofit business.

d. "California Electronic Reporting System (CERS)" is a web-based reporting system created by CalEPA for regulated facilities to electronically file required hazardous materials business plan (HMBP) information in accordance with CCR, Title 27.

e. "Chemical name" means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the system developed by the Chemical Abstract Service (CAS).

f. "City" means the City of Mountain View.

g. "Combustible liquid" is a liquid having a closed-cup flashpoint at or above one hundred (100) degrees Fahrenheit. (Note: This is the California Fire Code definition; D.O.T. defines "combustible liquid" differently.)

h. "Common name" means any designation or identification such as a code name, code number, trade name or brand name used to identify a substance other than by its chemical name.

i. "Compressed gas cylinder" means a cylinder containing:

1. A gas or mixture of gases at an absolute pressure exceeding forty (40) pounds per square inch at seventy (70) degrees Fahrenheit;

2. A gas or mixture of gases at an absolute pressure exceeding one hundred four (104) pounds per square inch at one hundred thirty (130) degrees Fahrenheit regardless of the pressure at seventy (70) degrees Fahrenheit; or

3. A liquid having a vapor pressure exceeding forty (40) pounds per square inch at one hundred (100) degrees Fahrenheit.

j. "Corrosive gas" means a gas as defined in Article II of this chapter.

k. "Corrosive liquid" means:

1. A liquid that has a pH equal to or greater than 12.5 or less than or equal to 2.0 and as defined in 173 of 49 CFR;

2. Any liquid classified as corrosive by the U.S. Department of Transportation; or

3. Any material exhibiting the characteristics of corrosivity in accordance with Title 22, California Code of Regulations § 66261.22.

l. "Corrosive solid" means a solid that has a pH equal to or greater than 12.5 or less than or equal to 2.0 when hydrated with water and as defined in 173 of 49 CFR.

m. "Cryogen" is a fluid that has a normal boiling point lower than minus one hundred thirty (-130) degrees Fahrenheit (minus ninety (-90) degrees Celsius) at 14.7 psi atmosphere (psia).

n. "Dangerous when wet liquid" means a liquid as defined in 173 of 49 CFR.

o. "Dangerous when wet solid" means a solid as defined in 173 of 49 CFR.

p. "Dispense" means to pour or transfer a material from a container, tank or similar vessel whereby vapors, dusts, fumes, mists or gases could be liberated to the atmosphere.

q. "D.O.T." is an abbreviation for department of transportation and refers to this federal agency.

r. "Electronic reporting" means all regulated facilities must use an approved web-based reporting system to electronically file required hazardous materials business plan (HMBP) information. This includes, but is not limited to, CCR Title 27 Data Dictionary elements, facility data regarding hazardous materials regulatory activities, chemical inventories, underground and aboveground storage tanks, hazardous waste generation, and additional locally required information as necessary.

s. "Explosive" means:

1. Chemicals that cause a sudden, almost instantaneous release of pressure, gas and heat when subjected to sudden shock, pressure or high temperatures; or

2. Materials or chemicals, other than blasting agents, that are commonly used or intended to be used for the purpose of producing an explosive effect.

t. "Facility" means a building or buildings, appurtenant structures and surrounding land area used by a single business entity at a single location or site.

u. "Flammable gas" is a gas at sixty-eight (68) degrees Fahrenheit or less at 14.7 psi atmosphere of pressure which is ignitable when in a mixture of thirteen (13) percent or less by volume with air or which has a flammable range with air of at least twelve (12) percent regardless of the lower limit.

v. "Flammable liquid" is a liquid having a closed-cup flash point below one hundred (100) degrees Fahrenheit and having a vapor pressure not exceeding forty (40) psia at one hundred (100) degrees Fahrenheit.

w. "Flammable solid" means any of the following three (3) types of materials:

1. **Desensitized explosives that:**

(a) When dry are explosives of Class 1 other than those of compatibility Group A which are wetted with sufficient water, alcohol or plasticizer to suppress explosive properties; and

(b) Are specifically authorized by name either in Table 172.101 of 49 CFR or have been assigned a shipping name and hazard class by the associate administrator for hazardous materials safety;

2. **Self-reactive materials.** These are materials that are liable to undergo, at normal or elevated temperatures, a strongly exothermal decomposition caused by excessively high transport temperatures or by contamination; and

3. **Readily combustible solids.** These are materials that:

(a) Are solids which may cause a fire through friction such as matches;

(b) Show a burning rate faster than 2.2 mm per second when tested in accordance with 173 of 49 CFR; or

(c) Any metal powders that can be ignited and react over the whole length of a sample when tested in accordance with 173 of 49 CFR.

x. "Handle" means all of the following:

1. (a) ~~t~~To use, generate, process, produce, package, treat, store, emit, discharge or dispose of a hazardous material in any fashion.

(b) For the purposes of subparagraph (a), "store" does not include the storage of hazardous materials incidental to transportation, as ~~defined~~regulated in Title 49 of the Code of Federal Regulations.

2. (a) The use or potential use of a quantity of hazardous materials by the connection of a marine vessel, tank vehicle, tank car or container to a system or process for any purpose.

(b) For the purposes of subparagraph (a), 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.

y. "Handler" means any person, firm or corporation which handles a hazardous material.

z. "Hazard class" means dangerous when wet liquids, dangerous when wet solids, flammable liquids, combustible liquids, flammable solids, oxidizer liquids, oxidizer solids, oxidizer gases, organic peroxide liquids, organic peroxide solids, corrosive liquids, corrosive solids, corrosive gases, flammable gases, nonflammable gases, poisonous material gases, poisonous material liquids, poisonous material solids, infectious substances, radioactive materials, cryogens, miscellaneous hazardous material liquids, miscellaneous hazardous material solids, spontaneously combustible liquids, spontaneously combustible solids.

aa. "Hazardous material" means any material which is subject to regulation pursuant to Division II of this chapter. A mixture shall be deemed to be a hazardous material if it either is:

(1) A waste and contains any material regulated pursuant to Article II of this chapter;

(2) A nonwaste (other than toxic, highly toxic, moderately toxic or poisonous solids, liquids or gases) and contains one (1) percent by weight or more of any material regulated pursuant to Division II of this chapter; or

(3) Is a nonwaste and contains any amount of material regulated as a toxic, highly toxic, moderately toxic or poisonous solid, liquid or gas.

The definition of mixtures shall not apply to hazardous substances stored in underground storage tanks, and any amount of a hazardous substance in an underground storage tank shall be regulated as a hazardous material.

bb. "Hazardous materials business plan (HMBP)" means an electronically filed plan containing the information required pursuant to Sec. 25500 et seq. of the California Health and Safety Code, Title 27 of the California Code of Regulations, and a locally required Fire and Life Safety Plan, and additional locally required information as necessary.

cc. "Infectious substance" means a viable microorganism, or its toxin, which causes or may cause disease in humans or animals and includes those agents listed in 42 CFR 72.3 of the regulations of the Department of Health and Human Services or any other agent that causes or may cause severe, disabling or fatal disease. The terms "infectious substance" and "etiologic agent" are synonymous for the purposes of this chapter.

dd. "Miscellaneous hazardous material liquids" means any liquid which a handler or the city has a reasonable basis to believe it would be injurious to the health and safety of persons or property or be harmful to the environment if released into the workplace or environment and is not otherwise classified under any other hazard classes described in this chapter.

ee. "Miscellaneous hazardous material solids" means any solid which a handler or the city has a reasonable basis to believe it would be injurious to the health and safety of persons or property or be harmful to the environment if released into the workplace or environment and is not otherwise classified under any other hazard classes described in this chapter.

ff. "~~M~~SDS" is an abbreviation for "~~material~~ safety data sheet" and refers to written or printed material concerning a hazardous material which is prepared in accordance with the provisions of 29 CFR 1910.1200.

gg. "Nonflammable gas" is any inert material or inert mixture that, when enclosed in a container, has an absolute pressure exceeding forty (40) psi at seventy (70) degrees Fahrenheit or, regardless of the pressure at seventy (70) degrees Fahrenheit, having an absolute pressure exceeding one hundred forty (140) psi at one hundred thirty (130) degrees Fahrenheit.

hh. "Normal temperature and pressure" means a temperature of sixty-eight (68) degrees Fahrenheit and pressure of one (1) atmosphere (14.7 psia).

ii. "Officer" means the employee assigned by the city to administer this chapter or any designee of such employee.

jj. "Organic peroxide liquid" means any organic liquid containing oxygen in the bivalent (-O-O-) structure and which may be considered a derivative of hydrogen peroxide where one (1) or more of the hydrogen atoms have been replaced by organic radicals.

kk. "Organic peroxide solid" means any organic solid containing oxygen in the bivalent (-O-O-) structure and which may be considered a derivative of hydrogen peroxide where one (1) or more of the hydrogen atoms have been replaced by organic radicals.

ll. "Oxidizer gas" means a gas that can support and accelerate combustion of other materials more than air does.

mm."Oxidizer liquid" means a material that readily yields oxygen or other oxidizing gas, or that readily reacts to promote or initiate combustion of combustible materials.

nn. "Oxidizer solid" means a material that readily yields oxygen or other oxidizing gas, or that readily reacts to promote or initiate combustion of combustible materials.

oo. "Permit" means any hazardous materials permit issued pursuant to this chapter as well as any additional approvals thereto.

pp. "Permit quantity limit" means the maximum amount of hazardous material that can be stored or handled in a storage facility. Separate permit quantity limits will be set for each storage facility for which a permit is obtained in accordance with the requirements of this chapter.

qq. "Permittee" means any person, firm or corporation to whom a permit is issued pursuant to this chapter and any authorized representative, agent or designee of such person, firm or corporation.

rr. "Pipes" means pipeline systems which are used in connection with the storage or handling of hazardous materials exclusively within the confines of a facility and which are not intended to transport hazardous materials in interstate or intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.

ss. "Poisonous material gas" means a material which is a gas at twenty (20) degrees Celsius or less and a pressure of 101.3 kPa (14.7 psi) (a material which has a boiling point of twenty (20) degrees Celsius (sixty-eight (68) degrees Fahrenheit) or less at 101.3 kPa (14.7 psi)) and which:

1. Is known to be so toxic to humans as to pose a hazard to health during transportation, or

2. In the absence of adequate data on human toxicity is presumed to be toxic to humans because when tested on laboratory animals it has an $LC_{50}$ value of not more than five thousand (5,000) $ml/m^3$.

tt. "Poisonous material liquid" means a liquid which is known to be so toxic to humans as to pose a hazard to health during transportation or which in the absence of adequate data on human toxicity:

1. Is presumed to be toxic to humans because it falls within any one (1) of the following categories when tested on laboratory animals:

(a) **Oral toxicity.** A liquid with an $LC_{50}$ for acute oral toxicity of not more than five hundred (500) mg/kg.

(b) **Dermal toxicity**. A material with an $LC_{50}$ for acute dermal toxicity of not more than one thousand (1,000) mg/kg.

(c) **Inhalation toxicity.**

i. A dust or mist with an $LC_{50}$ for acute toxicity on inhalation of not more than ten (10) mg/L; or

ii. A material with a saturated vapor concentration in air at twenty (20) degrees Celsius greater than or equal to one-fifth (1/5) of the $LC_{50}$ for acute toxicity on inhalation of vapors and with an $LC_{50}$ for acute toxicity on inhalation of vapors of not more than five thousand (5,000) $ml/m^3$.

2. Is an irritating material, with properties similar to tear gas, which causes extreme irritation, especially in confined spaces.

uu. "Poisonous material solid" means a solid which is known to be so toxic to humans as to pose a hazard to health during transportation or which in the absence of adequate data on human toxicity:

1. Is presumed to be toxic to humans because it falls within any one (1) of the following categories when tested on laboratory animals:

(a) **Oral toxicity.** A liquid with an $LC_{50}$ for acute oral toxicity of not more than five hundred (500) mg/kg.

(b) **Dermal toxicity.** A material with an $LC_{50}$ for acute dermal toxicity of not more than one thousand (1,000) mg/kg.

(c) **Inhalation toxicity.**

i. A dust or mist with an $LC_{50}$ for acute toxicity on inhalation of not more than twenty (20) mg/L; or

ii. A material with a saturated vapor concentration in air at twenty (20) degrees Celsius greater than or equal to one-fifth (1/5) of the $LC_{50}$ for acute toxicity on inhalation of vapors and with an $LC_{50}$ for acute toxicity on inhalation of vapors of not more than five thousand (5,000) ml/$m^3$.

2. Is an irritating material, with properties similar to tear gas, which causes extreme irritation, especially in confined spaces.

vv. "Portal" means a web-based database for regulated facilities to electronically report required hazardous materials business plan (HMBP) and additional locally required information.

ww. "Primary containment" means the first level of containment (i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous materials being contained).

~~ww. "Primary containment" means the first level of containment (i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained).~~

xx. "Product-tight" means impervious to the hazardous material which is contained, or is to be contained, so as to prevent the seepage of the hazardous material from the primary containment. To be product-tight, the containment shall be made of or created by a material that is not subject to physical or chemical deterioration by the hazardous material or naturally occurring contaminants being contained.

yy. "Radioactive" means any material or combination of materials that has a specific activity greater than 0.002 microcuries per gram.

zz. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or dispensing outside of the primary containment.

aaa. "Retail sales occupancy" means the occupancy or use of a building or structure or any portion thereof for displaying, selling or buying of goods, wares or merchandise.

~~bbb. "Secondary containment" means the level of containment external to and separate from the primary containment and which is capable of safely and securely containing the material, without discharge, for a period of time reasonably necessary to ensure detection and remedy of the primary containment failure~~.

~~ccc~~bbb. "SIC code" means the identification number assigned by the Standard Industrial Classification Code to specific types of businesses.

~~ddd. "Single-walled" means construction with walls made of one (1) thickness of material. Laminated, coated or clad materials shall be considered as single-walled.~~

~~eee~~ccc. "Spill control" means rooms, buildings or areas used for the storage of hazardous material liquids with provisions to prevent the flow of liquids to adjoining areas.

~~fff~~ddd. "Spontaneously combustible liquid" means:

1. A pyrophoric liquid. A pyrophoric liquid is a liquid that, even in small quantities and without an external ignition source, can ignite within five (5) minutes after coming in contact with air when tested according to 173 of 49 CFR.

2. A self-heating liquid. A self-heating liquid is a liquid that, when in contact with air and without an energy supply, is liable to self-heat. A liquid of this type exhibits spontaneous ignition or the temperature of the sample exceeds two hundred (200) degrees Celsius during the twenty-four (24) hour test period when tested in accordance with 173 of 49 CFR.

~~ggg~~eee. "Spontaneously combustible solid" means:

1. A pyrophoric solid. A pyrophoric solid is a solid that, even in small quantities and without an external ignition source, can ignite within five (5) minutes after coming in contact with air when tested according to 173 of 49 CFR.

2. A self-heating solid. A self-heating solid is a solid that, when in contact with air and without an energy supply, is liable to self-heat. A solid of this type exhibits spontaneous ignition or the temperature of the sample exceeds two hundred (200) degrees Celsius during the twenty-four (24) hour test period when tested in accordance with 173 of 49 CFR.

~~hhh. "Stationary tank" means any packaging designed primarily for stationary installation not intended for loading, unloading or attachment to a transport vehicle as part of its normal operation in the process of use.~~

~~iii~~fff. "Storage facility" is a facility that stores, handles or uses one (1) or a combination of tanks, sumps, reservoirs, wet floors, waste treatment facilities, pipes, vaults or other portable or fixed containers, used, or designed to be used, for the storage of hazardous materials or other regulated materials at a facility.

~~jjj~~ggg. "STP" is an abbreviation for standard temperature and pressure and means zero (0) degrees Celsius, or thirty-two (32) degrees Fahrenheit, at one (1) atmosphere of pressure (14.7 psia).

~~kkk~~hhh. "Sump" means a pit or well in which liquids collect.

~~lll~~iii. "Temporary" means not to exceed ~~one (1) year~~thirty (30) days.

~~mmm~~jjj. "Threatened release" means a condition creating a substantial probability of harm when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce or mitigate damages to persons, property or the environment.

~~nnn~~kkk. "Trade secret" means trade secrets as defined in subdivision (d) of Sec. 6254.7 of the Government Code and Sec. 1060 of the Evidence Code.

~~ooo~~lll. "Unauthorized discharge" means any release or emission of any hazardous material or other regulated material which does not conform to the provisions of this chapter, unless such release is in accordance with the release regulations of the Bay Area Air Quality Management District and California Air Resources Board, with a National Pollutant Discharge Elimination System Permit, with waste discharge requirements established by the Regional Water Quality Control Board pursuant to the Porter-Cologne Water Quality Act, or with local sewer pretreatment requirements for publicly owned treatment works

**SEC. 24.1.4. - Professional assistance for city determinations.**

Whenever the approval or satisfaction of the city may be required in this chapter for a design, monitoring, testing, evaluation, or technical submittal by an applicant or permittee, the city may, in its discretion, require such applicant or permittee, at such applicant's or permittee's sole cost and expense, to retain a suitably qualified independent engineer, or chemist, or other appropriate professional consultant, acceptable to the city, for the purpose of evaluating and rendering a professional opinion respecting the adequacy of such submittal, design, monitoring, testing or evaluation to achieve the purposes of this chapter. The city shall be entitled to rely on such evaluation and/or opinion of such engineer, chemist or professional consultant in making the relevant determinations provided for in this chapter.

## DIVISION II. - MATERIALS REGULATED

### SEC. 24.2.0. - Materials regulated.

The materials regulated by this chapter shall consist of any materials that, because of their quantity, concentration or physical or chemical characteristics, pose a significant present or potential physical or health hazard to human health and safety, property or the environment if released into the workplace or the environment. These shall include, but not be limited to:

a. Any material regulated under Sec. 25501 or 25532 of Chapter 6.95 of the California Health and Safety Code.

b. Any material regulated under Sec. 25281 of Chapter 6.7 of the California Health and Safety Code.

c. Any material regulated by the California Fire Code.

d. Any material regulated under Division 20, Chapter 6.5, of the California Health and Safety Code.

e. Any material regulated under Chapter 6.67, Sec. 25270.5(c), of the California Health and Safety Code.

f. Any material which a handler or the city has a reasonable basis for believing would be injurious to the health, safety and welfare of persons or property or harmful to the environment if released into the workplace or the environment.

### SEC. 24.2.1. - Exclusions.

This chapter excludes the following materials from hazardous materials permit fees. These materials may be required to be reported or included in a HMBP when the fire chief or his/her designee so determines and where such action would be appropriate and consistent with achieving the general obligations of protecting public health, safety and welfare. In addition, the following materials shall comply with all applicable requirements in Division III (Storage, Handling and Dispensing Standards) of this chapter.

a. **Retail products.** ~~Hazardous materials meeting all of the following requirements: (1) contained solely in consumer products with a container capacity not exceeding five (5) gallons or fifty (50) pounds; (2) packaged for distribution to, and use by, the general public; (3) whose contents are not dispensed from their original containers at the storage facility; and (4) located in an area defined as a retail sales~~

~~occupancy per Article I, Division I of this chapter.~~Hazardous materials contained solely in a consumer product, handled at, and found in, a retail sales occupancy and intended for sale to, and for the use by, the public. The exemption provided in this paragraph shall not apply to a consumer product handled at the facility which manufacturers that product, or a separate warehouse or distribution center of that facility, or where a product is dispensed on the retail sales occupancy.

b. **Cryogenic, refrigerated, or compressed gas.** Cryogenic, refrigerated or compressed gas in quantities of less than one thousand (1,000) cubic feet at standard temperature and pressure, if the gas is any of the following:

1. ~~**Medicinal products.** Oxygen and nitrous oxide, ordinarily maintained by a physician, dentist, podiatrist, veterinarian, pharmacist or emergency medical service provider at his or her office or place of business in quantities less than 1,000 cubic feet at standard temperature and pressure, of each material at any one time.~~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.

2. ~~c. **Food and beverage products.** Noncryogenic C~~carbon dioxide ~~compressed gas ($CO_2$)~~ used in the direct dispensing of food or beverages at restaurants, delicatessens, pubs or other public eating or drinking establishments ~~in quantities less than 1,000 cubic feet at standard temperature and pressure~~.

3. Nonflammable refrigerant gases, as defined in the California Fire Code, that are used in refrigeration systems.

4. Gases used in closed fire suppression systems.

c~~d~~. **Stationary storage battery systems.** Batteries used for facility standby power, emergency power or uninterrupted power supplies in which the liquid electrolyte in the cells is immobilized (i.e., AGM-absorptive glass mat, gel cell) and contain less than fifty-five (55) gallons (aggregate) quantity, or not more than five hundred (500) pounds (aggregate) quantity for lithium-ion and lithium metal polymer.

d~~e~~. **Fire department and emergency response organizations.** Compressed air in cylinders, bottles and tanks used for the purpose of emergency response and safety.

~~f. **Fire suppression systems.** Gases used in closed fire suppression systems in quantities less than one thousand (1,000) cubic feet at standard temperature and pressure.~~

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

~~h. **Nonflammable refrigerant gases.** Nonflammable refrigerant gases, as defined in the California Fire Code, that are used in refrigeration systems in quantities less than one thousand (1,000) cubic feet at standard temperature and pressure.~~

fif. **Minimum quantities.** *Hazardous materials whose aggregate quantity in a hazard class does not exceed the limits specified below:

| Maximum Quantity | Hazard Class |
|---|---|
| 10 gallons | Miscellaneous hazardous material liquid |
| 10 gallons | Combustible liquid |
| 10 gallons | Corrosive liquid |
| 10 gallons | Flammable liquid |
| 10 gallons | Oxidizer liquid |
| 50 pounds | Miscellaneous hazardous material solid |
| 50 pounds | Corrosive solid |
| 50 pounds | Flammable solid |
| 50 pounds | Oxidizer solid |
| 199 cubic feet | Nonflammable gas |
| 199 cubic feet | Flammable gas |

* Minimum quantity exclusions do not apply to hazardous substances stored in underground storage tanks.

gig. **Exemption.** The city shall exempt any material from the requirements of this chapter where it has been demonstrated to the satisfaction of the city that the material in the quantity and/or solution stored does not present a significant actual or potential hazard to the public health, safety or welfare.

**SEC. 24.2.2. - Underground storage tanks.**

This chapter hereby adopts by reference: Chapter 16 of Division 3 of Title 23 of the California Code of Regulations "Underground Storage Tank Regulations," Sec. 25280-25299.87 of Chapter 6.7 of Division 20 of the California Health and Safety Code "Underground Storage of Hazardous Substances," applicable federal law and all other laws, regulations and guidelines adopted thereto regulating the storage of hazardous substances in underground storage tanks.

The city may adopt and enforce any regulation, requirement or standard of performance that is more stringent than a regulation, requirement or standard of performance in effect under Chapter 16 of Division 3 of Title 23 of the California Code

of Regulations, Chapter 6.7 of Division 20 of the Health and Safety Code or applicable federal law, if the regulation, requirement or standard of performance is consistent with these laws and with the general obligation of protecting health, safety and welfare of persons, resources or property.

In no case shall any regulation, requirement or standard of performance for hazardous substances stored in underground storage tanks be less restrictive than the state and federal laws and regulations cited above. In cases where requirements in this chapter conflict with the state and federal requirements for hazardous substances stored in underground storage tanks cited above, the more restrictive shall apply.

This chapter shall not be construed to preclude or deny the right of the city to regulate underground storage tanks which are not subject to state or federal laws or regulations.

**SEC. 24.2.3. - Aboveground storage tanks.**

This chapter hereby adopts by reference California Health and Safety Code Division 20, Chapter 6.67, Sec. 25270.5(c), applicable federal law, and all other laws, regulations and guidelines adopted thereto regulating aboveground storage tanks. The city may adopt and enforce any regulation, requirement or standard of performance that is more stringent than a regulation, requirement or standard of performance in effect under the state and federal laws and regulations cited in this section if the regulation, requirement or standard of performance is consistent with these laws and with the general obligation of protecting health, safety and welfare of persons, resources or property.

In no case shall any regulation, requirement or standard of performance for aboveground storage tanks be less restrictive than the state and federal laws and regulations cited above. In cases where requirements in this chapter conflict with the state or federal requirements for aboveground storage tanks cited above, the more restrictive shall apply.

This chapter shall not be construed to preclude or deny the right of the city to regulate aboveground storage tanks which are not subject to state or federal laws or regulations.

**SEC. 24.2.4. - Hazardous waste treatment.**

This chapter hereby adopts by reference Division 4.5, Title 22 of the California Code of Regulations (Department of Toxic Substances Control), California Health and Safety Code Division 20, Chapter 6.5, applicable federal law, and all other laws, regulations and guidelines adopted thereto regulating hazardous waste treatment.

The city may adopt and enforce any regulation, requirement or standard of performance that is more stringent than a regulation, requirement or standard of performance in effect under the state and federal laws and regulations cited in this section if the regulation, requirement or standard of performance is consistent with these laws and with the general obligation of protecting health, safety and welfare of persons, resources or property.

In no case shall any regulation, requirement or standard of performance for hazardous waste treatment be less restrictive than the state and federal laws and regulations cited above. In cases where requirements in this chapter conflict with the state or federal requirements for hazardous waste treatment cited above, the more restrictive shall apply.

## DIVISION III. - STORAGE, HANDLING AND DISPENSING STANDARDS

### SEC. 24.3.0. - Storage, handling and dispensing of hazardous or other regulated materials.

Storage, handling and dispensing of hazardous or other regulated materials shall be in conformance with this division. In the absence of direct regulation by this division, other appropriate regulations, standards, laws, ordinances or other nationally recognized and accepted methods of good practice may be required when storage, handling or dispensing practices do not meet the purpose and general obligation of this chapter to protect the public health, safety and welfare and the environment. In the event of conflicting authorities or conflicts with other codes, the more restrictive shall apply.

~~a. **Compressed gas cylinder storage.** All compressed gas cylinders in storage shall be adequately secured by approved noncombustible straps, chain, wire, etc., to prevent falling or being knocked over. All compressed gas cylinders in storage shall have their valve assemblies protected by a D.O.T.-approved bonnet.~~

~~Compressed gas containers, cylinders and tanks shall not be placed near elevators, unprotected platform ledges or other areas where falling would result in compressed gas containers, cylinders or tanks being allowed to drop distances exceeding one-half (½) the height of the container, cylinder or tank.~~

~~b. **Compressed gas cylinder use.** All compressed gas cylinders in service shall be adequately secured to prevent falling or being knocked over except for cylinders in the process of examination, servicing or filling. Securement may include chaining cylinders to stationary bracing, chaining cylinders onto secured transport carts or other means acceptable to the city.~~

~~c. **Container compatibility.** Containers, piping and equipment used for storing or handling hazardous or other regulated materials shall be compatible with the hazardous or other regulated materials they store or handle. In general, flammable and combustible materials are compatible with metal whereas corrosive materials are compatible with plastic (polyethylene or polypropylene).~~

~~d~~a. **Design, construction and installation of hazardous materials storage facilities.**

~~1.~~ All storage facility installation, construction, repair or modification, closure and removal shall be completed under permit to the satisfaction of the city. The city shall have the discretion to exempt an applicant from any specific requirement other than those for underground storage tanks or to impose reasonable additional or different requirements based on other appropriate regulations, standards, laws, ordinances or other nationally recognized and accepted methods of good practice in order to better secure the purpose and general obligation of this chapter for protection of public and environmental health, safety and welfare.

~~2. Containers, cylinders and tanks shall be designed and constructed in accordance with nationally recognized standards or comply with the standard of duty as defined in Chapter 80 of the 2012 International Fire Code, as amended.~~

~~3. Equipment, machinery and processes utilized for storage, use or dispensing of hazardous or other regulated materials shall be approved, listed or designed and constructed in accordance with approved standards for the intended use or comply with the standard of duty as defined in Chapter 80 of the 2012 International Fire Code, as amended. Such equipment, machinery and processes shall be maintained in an operable condition.~~

~~4. Piping, tubing, valves and fittings conveying hazardous or other regulated materials shall be installed in accordance with approved standards and meet the following requirements:~~

~~(a) They shall be designed and fabricated from materials of adequate strength and durability to withstand the pressure, structural and seismic stress, and exposure to which they are subject.~~

~~(b) Backflow prevention or check valves shall be provided when the backflow of hazardous materials could create a hazardous condition or cause the unauthorized discharge of hazardous or other regulated materials.~~

(c) Piping and tubing utilized for the transmission of liquids having a health hazard ranking of 3 or 4 in accordance with the National Fire Protection Association (NFPA) Standard 704 shall have welded or brazed connections throughout unless the piping or tubing is provided with a receptor for containment if the material is a liquid.

(d) Piping and tubing utilized for the transmission of liquids having a health hazard ranking of 3 or 4 in accordance with NFPA 704 in pressurized piping above fifteen (15) psig shall be provided with excess flow control. When the piping originates from within a hazardous material storage room or area, the excess flow control shall be located within the storage room or area. Where the piping or tubing originates from a bulk source, the excess flow control shall be located as close to the bulk source as practical.

(e) Piping and tubing utilized for the transmission of liquids having a health hazard ranking of 3 or 4 in accordance with NFPA 704 shall be provided with readily accessible manual or automatic remotely activated fail-safe emergency shutoff valves at the following locations:

i. The point of use.

ii. The tank, cylinder or bulk source.

e. **Dispensing and mixing.** Dispensing and mixing of hazardous or other regulated materials must not be done in such a manner as to substantially increase the risk of fire or unauthorized discharge. Dispensing and mixing of flammable or combustible liquids shall meet the following conditions:

1. Positive displacement pumps shall be provided with pressure relief discharging back to the tank, pump suction or other suitable location or shall be provided with interlocks to prevent overpressure.

2. When gases are introduced to provide for liquid transfer by pressure, only inert gases shall be used and controls, including pressure relief devices, shall be provided to limit the pressure so that it cannot exceed the maximum working pressure of tanks, containers and piping systems. When devices operating through pressure with a tank or container are used, the tank or container shall be a pressure vessel approved for the intended use. Air or oxygen shall not be used for pressurization.

3. Liquids with closed-cup flash points below one hundred forty (140) degrees Fahrenheit in containers greater than five (5) gallon capacity shall be transferred by one (1) of the following methods:

(a) From safety cans.

(b) Through an approved closed piping system.

(c) From containers or tanks by an approved pump taking suction through an opening in the top of the container or tank.

(d) From containers or tanks by gravity through an approved self- or automatic-closing valve when the container or tank and dispensing operations are provided with spill control and secondary containment. Liquids with a flash point below seventy-three (73) degrees Fahrenheit and boiling point below one hundred (100) degrees Fahrenheit shall not be dispensed by gravity.

4. Liquids with a closed-cup flash point below seventy-three (73) degrees Fahrenheit and boiling point below one hundred (100) degrees Fahrenheit in containers greater than five (5) gallon capacity shall not be dispensed into containers unless the nozzle and containers are electrically interconnected. Acceptable methods of electrical interconnection include:

(a) Metallic floor plates on which containers stand while filling when such floor plates are electrically interconnected to the fill stem.

(b) Where the fill stem is bonded to the container during filling by means of a bond wire.

f. **Drainage system.** Drainage required to prevent accumulation of liquid within secondary containment shall be controlled by a drainage system approved by the city. The drainage system shall control the discharge flow in a manner that prevents hazardous or other regulated materials from being discharged to the environment, sanitary sewer or storm drain system in violation of local, state or federal discharge requirements.

g. **Empty containers.** Empty containers and tanks previously used for the storage of hazardous or other regulated materials shall be free from residual material and vapor as defined by D.O.T., Resource Conservation and Recovery Act (R.C.R.A.) or other regulating authority or maintained as specified for the storage of hazardous material. Tanks and containers, when empty, shall have the covers or plugs immediately replaced in openings.

h. **Flammable, oxidizing and pyrophoric gases.**

1. Low-melting point materials, such as aluminum, copper and some brass alloys, or materials which soften on fire exposure, such as nonmetallic materials, or

~~nonductile materials, such as cast iron, shall not be used for piping, valves or fittings conveying flammable, pyrophoric or oxidizing gases unless they are in accordance with one (1) of the following:~~

~~(a) Suitably protected against fire exposure by fire-resistive construction, gas cabinets, automatic fire sprinklers or other approved methods.~~

~~(b) Located so that any release resulting from failure will not unduly expose persons, buildings or structures.~~

~~(c) Located where leakage can readily be controlled by operation of an accessible, remotely located valve or valves.~~

~~2. Compressed gas systems conveying flammable, oxidizing or pyrophoric gases shall be provided with emergency shutoff systems that can be activated from each point of use and at each source. A readily accessible shutoff valve is acceptable for shutoff at the source.~~

~~3. Containers of liquefied flammable gases and flammable gases in solution shall be in the upright position or positioned such that the pressure relief valve is in direct contact with the vapor phase of the container.~~

~~i~~b. **General housekeeping.** Areas where hazardous or other regulated materials are stored (including empty containers previously storing hazardous materials) shall be neat and orderly and not obstruct exits or travel pathways.

~~j. **Grounding and bonding.** When liquids with a closed-cup flash point less than one hundred forty (140) degrees Fahrenheit are dispensed and where accumulation of static electricity or flammable vapors could occur, adequate grounding and bonding shall be provided. Grounding rods shall: (1) be composed of one-half (½) inch thick copper; (2) extend at least eight (8) feet into the ground; and (3) terminate in the ground. The container being dispensed from shall be bonded to the grounding rod or other grounded container via four (4) WG wires.~~

~~k. **High-temperature and low liquid-level control.** Process tanks and equipment which involve temperature control of the hazardous or other regulated material shall be provided with a high-temperature and low liquid-level shutoff or other acceptable limit controls for maintaining the temperature and product level within a safe range. These controls shall be maintained according to the manufacturer's specifications and shall be inspected by the owner/operator at a minimum of once per month as approved by the fire chief or his/her designee.~~

~~l. **Maintenance.** Defective containers, cylinders and tanks shall be removed from service, repaired or disposed of in an approved manner. Equipment, machinery and processes found to be defective shall be replaced, repaired or removed from service. Aboveground stationary tanks not used for a period of ninety (90) days shall be properly safeguarded or removed in a manner approved by the fire chief or his/her designee. Such tanks shall have the fill line, gauge opening and pump connection secured against tampering. Vent lines shall be properly maintained. Tanks which are to be placed back into service shall be tested in a manner approved by the fire chief or his/her designee.~~

~~m~~c. **Monitoring (leak detection).**

1. All storage facilities containing hazardous or other regulated materials which are liquids or solids at normal temperature and pressure shall be designed and constructed with leak detection systems capable of detecting escape of the hazardous or other regulated materials from the primary containment. No facility shall be placed into operation without an approved leak detection system.

2. Monitoring shall include visual inspection of the primary containment wherever practical; however, if the visual inspection is not practical, an alternative method of monitoring each storage facility on a monthly or more frequent basis may be approved by the city. The city will consider: (a) the magnitude and severity of the potential effects of discharges; (b) the reliability of the monitoring method or device based on past use history; (c) the quality of the installation of the monitoring device and associated hardware and software; (d) the ability of the permittee to properly perform or use the monitoring method or device; (e) the ability of the permittee to maintain the monitoring device in proper working order; (f) the quantity and quality of the manufacturer's testing and performance specifications; and (g) the quality and quantity of third-party testing of the monitoring method or device when determining the required monitoring method or device and monitoring frequency for a storage facility. Proposed monitoring methods and devices shall be approved by the city prior to installation and use by the permittee or applicant.

3. Method(s) of monitoring may include, but are not limited to, pressure testing, vacuum testing, hydrostatic testing, liquid sensors, pressure sensors, flow sensors and vapor analysis within well(s). Well installation shall be approved by the city and the Santa Clara Valley Water District.

4. Whenever monitoring devices are provided, they shall be connected to attention-getting visual and audible alarms. The alarms shall be located in areas normally staffed with personnel trained in emergency response procedures. Whenever monitoring devices or methods are provided, they shall be fully functional at all times. Facility owners/operators shall be able to provide back-up monitoring devices or

methods approved by the city to be used in the event of failure of the primary monitoring system.

5. Whenever monitoring devices are provided they shall be tested at one of the following frequencies: (a) not less than annually; (b) in accordance with the approved manufacturer's requirements; or (c) in accordance with approved recognized industry standards.

6. Monitoring devices that have not been installed in the city or do not have a proven track record of use as determined by the fire chief or his/her designee may be approved by the city for up to six (6) months on a trial basis. Should the monitoring device not meet the owner/operator's minimum monitoring requirements, either due to faulty equipment, faulty installation, the inability of the device to meet the manufacturer's claims or specifications or other administrative or engineering problems, the owner/operator shall be required to remove the temporary monitoring device from service and install an approved monitoring device or method within fifteen (15) working days.

~~n. **Overfill protection (limit-level control) and overspill protection.** Containers used for the accumulation of hazardous or other regulated material liquids shall be equipped with a limit-level (overfill) control which will prevent overfilling of the containers, except for containers monitored by a system which will limit net content by weight. A limit-level control may include visual observation when the level of liquid in the container being filled is within sight of the operator and the filling device is within his/her immediate control. These controls shall be maintained according to the manufacturer's specifications and shall be inspected by the owner/operator at least monthly as approved by the fire chief or his/her designee.~~

~~o. **Protection from vehicles.** Guard posts or other approved means shall be provided to protect storage tanks and connected piping, valves and fittings; dispensing areas; and use areas subject to vehicular damage. When guard posts are required, the posts shall meet the following criteria:~~

~~1. Constructed of steel not less than four (4) inches in diameter and concrete-filled.~~

~~2. Spaced not more than four (4) feet on center.~~

~~3. Set not less than three (3) feet deep in a concrete footing of not less than a fifteen (15) inch diameter.~~

~~4. Set with the top of the post not less than three (3) feet above ground.~~

5. Located not less than five (5) feet from the tank. The area surrounding an exterior storage area or aboveground tank shall be kept clear of combustible materials for a minimum distance of thirty (30) feet.

p. **Safety storage cabinets.** When safety storage cabinets are used to store hazardous or other regulated materials, they shall comply with the following:

1. Constructed of metal.

2. Interior surfaces shall be lined, coated or constructed of material that is nonreactive and compatible with the hazardous or other regulated materials stored.

3. Steel thickness of not less than 0.044 inch (18 gauge).

4. Cabinet and doors shall be double-walled with one and one-half (1.5) inches air space between the walls.

5. Joints shall be riveted or welded and shall be tight-fitting.

6. Doors shall be well-fitted and self-closing. Safety storage cabinets for toxics and highly toxics shall also be equipped with a self-latching device.

7. Cabinet bottom shall be liquid-tight to a minimum of two (2) inches.

8. Shall be labeled as per the requirements of Sec. 24.3.9 of this chapter.

q. **Secondary containment.** Secondary levels of containment shall be required for all new storage facilities (constructed or installed after January 1, 1984) intended for the storage of hazardous materials which are liquids or solids at normal temperature and pressure unless exempted by the city. Secondary levels of containment may be required for existing storage facilities (those in business prior to January 1, 1984) if it is determined by the fire chief or his/her designee that the primary containment is not providing suitable storage. "Suitable storage" shall be determined by and based on a number of factors, including the age of the containment, condition and integrity of the containment, amount of spillage on or around the containment, proximity of the containment to storm drains, sewers or other environmentally sensitive receptors, general housekeeping practices in maintaining the containment, etc.

1. All primary containment shall be product-tight.

2. Secondary containment:

(a) All secondary containment shall be constructed of materials of sufficient thickness, density and composition so as not to be structurally weakened as a result of contact with the discharged hazardous materials and so as to be capable of containing hazardous materials discharged from a primary container for a period of time equal to or longer than the maximum anticipated time sufficient to allow detection and recovery of the discharged hazardous or other regulated material.

(b) In the case of an installation with one (1) primary container, the secondary containment shall be large enough to contain at least one hundred ten (110) percent of the volume of the primary container.

(c) In the case of a storage facility with multiple primary containers, the secondary container shall be large enough to contain one hundred fifty (150) percent of the volume of the largest primary container placed in it or ten (10) percent of the aggregate internal volume of all primary containers in the storage facility, whichever is greater.

(d) Secondary containment shall not provide for the accumulation or storage of liquids (hazardous material liquids, precipitation, condensate, etc.).

(e) If the storage facility is equipped with an automatic fire extinguishing system, then the secondary containment shall be able to additionally accommodate the fire extinguishing system flow for a period of twenty (20) minutes.

3. Laminated, coated or clad materials shall be considered single-walled and shall not be construed to fulfill the requirements of both primary and secondary containment.

r. **Separation of materials.** Materials that in combination may cause a fire or explosion or the production of a flammable, toxic or poisonous gas or the deterioration of a primary or secondary container shall be separated in both the primary and secondary containment so as to avoid potential intermixing. Separation shall be accomplished by:

1. Segregating incompatible materials storage by a distance of not less than twenty (20) feet and an independent secondary containment system. This twenty (20) foot distance is not required if the secondary containment systems for the incompatible materials can be shown to completely isolate all possible spillage (including container falling if containers are stacked on top of one another) so that intermixing cannot occur.

2. Isolating incompatible materials storage by a noncombustible partition extending not less than eighteen (18) inches above and to the sides of the stored material.

~~3. Storing liquids and solid materials in hazardous materials storage cabinets.~~

~~4. Storing compressed gases in gas cabinets or exhausted enclosures. Materials which are incompatible shall not be stored within the same cabinet or exhausted enclosure.~~

~~s. **Shelf storage.** Shelves used for storing hazardous or other regulated material shall be of substantial construction and adequately braced and anchored to an immovable object. The face of each shelf shall be provided with a nonflexible lip or guard to prevent individual containers from falling off except when contained inside an approved hazardous materials safety storage cabinet.~~

~~t. **Shock-sensitive materials.** Materials which are shock-sensitive shall be padded, suspended or otherwise protected against accidental dislodgement and dislodgement during seismic activity. For seismic requirements, see Mountain View City Code (MVCC), Chapter 8, and the California Building Code as amended.~~

~~u~~d. **Spill control for hazardous material liquids.** Rooms, buildings or areas used for storage of hazardous material liquids shall be provided with spill control to prevent the flow of liquids to adjoining areas. Floors in indoor locations and similar surfaces in outdoor locations shall be constructed to contain a spill from the largest single vessel by one (1) of the following methods:

1. Liquid-tight sloped or recessed floors in indoor locations or similar areas in outdoor locations.

2. Liquid-tight floors in indoor locations or similar areas provided with liquid-tight raised or recessed sills or dikes.

3. Sumps and collection systems.

4. Other approved engineered systems. Except for surfacing, the floors, sills, dikes, sumps and collection systems shall be constructed of noncombustible material and the liquid-tight seal shall be compatible with the material stored. When liquid-tight sills or dikes are provided, they are not required at perimeter openings having an open-grate trench across the opening that connects to an approved collection system.

~~v. **Temperature control.** Hazardous or other regulated materials which must be stored at temperatures other than ambient temperature to prevent a hazardous reaction shall be stored in approved areas or containers which provide a means to maintain the~~

~~temperature within a safe range. Redundant temperature control which will operate upon failure of the primary temperature control system shall be provided. Alternate means to prevent a hazardous materials reaction may be provided. These controls shall be maintained according to manufacturer's specifications and shall be inspected by the owner/operator at least monthly as approved by the fire chief or his/her designee.~~

~~w. **Transportation of hazardous or other regulated materials inside facilities.**~~

~~1. Hazardous or other regulated material liquids in containers exceeding a five (5) gallon capacity in an exit corridor or exit enclosure shall be transported on a cart or truck. Containers of hazardous or other regulated materials having a hazard ranking of 3 or 4 in accordance with NFPA 704 transported within exit corridors or exit enclosures shall be on a cart or truck. The following exceptions apply:~~

~~(a) Two (2) hazardous materials liquid containers which are hand-carried in acceptable safety carriers.~~

~~(b) Single drums not exceeding fifty-five (55) gallons which are transported by suitable drum trucks.~~

~~(c) Containers and cylinders of compressed gases which are transported by approved hand trucks and containers and cylinders not exceeding twenty-five (25) pounds which are hand-carried. (d) Solid hazardous or other regulated materials not exceeding one hundred (100) pounds which are transported by approved hand trucks and a single container not exceeding fifty (50) pounds which is hand-carried.~~

~~2. When carts or trucks are required, they shall meet the following requirements:~~

~~(a) They shall be designed to provide a stable base for the commodities to be transported and shall have a means of restraining containers to prevent accidental dislodgement.~~

~~(b) They shall be provided with a device which will enable the operator to safely control movement by providing stops or speed-reduction devices.~~

~~(c) They shall be constructed of material compatible with the material transported and be of substantial construction.~~

~~(d) They shall be capable of containing the largest single container transported.~~

(e) They shall not obstruct or be left unattended within a part of an exit.

(f) They shall not be used to transport incompatible materials together.

x. **Travel path clearance.** When hazardous or other regulated materials are moved into or out of a storage facility, they shall remain in the travel path only for the time reasonably necessary to transport the material and such movement shall be in a manner which will not result in an unauthorized discharge.

y. **Ventilation.** Indoor storage areas and storage buildings shall be provided with mechanical exhaust ventilation or natural ventilation where natural ventilation can be shown to be acceptable for the materials as stored. Signs indicating that the ventilation provided is not acceptable include corrosion of fixtures, high vapor levels, etc. If the ventilation is not acceptable, the fire chief or his/her designee may request professional assistance as described in Sec. 24.1.4 to help in determining the size, amount and location of additional ventilation required.

1. Exhaust ventilation shall be arranged to consider the density of the potential fumes or vapors released. For fumes or vapors that are heavier than air, exhaust shall be taken from a point within twelve (12) inches of the floor.

2. The location of both the exhaust and inlet air openings shall be arranged to provide air movement across all portions of the floor or room to prevent the accumulation of vapors.

3. Exhaust ventilation shall not be recirculated within the room or building if the materials stored are capable of emitting hazardous vapors.

z. **Alternative means and methods.** The fire chief or his/her designee is authorized to approve alternate materials, methods or engineering controls provided the fire chief or his/her designee finds that the proposed materials, methods or engineering controls satisfactorily comply with the intent of this section and the materials, methods or engineering control are at least equivalent to that prescribed in this section in quality, strength, effectiveness, resistance, durability and safety.

Requests for approval to use an alternate facility, materials, methods or engineering controls shall be made in writing to the fire chief or his/her designee and shall be accompanied by a full statement of the conditions. Sufficient evidence or proof shall be submitted to substantiate any claim that may be made regarding its performance. The fire chief or his/her designee may require tests and the submission of

~~a test report from an approved testing organization to substantiate the equivalency of the proposed alternate facility, materials, methods or engineering controls.~~

~~Approval of a request for use of an alternate facility or engineering control shall be limited to the particular case covered by request and shall not be construed as establishing any precedent for any future request.~~

**SEC. 24.3.1. - Abandoned storage facilities.**

a. No storage facility shall be abandoned.

b. Storage facilities which are temporarily out of service, and are intended to be returned to use, must continue to be monitored and inspected.

c. Any storage facility which is not being monitored and inspected in accordance with this chapter must be closed or removed in a manner approved by the city in accordance with Sec. 24.7.2.

d. Any person, firm or corporation having an interest, including a leasehold interest, in real property and having reason to believe that an abandoned storage facility is located upon such property shall make a diligent effort to locate such storage facility and take necessary actions to comply with this section.

e. Whenever an abandoned storage facility is located, a plan for the closing or removing or the upgrading and permitting of such storage facility shall be filed within ninety (90) days of its discovery. A closure plan shall conform to the standards specified in Sec~~tion~~. 24.7.2.

**SEC. 24.3.2. - Maintenance, repair or replacement.**

a. Permittee will carry out maintenance, ordinary upkeep, and minor repairs in a careful and safe manner. No permit or other approval will be required for such maintenance and upkeep.

b. Any substantial modification or repair of a storage facility other than minor repairs or emergency repairs shall be in accordance with plans to be submitted to the city and approved in accordance with Sec. 24.3.0.~~d~~a. prior to the initiation of such work.

c. Permittee may make emergency repairs to a storage facility in advance of seeking an additional permit approval whenever an immediate repair is required to prevent or contain an unauthorized discharge or to protect the integrity of the containment. However, within five (5) working days after such emergency repairs have

been started, permittee shall seek approval by submitting drawings or other information adequate to describe to the city the repairs.

d. Replacement of any storage facility for hazardous materials or other regulated materials must be in accordance with this chapter, including secondary containment requirements for new facilities in Sec. 24.3.0.~~q.~~ of this chapter.

~~**SEC. 24.3.3. - Secured facilities.**~~

~~Access to the storage facilities shall be secured by means of fences and/or locks. The access to the storage facilities shall be kept securely locked when unattended. Secured buildings or perimeter site security may be accepted as an alternative to locking individual storage facilities.~~

**SEC. 24.3.4~~3~~. - Spill prevention and cleanup equipment.**

Spill prevention and cleanup equipment shall be provided which is reasonable and appropriate for potential emergencies presented by the stored hazardous or other regulated materials. Such equipment shall be regularly tested and adequately maintained. Training in the use of such equipment shall be in accordance with Sec. 24.4.~~3~~2.

~~**SEC. 24.3.5. - Posting of emergency evacuation procedures.**~~

~~When simplified emergency evacuation procedures are required under Sec. 24.4.3 of this chapter, they shall be posted conspicuously in locations where hazardous or other regulated materials are stored and include a map of the facility showing evacuation routes and telephone numbers to obtain help or summon emergency responders.~~

~~**SEC. 24.3.6. - Materials safety data sheets.**~~

~~Materials safety data sheets (MSDS) for all hazardous or other regulated materials regulated by this chapter shall be kept up to date and be readily available on the premises for review by facility personnel or city inspectors. MSDSs shall be provided to city inspectors on request.~~

~~**SEC. 24.3.7. - Smoking in storage facilities.**~~

~~Smoking shall not be permitted in any room where hazardous or other regulated materials are stored or handled, nor within twenty-five (25) feet of outdoor storage areas. The use of open flames or high-temperature devices in a manner which creates a hazardous condition shall not be permitted.~~

**SEC. 24.3.8. - Placarding.**

NFPA 704M diamond placards shall be placed at entrances to locations where hazardous materials are stored or handled, as per the requirements of the fire chief or his/her designee. Placard numbering shall reflect the material posing the highest degree of hazard in the storage facility in a reasonable quantity. In addition, all aboveground storage tanks located outside of buildings shall be placarded with the NFPA 704M diamond placard for the specific material they contain. Placards shall meet the following criteria:

1. Of durable construction such that they are not defaced or faded during normal operations;

2. Minimum size of ten (10) inches by ten (10) inches with four (4) inch letters for aboveground storage tanks and external doors (doors entering the facility from the outside); and

3. Numbers are contrasting to background.

**SEC. 24.3.9. - Labeling.**

a. **General.** Markings described below shall meet the following general requirements:

1. Markings shall be made of durable materials and shall be replaced as needed due to normal aging and fading.

2. Markings shall be in English. Markings in other languages shall be provided where appropriate.

3. Unless otherwise specified, lettering shall be large enough to be read from a distance of twenty (20) feet.

4. Lettering shall contrast highly with the background.

5. Markings shall not be located where they might be obstructed (e.g., by open doors, equipment, etc.). Drums with side markings or labels shall be positioned with the markings/labels facing outward.

~~b. Chemical storage areas, drum and container storage areas, rooms, sheds and cylinder rack storage areas shall be marked as described below:~~

~~1. With signs showing the hazard class(es) of the chemical(s) stored.~~

~~2. Empty container storage areas shall be clearly identified as such.~~

~~c. Compressed gases and liquefied gases shall be marked as described below:~~

~~1. Gas cylinders shall have marked on the cylinder body or on an attached label the chemical name and hazard class of each gas contained within and, in the case of mixtures, the percentage or parts per million concentration of the hazardous constituents. This information shall be visible from the front side of the cylinder. If the D.O.T. label is not readily visible, a label indicating the D.O.T. hazard class of the gas shall be placed above the cylinder.~~

~~2. Gas cabinets shall be marked with the same information as required on cylinders.~~

~~3. Excess flow control valves shall be marked to indicate the maximum design flow rate based on air under standard conditions.~~

~~d. Piping and tubing containing hazardous material liquids and gases shall be marked as described below:~~

~~1. All piping and tubing shall be marked at intervals no greater than twenty (20) feet with the name of the material contained and the direction of flow. Piping and tubing shall be marked at each point where changes in direction occur and where wall, ceiling or floor penetrations occur. Where piping and tubing is shorter than twenty (20) feet in length, such markings shall appear at least once along the piping and tubing run. Where supplementary color identification of piping is used, it shall be in accordance with the hazardous materials and colors indicated in nationally recognized standards as referenced in the California Fire Code;~~

~~2. Piping and tubing containing water, compressed air, gas exhaust or other nonhazardous materials may be required to be marked as described in Sec. 24.3.9.d.1, above, if this tubing or piping is contained in the same location or room as tubing or piping containing hazardous or other regulated materials or if so directed by the fire chief or his/her designee.~~

~~3. Emergency control valves and shutoff valves shall be marked to indicate their function.~~

e. Safety cans shall be marked with the chemical name and hazard class of the liquid contained within.

f. Open tanks, vats and baths shall be marked as described below:

1. Open tanks, vats and baths shall be identified with a marking on the tank or on a wall directly behind the vessel. The marking shall show the chemical name, hazard class and percentage concentration of the single highest hazardous material, including constituents of mixtures or solutions contained within the vessel.

2. Rinse-dragout tanks shall be marked "Rinse Water" or equivalent.

g. Aboveground storage tanks shall be marked as described below:

1. With a marking on the tank which shows the chemical name.

2. Aboveground storage tanks containing liquid cryogens shall also be marked per the following examples:

| | **If liquid oxygen is stored** | **If liquid hydrogen is stored** |
|---|---|---|
| Tank marking: | Liquefied Oxygen | Liquefied Hydrogen Flammable Gas |
| Storage site marking: | Oxygen No Smoking No Open Flames Within Ten Feet (10') | Liquefied Hydrogen Flammable Gas No Smoking No Open Flames Within Fifty Feet (50') |

3. Aboveground storage tanks containing water, process cooling water, rinse water, deionized water, etc., shall be marked with the name of the material contained.

h. Safety storage cabinets shall be marked as described below:

1. With the hazard class(es) of the materials contained.

2. Safety storage cabinets used for the storage of flammable liquid shall display a conspicuous label in red letters on a contrasting background which reads "FLAMMABLE—KEEP FIRE AWAY."

3. Cabinets used for hazardous materials other than flammable liquids shall display a conspicuous label in red letters on a contrasting background which reads "HAZARDOUS—KEEP FIRE AWAY."

## DIVISION IV. - HAZARDOUS MATERIALS BUSINESS PLAN

### SEC. 24.4.0. - Hazardous materials business plan.

a. Each applicant for a permit pursuant to this chapter shall electronically file a plan, for the city's approval, to be known as a hazardous materials business plan (HMBP), which shall demonstrate the safe storage and handling of hazardous or other regulated materials and emergency response capabilities of the applicant. The HMBP shall be electronically reported in accordance with Division I of this chapter. Approval of the HMBP shall mean the facility has provided adequate information for the purposes of evaluating the permit approval. Such approval shall not be understood to mean the city has made an independent determination of the adequacy of that which is described in the HMBP or that the applicant has complied with other codes or ordinances.

b. Within thirty (30) days of any of the events listed below, any business subject to this chapter shall submit an amendment to the HMBP:

1. Any changes in the information required on the Business Owner/Operator portion of the HMBP;

2. Any change in the information required on the facility storage map portion of the HMBP;

3. Any change of one hundred (100) percent or more in the quantity or any change in the quantity range of a previously disclosed hazardous or other regulated material, or the handling of a previously undisclosed hazardous or other regulated material required on the hazardous materials inventory statement portion of the HMBP;

4. Any change in the information required on the emergency response plan (contingency plan) portion of the HMBP.

c. If the city determines the handler's HMBP is deficient in any way, the city shall notify the handler of these defects. The handler shall submit a corrected HMBP within thirty (30) days of this notice. If a handler fails after reasonable notice to amend their electronically submitted HMBP to accurately disclose the required information, the city may take appropriate action to enforce this chapter, including the imposition of civil and criminal penalties specified in this chapter.

**SEC. 24.4.1. - Public record access and trade secrets.**

The HMBP is a public record except for facility storage maps, or as otherwise specified. The information contained therein is subject to trade secret protection pursuant to Health and Safety Code Sec. 25511. The city may refuse access to this record when such disclosure could jeopardize ongoing civil or criminal investigation or litigation. Persons requesting access to any portion of the HMBP will be required to complete an application for release of information. The application will require:

1. The person's name, address and telephone number;

2. The name and address of the person, business, or governmental agency such person represents;

3. The purpose for which the access is requested; and

4. The identity of the specific files to be examined or request to be copied, including street address and company name (Health and Safety Code Sec. 25506 requires all HMBPs to be indexed by street address and company name).

The fire chief or his/her designee will have ten (10) days prior to permitting the review or providing copies to: verify the applicant's identity; determine whether any of the materials requested are exempt from disclosure; and, if necessary, inform the business whose HMBP has been requested.

**SEC. 24.4.2. - Hazardous materials business plan (HMBP).**

The hazardous materials business plan (HMBP) must be submitted electronically and updated annually at a minimum. The HMBP shall include the data fields and information required by California Health and Safety Code Sec. 25500 et seq., Title 27 of the California Code of Regulations, a locally required Fire and Life Safety Plan, as well as any additional fields required by the city.

a. **Facility storage map.** The facility storage map shall be of a legible scale. The information is provided for purposes of ensuring the suitable and secure storage of hazardous or other regulated materials and for the protection and safety of emergency response personnel of the city. The city shall take reasonable precautions to ensure the confidentiality of the information provided on the facility storage map and shall not disclose this information to the public unless ordered to do so by a court of competent jurisdiction.

1. The facility storage map shall depict the entire hazardous materials storage facility, including all interior and exterior spaces/rooms.

2. The facility storage map shall identify (numerically or alphabetically) the location of each hazardous materials storage location. This location shall correlate with the hazardous materials inventory statement.

3. The facility storage map shall indicate the locations of emergency equipment related to each storage facility, building orientation, locations of emergency utilities (gas, water, electric), storm drain locations, sanitary sewer locations, lockbox (Knox box) locations, locations of ~~M~~SDSs, and adjacent and cross streets, and the general purpose/use of the other areas within each facility.

4. Applicant or permittee may be required to provide such other information on the facility storage map as the fire chief or his/her designee deems necessary and consistent with the general obligation of this chapter for protection of the health, safety or welfare of persons, resources or property.

b. **Variation in information.**

1. Additional information may be required in the HMBP where such information is reasonably necessary to meet the intent of this chapter.

2. Requirements for information in the HMBP may be waived where such information is not reasonably necessary to meet the intent of this chapter.

**SEC. 24.4.3. - Supplemental requirements for emergency response plans (contingency plans).**

a. In addition to the HMBP requirements set forth in this chapter, any person, firm or corporation which stores, uses or handles hazardous or other regulated material in excess of the exempt amounts specified in Sec. 24.2.1, shall establish and implement a plan for emergency response (contingency plan) for a release or threatened release of a hazardous or other regulated material pursuant to this section. The emergency response plan (contingency plan) shall be submitted electronically with the HMBP.

b. Unless the facility is otherwise exempt as set forth in this chapter, the following information shall be provided:

1. Emergency response plans and procedures in the event of a reportable release or threatened release of a hazardous or other regulated material which includes, but shall not be limited to, the following:

(a) Immediate notification to the city, the city fire department and the State Office of Emergency Services;

(b) Procedures for the mitigation of a release or threatened release to minimize any potential harm or damage to persons, property or the environment;

(c) Evacuation plans and procedures for the business site, including immediate audible notice and warning to all persons on the site.

c. Training shall be provided for all new employees, in addition to annual training, including refresher courses for all employees, in safety procedures to be utilized in the event of a release or threatened release of a hazardous or other regulated material. Such training shall include, but not be limited to, familiarity with the plans and procedures specified above. These training programs shall take into consideration the technical and managerial responsibilities of each employee.

Responsible persons shall be designated and trained to be liaison personnel for the fire department. These persons shall aid the fire department in preplanning emergency responses and identification of the locations where hazardous or other regulated materials are located, shall have access to material safety data sheets and shall be knowledgeable in the site emergency response plan and procedures.

d. Any business required to file a pipeline operations contingency plan in accordance with the California Pipeline Safety Act of 1981 (Chapter 5.5 (commencing with Sec. 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 city in lieu of the emergency response plan specified in subdivision (a), above.

e. Any business operating a farm exempted by Paragraph (5) of subdivision (b) of Sec. 25503.5 of the Health and Safety Code from filing the information specified in subdivisions (a) and (b) shall, notwithstanding this exemption, provide the training programs specified in subdivision (c).

f. Emergency response plans and procedures shall be available for public inspection during regular working hours, as described under Sec. 24.4.1, except for those portions of such plans, including any maps of the facility as described in this chapter, specifying the precise location where hazardous or other regulated materials are stored and handled on-site.

**SEC. 24.4.4. - Fire life safety plan requirements.**

In addition to the HMBP requirements set forth in this chapter, any person, firm or corporation which stores, uses or handles hazardous or other regulated material in excess of the exempt amounts specified in Sec. 24.2.1 shall establish and implement a

Fire Life Safety Plan. The Fire Life Safety Plan shall be submitted electronically with the HMBP and contain the following:

1. Total building square footage, number of floors/stories and indicate the use of a mezzanine and/or basement if present.

2. Information about the buildings' fire protection systems, including fire alarm systems, fire sprinkler systems, engineered systems and any specialized fire protection systems such as fire pumps, standpipes, heat and smoke detectors and private hydrants.

3. Information regarding special uses or processes that require Fire Code operating permits.

**DIVISION V. - RESPONSIBILITY**

**SEC. 24.5.0. - Reporting unauthorized discharge.**

a. **Liquids and solids at normal temperature and pressure.** As soon as any person in charge of a storage facility or responsible for emergency response for a facility has knowledge of any confirmed or unconfirmed unauthorized discharge of a hazardous or other regulated material which is liquid or solid at normal temperature and pressure, such person shall take all necessary steps to ensure the discovery, containment and cleanup of such discharge and shall notify the city of the occurrence as required by this subsection.

1. **Confirmed unauthorized discharge.**

(a) **Recordable unauthorized discharge.** Any recordable unauthorized discharge shall be contained and safely disposed of in an appropriate manner and such occurrence and the response thereto shall be recorded in the person's, firm's or corporation's monitoring records. A recordable unauthorized discharge is any unauthorized discharge of a hazardous or other regulated material which meets all of the following criteria:

i. The discharge is from a primary containment to a secondary containment or to a rigid aboveground surface covering capable of containing the discharge until cleanup of the hazardous or other regulated material is completed; and

ii. The discharge is able to be adequately cleaned up before it escapes from such secondary containment or such aboveground surface, but if the cleanup requires more than eight (8) hours, it becomes a reportable discharge in accordance with Subsection 24.5.0.a.1(b) below; and

iii. There is no increase in the hazard of fire or explosion, nor is there any production of a flammable or poisonous gas, nor is there any deterioration of such secondary containment or such rigid, aboveground surface.

iv. An otherwise recordable unauthorized discharge does not need to be recorded if the discharge is not the result of the deterioration or failure of the primary container, the quantity discharged is less than one (1) ounce by weight and the discharge can be cleaned up within fifteen (15) minutes.

(b) **Reportable unauthorized discharge.** Any unauthorized discharge which is determined not to be recordable under Subsection 24.5.0.a.1(a) above, must immediately be reported to city's fire department via the 9-1-1 emergency number. The reporting party shall indicate the ability of the responsible party to contain and dispose of the hazardous or other regulated material, the estimated time it will take to complete containment and disposal, and the degree of hazard created. The city may verify that the hazardous or other regulated material is being adequately contained and appropriately disposed. At any time the city determines the party performing the containment or disposal: (a) is not adequately containing or disposing of such hazardous or other regulated materials; (b) is not adequately trained to do so; (c) does not have adequate resources or supplies to do so; or (d) does not have a practical or safe containment or disposal plan, the city shall have the power and authority to undertake and direct an emergency response in order to protect the public health, safety and/or welfare and the environment. Costs associated with such emergency response shall be borne by the owner, operator or other person responsible for the unauthorized discharge.

Within fifteen (15) calendar days of a reportable discharge, the responsible party shall submit a written report to the city, including:

i. A description of the incident, including actions taken by facility personnel during and immediately following the reportable discharge;

ii. A determination of the cause or causes of the reportable discharge;

iii. Administrative and engineering controls which the responsible party proposes to implement to reduce the likelihood of a reportable discharge recurring;

iv. The target date for completing implementation of such controls; and

v. The signature of a corporate officer of the responsible facility.

2. **Unconfirmed unauthorized discharge.**

(a) **Indication of loss of inventory.** Whenever a material balance, inventory record, or monitoring detection system employed as a monitoring technique under the HMBP indicates a loss of hazardous or other regulated material, and no unauthorized discharge has been confirmed by other means, the responsible party shall immediately record such discrepancy in his/her monitoring records, immediately notify the fire department's environmental safety division of the discrepancy, and determine, within five (5) business days, whether or not there has been an unauthorized discharge. If, before the end of such period, it is determined there has been no unauthorized discharge, an entry explaining the occurrence shall be made in the responsible party's monitoring records. Where the responsible party has not been able, within such period, to determine there has been no unauthorized discharge, an unauthorized discharge is deemed confirmed and the responsible party shall proceed in accordance with Subsection 24.5.0.a.1(b) above.

(b) **Test results.** Whenever any test results suggest a possible unauthorized discharge, and no unauthorized discharge has been confirmed by other means, the responsible party shall immediately notify the environmental safety division of the possible discharge and shall perform two (2) retests, at least twenty-four (24) hours apart, within five (5) business days. If both retest results establish there has been no unauthorized discharge, the results of all three (3) tests shall be recorded in the responsible party's monitoring records. If it has not been established within such period that there has been no unauthorized discharge, an unauthorized discharge is deemed confirmed and the responsible party shall proceed in accordance with Subsection 24.5.0.a.1(b) above.

(c) **Fire.** Whenever a fire occurs in a facility which has or should have a hazardous materials permit, regardless of whether or not any hazardous or other regulated materials were involved, the responsible party shall immediately notify the fire department via the 9-1-1 emergency number. Within fifteen (15) working days of the fire, the responsible party shall submit a written report to the city, including:

i. A description of the incident, including the actions taken during and immediately following the fire by facility personnel;

ii. A determination of the cause or causes of the fire;

iii. Administrative and engineering controls which the responsible party proposes to implement to reduce the likelihood of a fire recurring;

iv. The target date for completing implementation of such controls; and

v. The signature of a corporate officer of the responsible facility.

If both a fire and hazardous materials release has occurred, only one (1) report need be submitted.

b. **Gases at normal temperature and pressure.** Any person in charge of a storage facility or responsible for emergency response for a storage facility, who has knowledge of any unauthorized discharge of a hazardous material which is a nonflammable gas at normal temperature and pressure, must immediately report such discharge to the city fire department via the 9-1-1 emergency number if such discharge presents a threat of imminent danger to public health, safety and/or the environment. All other gas releases shall be reported immediately to the city fire department via the 9-1-1 emergency number.

**SEC. 24.5.1. - Cleanup responsibility.**

Any person, firm or corporation responsible for releasing hazardous or other regulated material shall institute and complete all actions necessary to remedy the direct or potential effects of any unauthorized discharge. The city shall undertake actions to remedy the effects of such unauthorized discharge only if it determines it is reasonably necessary under the circumstances for the city to do so. The responsible party shall reimburse the city for all costs incurred by the city in remedying the effects of such unauthorized discharge, including the costs of fighting fires, to the extent allowed by law. This responsibility is not conditioned upon evidence of willfulness or negligence of the party storing or handling the hazardous or other regulated material(s) in causing or allowing such discharge or unsafe condition. Any responsible party who undertakes action to remedy the effects of unauthorized discharge(s) shall not be barred by this chapter from seeking to recover appropriate costs and expenditures from other responsible parties except as provided by Sec. 24.5.2.

**SEC. 24.5.2. - Indemnification.**

The responsible party shall indemnify, hold harmless and defend the city against any claim, cause of action, disability, loss, liability, damage, cost or expense, howsoever arising, which occurs by reason of an unauthorized discharge or unsafe condition in connection with the responsible party's operations, except as arises from the city's sole active negligence.

## DIVISION VI. - INSPECTIONS AND RECORDS

### SEC. 24.6.0. - Inspections by the city.

The city may conduct inspections, at its discretion, for the purpose of ascertaining compliance with this chapter and causing to be corrected any conditions which would constitute any violation of this chapter or of any other statute, code, rule or regulation affecting the storage or handling of hazardous or other regulated materials.

Permittees are not required to disclose the identity of hazardous or other regulated materials protected as trade secrets pursuant to Sec. 24.4.1 to anyone other than city officials, except in the case of an emergency response or an unauthorized discharge related to the storage facility in which the trade secret material is contained.

a. **Right of entry.** Whenever necessary for the purpose of investigating or enforcing the provisions of this chapter, or whenever any enforcement officer has reasonable cause to believe that there exists in any structure or upon any premises, any condition which constitutes a violation of this chapter, said officers may enter such structure or premises at all reasonable times to inspect the same, or to perform any duty imposed upon any of said respective officers by law; provided that if such structure or premises be occupied, the officer shall first present proper credentials and request entry and, further provided, that if such structure or premises is unoccupied, the officer shall first make a reasonable attempt to contact a responsible person from such firm or corporation and request entry, except in emergency circumstances. If such entry is refused, the officer seeking entry shall have recourse to every remedy provided by law to secure entry.

b. **Inspections by city—Discretionary.** All inspections specified herein shall be at the discretion of the city and nothing in this chapter shall be construed as requiring the city to conduct any such inspection nor shall any actual inspection made imply a duty to conduct any other inspection. Furthermore, nothing in this chapter shall be construed to hold the city or any officer, employee or representative of the city responsible for any damage to persons or property by reason of making an inadequate or negligent inspection or by reason of any failure to make an inspection or reinspection.

### SEC. 24.6.1. - Inspections by permittee.

The permittee shall conduct regular inspections of its own facilities to assure compliance with this chapter and shall maintain logs or file reports in accordance with this chapter. The inspector conducting such inspections shall be qualified to conduct such inspections.

**SEC. 24.6.2. - Special inspections.**

In addition to the inspections specified above, the city may require the periodic employment of special inspectors to conduct an audit or assessment of permittee's facility to make a hazardous or other regulated material safety evaluation and to determine compliance with the provisions of this chapter.

a. The special inspector shall be a qualified person or firm who shall demonstrate expertise to the satisfaction of the city.

b. The special inspection report shall include an evaluation of the facilities and recommendations consistent with the provisions of this chapter where appropriate. A copy of the report shall be filed with the city at the same time that it is submitted to permittee.

c. Permittee shall, within thirty (30) days of said report, file with the city a plan to implement all recommendations, or shall demonstrate to the satisfaction of the city why such recommendations shall not be implemented.

**SEC. 24.6.3. - Substituted inspections.**

An inspection by an employee of any other public agency may be deemed by the city as a substitute for any requirement above.

**SEC. 24.6.4. - Maintenance of records.**

All records required by this chapter shall be maintained by the permittee for a period of not less than three (3) years. Said records shall be made available to the city during normal working hours and upon reasonable notice, or copies of these records shall be sent to the city, if the city so requests.

**DIVISION VII. - APPLICATIONS AND PERMITS**

**SEC. 24.7.0. - Permit.**

a. It shall be unlawful for any person, firm or corporation to store, use or handle any hazardous or other regulated materials in excess of the exempt amounts specified in Sec. 24.2.1 without first obtaining a permit for the storage and handling of the hazardous or other regulated materials. Furthermore, it shall be unlawful for any person, firm or corporation to store or handle hazardous or other regulated materials in quantities in excess of the quantities specified in the permit, or to violate any other requirement set forth in this chapter or in the permit.

b. The permit for hazardous or other regulated material storage, use and handling may include the following: (1) name and address of the permitted facility; (2) mailing address; (3) issue, revision and expiration dates of the permit; (4) type of permit (full-term, temporary or provisional); (5) maximum quantities and hazard classes of hazardous or other regulated materials allowed on site at any one time; and (6) compliance directives specifying maintenance and/or upgrade requirements and dates for complying with these requirements. The permit may impose any additional terms or conditions upon the applicant which the fire chief or his/her designee deems reasonable and necessary to carry out the purposes of this chapter.

c. A full-term permit may be issued to the applicant if:

1. The applicant has complied with all reporting requirements of this chapter;

2. The applicant has furnished all requested information, including a complete permit application as described in this chapter;

3. The fire chief or his/her designee determines there are adequate devices, equipment, chemicals, administrative controls, engineering controls and other facilities to safely store and handle the hazardous or other regulated materials;

4. The person(s) responsible for emergency spill response and control are adequately trained and capable of consistently meeting permit requirements; and

5. The applicant has paid all hazardous materials program fees.

d. Permits shall be valid for a term of no more than one year (365 days). Permit renewal shall occur annually. The applicant shall electronically submit an accurate and complete HMBP and pay all applicable hazardous materials program fees on or before the annual renewal deadline.

e. If the officer to whom the application has been made finds the proposal does not completely conform to the provisions of this chapter or meet the conditions of Sec. 24.7.0.c. above, the officer may approve a provisional permit, subject to conditions to be imposed by the officer. The applicant must be informed in writing of the reasons why a full-term permit was not issued.

f. A permit for temporary storage may be issued where storage does not exceed thirty (30) days and occurs no more frequently than every six (6) months. The storage, use, handling and dispensing standards of Division III, the HMBP reporting requirements of Division IV and the inspection and records requirements of Division VI

may be modified as appropriate under these circumstances for the storage of hazardous or other regulated materials on a nonregular basis.

g. If the officer to whom the permit application has been made has cause to deny the issuance of a full-term permit and determines it would not be feasible or in the public interest to approve a temporary or provisional permit, the officer shall deny issuance of a permit. A permit shall be denied if the applicant fails to demonstrate adequate conformity to the provisions of this chapter, or if issuance of a permit would threaten the health, safety or welfare of the community, persons, resources or property. The decision to deny the permit shall be given to the applicant in writing setting forth the findings upon which the decision is based.

h. No permit shall become effective until the permit has been signed by the fire chief or his/her designee.

i. A change of ownership (including a transfer of the majority of shares in a corporate facility) of the hazardous materials storage facility requires the submittal of an amended permit application. The permit may be transferred to new owners of the same business only if the new owners accept responsibility for all obligations under this chapter and all permit conditions at the time of the transfer of the business and document such transfer in writing within thirty (30) days of transfer of ownership of the business. Such transfer shall be subject to the approval of the city.

j. Any permittee desiring to store, handle or dispense hazardous or other regulated materials which are not in conformance with the hazardous materials permit shall apply for and obtain an amended permit prior to any such storage, handling or dispensing.

k. The continued use of, and permit approval for, existing storage facilities is subject to review and modification or termination by the city whenever: (1) there has been any unauthorized discharge or significant reduction in the integrity of primary or secondary containment; (2) the permit is renewed; (3) significant changes in hazardous materials processes occur; (4) there is a change of one hundred (100) percent or more in the quantity or any change in the quantity range of a previously disclosed hazardous or other regulated material, or the handling of a previously undisclosed hazardous or other regulated material; or (5) the city is required to implement programs or policies required by state or federal agencies.

l. The fire chief or his/her designee shall reinstate any suspended hazardous materials permit upon proof of the following:

1. Satisfactory ability to comply with all storage and handling requirements; and

2. The payment of costs, fines or penalties which may be assessed. The fire chief or his/her designee may require the permit holder to develop and implement a compliance schedule for any proposed modification of permit terms and conditions.

m. Notwithstanding Sec. 24.2.1 and in addition to those materials regulated pursuant to Sec. 24.2.0, a permit shall be required for the storage in an underground storage tank as defined by California Health and Safety Code Sec. 25281(y) of any material defined as a hazardous substance by California Health and Safety Code Sec. 25316.)

**SEC. 24.7.1. - Application for permit.**

a. Applicants for a permit to store, use, handle or dispense hazardous or other regulated materials shall electronically file a HMBP and obtain approval by the city for each facility storing, using, handling or dispensing the hazardous or other regulated materials in excess of the exempt amounts specified in Sec. 24.2.1

b. The HMBP shall serve as the basis of the hazardous materials permit application. Construction plans, specifications, calculations and other additional information may also be required as part of the application in order for the fire chief or his/her designee to determine the storage and handling of the hazardous or other regulated materials will be conducted in a manner which meets the purposes of this chapter.

c. Every application for the renewal of a permit or extension of a provisional permit shall be made at least thirty (30) days prior to the expiration date of such permit. If a timely application for renewal has been submitted, the permit shall remain in effect until the city has made its determination.

d. The officer to whom an application for a new or renewed permit is made may make such investigation of the applicant and the proposed facility or activity as such officer deems necessary to carry out the purposes of this chapter.

**SEC. 24.7.2. - Closure approvals.**

a. Persons, firms or corporations storing, using, handling or dispensing hazardous or other regulated materials in amounts exceeding the exempt amounts specified in Sec. 24.2.1 shall apply for approval to close such storage facility not less than thirty (30) days prior to the termination of the storage of hazardous or other regulated materials at the storage facility. This thirty (30) day period may be reduced or waived by the city if there are special circumstances justifying such waiver. The property owner of the property upon which the storage facility exists shall be

responsible for the closure in the event of the facility being abandoned or when the facility operator has not complied with Sec. 24.7.0 and 24.3.1 of this chapter. Such closure plan shall be acceptable to the city. The closure plan shall adequately describe procedures for terminating the storage of hazardous or other regulated materials in each storage facility in a manner that:

1. Minimizes the need for further maintenance;

2. Verifies that any threat to public health or safety or to the environment from residual hazardous or other regulated materials in or from the storage facility is adequately minimized or eliminated. The basis for this verification may include, but is not limited to, visual inspections, records review, the analytical results of soil or groundwater samples, wipe samples, etc.; and

3. Demonstrates that hazardous or other regulated materials that are stored in the storage facility will be removed, disposed of, neutralized or reused in an appropriate manner, and in compliance with all applicable laws, ordinances, regulations and guidelines.

b. Upon completion of the closure plan, proof of proper removal and transport of all hazardous materials, tanks, sumps, reservoirs, containers and equipment which stored, handled or dispensed hazardous or other regulated materials shall be submitted. This may include, but is not limited to, hazardous waste manifests and bills of lading.

c. Upon completion of the closure plan, the fire chief or his/her designee may require the facility operator or property owner of facilities which stored, handled or dispensed poisonous or acutely hazardous materials to include one (1) of the following statements in the closure documentation, signed by an independent industrial hygienist:

1. "This facility has been adequately closed using currently acceptable practices and is in compliance with local, state and federal guidelines. In my professional opinion, remaining contamination (if any) poses an insignificant health risk based on the quantity, toxicity and location of the contamination, as well as the proposed use and potential activities of persons on the site"; or

2. "In my professional opinion, contamination has been found which may pose a significant health risk, based on the quantity, toxicity and location of the contamination, as well as the proposed use of the site and potential activities of persons on the site. Further remedial action is warranted to reduce this risk to acceptable levels and to comply with local, state and federal guidelines, regulations and laws."

**SEC. 24.7.3. - Fees.**

The city shall establish fees sufficient to recover its costs in administering this chapter and related state and federal laws and regulations referenced in this chapter, including the cost of providing hazardous materials services and implementing the hazardous materials ordinance. These fees shall include, but not be limited to, the cost of review of HMBPs, inspections, plan checks, facility closures and other program implementation and administrative costs. The fee schedule shall be adopted by resolution of the city council. No application shall be accepted unless and until the fees have been paid. The city may collect fees charged by the County of Santa Clara or the State of California for program implementation and administration pursuant to Certified Unified Program Agency legislation (Title 27, Division 1, Subdivision 4, Chapter 1 of the California Code of Regulations).

**DIVISION VIII. - REMEDIAL ACTION**

**SEC. 24.8.0. - Compliance order.**

Unless the fire chief or his/her designee finds that an immediate suspension under Sec. 24.8.2 is necessary to protect the environment, public health, safety or welfare from imminent danger, the officer shall issue a compliance order for: Failure to comply with the provisions of this chapter, any permit conditions, any compliance directives or any provisions of the HMBP within the time specified in the inspection notice, permit or compliance directive; fraud, willful misrepresentation, or any willful inaccurate or false statement in applying for a new, amended or renewed permit; or fraud, willful misrepresentation, or any willful inaccurate or false statement in any report required by this chapter.

The compliance order shall specify:

(a) Dates when initial and follow-up inspections were conducted;

(b) Provisions of this chapter, permit conditions, compliance directives, or provisions of the HMBP found to be in violation;

(c) Inaccurate or false statements made in permit applications or reports;

(d) Any applicable fines or other charges due for payment; and

(e) Deadline dates for compliance and payment of fines or other charges.

Such notice shall be sent by certified mail to permittee. If the violation is not abated, corrected or rectified and all fines or other charges paid within the time specified, a notice of hearing shall be given.

**SEC. 24.8.1. - Suspension prior to hearing.**

Whenever the fire chief or his/her designee finds that suspension of a permit prior to a hearing for remedial action is necessary to protect the environment, public health or safety from imminent danger, the fire chief or his/her designee may immediately suspend any permit or take any immediate action necessary to curtail the imminent danger pending the hearing for remedial action. The fire chief or his/her designee shall immediately notify the permittee of such suspension by having a written notice of the suspension personally served on the permittee, the permittee's designated agent for service of process, or a competent person apparently in charge of such a business, who is at least eighteen (18) years of age. In the event the permittee is not personally served with the suspension notice, a copy of such notice shall be mailed to the business address listed on the HMBP. Permittee shall have the opportunity for a preliminary hearing with regard to such prehearing suspension within three (3) working days of receiving written notice of such suspension.

**SEC. 24.8.2. - Notice of hearing.**

A notice of hearing shall be given to the permittee, applicant or responsible party by the fire chief or his/her designee in writing, setting forth the time and place of the hearing, the ground or grounds upon which the hearing is based, the pertinent code section or sections, and a brief statement of the factual matters in support thereof. The notice shall be given at least fifteen (15) calendar days prior to the hearing date.

**SEC. 24.8.3. - Remedial action.**

If the fire chief or his/her designee, after the hearing, finds cause exists for remedial action, the fire chief or his/her designee shall impose one or more of the following:

a. An order to correct the particular violation and pay fines or other charges specified in the order issued pursuant to Section 24.9.0;

b. A revocation of the permit for the facility or for a storage facility and approval of a provisional permit;

c. Suspension of the permit for the facility or for a storage facility for a specified period not to exceed six (6) months;

d. Modification or addition of conditions of the permit;

e. Revocation of the permit with no reapplication permitted for a specified period not to exceed five (5) years; and/or

f. Such other criminal or civil actions as permitted by law.

Upon suspension or revocation of a hazardous materials permit, hazardous or other regulated materials shall be removed from the affected facility within thirty (30) days. Procedures for such removal shall require prior city approval.

**SEC. 24.8.4. - Transmittal of decision.**

Within ten (10) days of the hearing, the fire chief or his/her designee shall render a written opinion, stating the findings upon which the decision is based and the action taken, if any.

**SEC. 24.8.5. - Authority after suspension, revocation or expiration.**

The suspension, revocation or expiration of a permit issued under this chapter shall not prevent any proceedings to investigate such permit, any remedial action against such permittee or any proceeding against such permittee.

**SEC. 24.8.6. - Return of permit.**

In the event a permit issued under the provisions of this chapter is suspended or revoked, the permittee shall forward it to the issuing officer not later than the end of the third business day after notification of such suspension or revocation.

**DIVISION IX. - HEARINGS**

**SEC. 24.9.0. - Hearing procedures.**

Hearing procedures shall comply with the provisions of Mountain View City Code Chapter 1.

**DIVISION X. - ENFORCEMENT**

**SEC. 24.10.0. - Infractions and misdemeanors.**

Any person, firm or corporation, whether as an individual, officer, principal agent, employee or otherwise, violating or causing the violation of any of the provisions of: this chapter, a notice of violation, a compliance directive or a hazardous materials

permit may be prosecuted for an infraction or misdemeanor, in addition to any civil penalties as set forth in Sec. 24.10.2. Each day any violation of this chapter continues shall be regarded as a new and separate offense. The remedies provided in this chapter shall be cumulative and exclusive.

**SEC. 24.10.1. - Authorization for fire marshal, hazardous materials specialists and certain other designated employees to arrest violators.**

Those employees of the city, including, but not limited to, the fire marshal, hazardous materials specialists and certain other employees designated by the city manager or the fire chief, who have the duty of enforcing the Mountain View City Code and state laws pertaining to hazardous and toxic materials, are hereby authorized, in accordance with and pursuant to California Penal Code Sec. 836.5, 836.37 and 853.6, to arrest persons for violations of such ordinances or statutes and issue notice to appear citations as provided by law.

**SEC. 24.10.2. - Civil penalties.**

Any person, firm or corporation who intentionally or negligently violates any provision of this chapter, or fails to comply with any order issued thereunder, shall be liable for a civil penalty not to exceed ~~five hundred~~one-thousand dollars ($~~500~~1,000) per day for each violation which shall be assessed and recovered in a civil action brought in the name of the people by the city attorney or the district attorney. An unauthorized discharge which is recordable and recorded in compliance with Sec. 24.5.0 shall not be a violation of this chapter for purposes of this section. In determining the penalty, the court may consider all relevant circumstances, including, but not limited to, the following:

a. The extent of harm or potential harm caused by the violation;

b. The nature and persistence of the violation;

c. The length of time over which the violation occurred;

d. The frequency of past violations;

e. The permittee's record of maintenance;

f. Corrective action, if any, taken by the permittee;

g. The degree of noncompliance with this chapter; and

h. The extent of negligence or willful misconduct of the person, firm or corporation violating this chapter.

In any civil action brought pursuant hereto, in which the city prevails, the court may determine and impose reasonable expenses, including attorney's fees, incurred by the city in the investigation and prosecution of the action.

**SEC. 24.10.3. - Civil action for retaliation.**

A civil action may be instituted against any employer by any employee who has been discharged, demoted, suspended, disciplined or in any other manner discriminated against in terms or conditions of employment, or threatened with any such retaliation, because such employee has, in good faith, made any oral or written report or complaint related to the enforcement of this chapter to any company official, public official or union official, or has testified in any proceeding in any way related thereto. In addition to any actual damages which may be awarded, damages shall include costs and attorney's fees. The court may award punitive damages in a proper case.

**SEC. 24.10.4. - Remedies not exclusive.**

Remedies under this section are in addition to and do not supersede or limit any and all other remedies, civil or criminal.

**DIVISION XI. - MISCELLANEOUS**

**SEC. 24.11.0. - Disclaimer of liability.**

The degree of protection required by this chapter is considered reasonable for regulatory purposes. The standards set forth herein are minimal standards and this chapter does not imply that compliance will ensure there will be no unauthorized discharge of hazardous or other regulated material. This chapter shall not create liability on the part of the city, any officer or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. All persons handling, storing, using, processing and disposing of hazardous or other regulated materials within the city should be and are advised to determine, to their own satisfaction, the level of protection, in addition to that required by this chapter, necessary or desirable to ensure there is no unauthorized discharge of hazardous or other regulated materials.

**SEC. 24.11.1. - Guidelines.**

Guidelines implementing this chapter and adopted by the city council shall be maintained in the office of the environmental safety division of the fire department. Such guidelines, in the areas addressed therein, shall serve as an interpretation of this chapter.

**SEC. 24.11.2. - Conflict with other laws.**

Notwithstanding any other provision of this chapter:

a. A storage facility regulated by any state or federal agency will be exempted from any conflicting provision of this chapter.

b. Whenever any provision of this chapter conflicts with the fire code as adopted by the city, the stricter shall prevail.

**SEC. 24.11.3. - Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the chapter. The city council hereby declares that it would have passed this chapter and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of the chapter would be subsequently declared invalid or unconstitutional.

**SEC~~S~~. 24.12—24.99. - Reserved.**

~~**ARTICLE II. - TOXIC GASES**~~

~~**DIVISION I. - PURPOSE AND DEFINITION**~~

~~**SEC. 24.100. - Scope.**~~

~~a. This article applies to all new and existing facilities where regulated materials subject to this article are present.~~

~~b. In the event of conflicting or overlapping regulatory provisions within Chapter 14, "Fire Prevention," of the Mountain View City Code and/or Chapter 8, "Buildings," of the Mountain View City Code, and this article, the most stringent requirement shall be applied.~~

c. In the event of conflicting or overlapping regulatory provisions with a federal law or state law or regulation, unless the application of this article is expressly preempted by an act of Congress or enactment of the Legislature, the more stringent requirement shall apply.

d. This article shall not apply to the registration and application of pesticides since this is preempted by an Act of Congress. Handling and storage of pesticide cylinders, however, shall comply with all requirements of this article.

**SEC. 24.101. - Definitions generally.**

Unless the context otherwise requires, the words and phrases in this article shall have the meanings set forth in this Division I and shall govern the construction of this article. For words and phrases not defined in this article, the definitions set forth in Chapters 8, 14 and 24 of the Mountain View City Code shall apply.

**SEC. 24.101.1. - Highly toxic materials.**

A material that has a median lethal concentration ($LC_{50}$) in air of two hundred (200) parts per million or less by volume of gas or vapor, or two (2) milligrams per liter or less of mist, fume or dust, when administered by continuous inhalation for an hour, or less if death occurs within one (1) hour, to albino rats weighing between two hundred (200) and three hundred (300) grams each.

**SEC. 24.101.2. - Toxic materials.**

A material that has a median lethal concentration ($LC_{50}$) in air of more than two hundred (200) parts per million but not more than two thousand (2,000) parts per million by volume of gas or vapor, or more than two (2) milligrams per liter but not more than twenty (20) milligrams per liter of mist, fume or dust, when administered by continuous inhalation for an hour, or less if death occurs within one (1) hour, to albino rats weighing between two hundred (200) and three hundred (300) grams each.

**SEC. 24.101.3. - Moderately toxic materials.**

A material that has a median lethal concentration ($LC_{50}$) in air of more than two thousand (2,000) parts per million but not more than five thousand (5,000) parts per million by volume of gas or vapor, or more than thirty (30) milligrams per liter but not more than fifty (50) milligrams per liter of mist, fume or dust, when administered by continuous inhalation for an hour, or less if death occurs within one (1) hour, to albino rats weighing between two hundred (200) and three hundred (300) grams each.

**SEC. 24.102. - Controls.**

"Controls" are means to regulate materials to prevent unauthorized discharges.

**SEC. 24.103. - Control area.**

Spaces within a building where quantities of hazardous materials not exceeding the maximum allowable quantities per control area are stored, dispensed, used or handled. Control areas shall comply with the California Fire Code.

**SEC. 24.104. - Reserved.**

**SEC. 24.105. - Excess flow control.**

"Excess flow control" means a fail-safe system designed to shut off flow due to a rupture in pressurized piping systems.

**SEC. 24.105.1. - Exterior storage.**

"Exterior storage" means a storage area enclosed by no more than two (2) contiguous walls.

**SEC. 24.106. - Facility.**

"Facility" means any building, structure, installation, equipment, pipe, container, site, area, appurtenant structure or surrounding land area where regulated materials are stored, used, dispensed, handled, placed or otherwise have come to be located.

**SEC. 24.107. - Fire code.**

"Fire code" means Chapter 14, "Fire Prevention," of the Mountain View City Code.

**SEC. 24.108. - Reserved.**

**SEC. 24.109. - IDLH (immediately dangerous to life and health).**

"IDLH (immediately dangerous to life and health)" means a concentration of airborne contaminants, normally expressed in parts per million (ppm) or milligrams per cubic meter, which represents the maximum level from which one could escape within thirty (30) minutes without any escape-impairing systems or irreversible health effects. This level is established by the National Institute of Occupational Safety and Health (NIOSH). If adequate data do not exist for precise establishment of IDLH data, an

~~independent certified industrial hygienist, industrial toxicologist or appropriate regulatory agency shall make such determination.~~

**~~SEC. 24.110. - Inert construction materials.~~**

~~"Inert construction materials" means materials which, under reasonably foreseeable conditions, will not degrade or react upon contact with the regulated material to be contained.~~

**~~SEC. 24.111. - Reserved.~~**

**~~SEC. 24.112. - Lethal concentration (LC).~~**

~~"Lethal concentration" ($LC_{50}$) means the median lethal concentration level, at which fifty (50) percent of appropriate test animals die when exposed by inhalation for a scientifically appropriate specified time period. For the purposes of this chapter, $LC_{50}$ values for a particular regulated material shall be those established by the Department of Transportation (D.O.T.). If D.O.T. has not established an $LC_{50}$ value for a particular regulated material, the $LC_{50}$ value established by the Compressed Gas Association (CGA) shall be used. If neither D.O.T. nor CGA has established an $LC_{50}$ value for a particular regulated material, the fire chief or his/her designee may use LC 50 values from other available scientific sources.~~

**~~SEC. 24.113. - Lethal concentration low (LCLo).~~**

~~"Lethal concentration low" (LCLo) means the lowest concentration of a chemical at which some test animals died following inhalation exposure.~~

**~~SEC. 24.114. - Lethal dose median (LD).~~**

~~"Lethal dose median" ($LD_{50}$) means the dose at which fifty (50) percent of test animals die following exposure. The lethal dose is given in milligrams per kilogram of body weight of the test animals.~~

**~~SEC. 24.115. - Lethal dose low (LDLo).~~**

~~"Lethal dose low" (LDLo) means the lowest dose of a chemical at which some test animals died following exposure.~~

**~~SEC. 24.116. - Reserved.~~**

**SEC. 24.117. - Maximum threshold quantity (Max. T.Q.).**

"Maximum threshold quantity" (Max. T.Q.) means the maximum quantity of a toxic or moderately toxic regulated material which may be stored in a single vessel before a stricter category of regulation is required by this article. Max. T.Q. is determined by the following equation:

$$\text{Max. T.Q. (pounds)} = \text{LC}_{50}\text{ (ppm)} \times 2$$

For the purpose of calculating the Max. T.Q., storage tank, cylinder and piping systems which can be isolated in a manner approved by the fire chief or his/her designee may be designated as a separate storage vessel. $LC_{50}$ shall be calculated using CGA Standards P-20 and P-23.

**SEC. 24.118. - Minimum threshold quantity (Min. T.Q.).**

"Minimum threshold quantity" (Min. T.Q.) means the aggregate quantity of a single regulated material in a control area which, due to the minimal aggregate quantities present, need only comply with specific control requirements established in Division VIII and Division II of this article and not with the specific requirements for highly toxic, toxic or moderately toxic regulated materials. Min. T.Q. for mixtures shall be based on the aggregate weight of the regulated components.

For all regulated materials: Min. T.Q. = 2 pounds or less.

Minimum threshold quantity controls are set forth in Division VIII of this article.

**SEC. 24.119. - Permissible exposure limit (PEL).**

"Permissible exposure limit" (PEL) means the maximum permitted eight (8) hour time-weighted average concentration of an airborne contaminant. The maximum permitted time-weighted average exposures are set forth in 29 CFR 1910.1000, as it may be amended from time to time.

**SEC. 24.120. - Person.**

"Person" means an individual, trust, firm, joint stock company, corporation, partnership, association or other business activity, city, county, district, the state, any department or agency thereof, or the United States, to the extent authorized by law.

**~~SEC. 24.121. - Portable tank.~~**

~~"Portable tank" means any packaging over sixty (60) U.S. gallons capacity and designed primarily to be loaded into or on or temporarily attached to a transport vehicle or ship, and equipped with skids, mounting or accessories to facilitate handling of the tank by mechanical means. It does not include any cylinder having more than one thousand (1,000) pounds water capacity, cargo tank, tank car tank or trailers carrying cylinders of over one thousand (1,000) pounds water capacity.~~

**~~SEC. 24.122. - Reduced flow valve.~~**

~~"Reduced flow valve" means a valve equipped with a restricted flow orifice and inserted into a compressed gas cylinder, portable tank or stationary tank that is designed to reduce the maximum flow from the valve under full flow conditions. The maximum flow rate from the valve is determined with the valve allowed to flow to atmosphere with no other piping or fittings attached.~~

**~~SEC. 24.123. - Regulated materials.~~**

~~"Regulated materials" are all materials, regardless of form (i.e., liquid, solid or gas) which meet the criteria established by Sec. 24.205, below.~~

**~~SEC. 24.124. - Responsible persons.~~**

~~"Responsible persons" means permittees under this article, owners, managers and persons responsible for the day-to-day operation of any facility subject to this article.~~

**~~SEC. 24.125. - Stationary tank.~~**

~~"Stationary tank" means any packaging designed primarily for stationary installations not intended for loading, unloading, transport or attachment to a transport vehicle as part of its normal operation in the process of use. It does not include cylinders having less than one thousand (1,000) pounds water capacity.~~

**~~SEC. 24.126. - Reserved.~~**

**SEC. 24.127. - Unauthorized discharge.**

"Unauthorized discharge" means releasing, spilling, leaking, pumping, pouring, emitting, emptying, injecting, escaping, leaching, dumping or disposing of a regulated material into the environment, including any sewer, storm drain, ditch, drainage canal, lake, river or tidal waterway, surface water, groundwater, land surface, sidewalk, street or highway, subsurface strata or ambient air except:

a. A "federally permitted release" as that term is defined in Sec. 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 UFC Sec. 9602(10), or pursuant to a permit of the Bay Area Air Quality Management District, or waste discharge requirements of the San Francisco Bay Regional Water Quality Control Board or local wastewater pretreatment requirements for publicly owned treatment works; or

b. The normal application of materials used in weed abatement, erosion control, soil amendment or similar application when used in accordance with manufacturer's instructions or nationally recognized standards.

**DIVISION II. - SPECIAL PROVISIONS**

**SEC. 24.200. - General provisions.**

This article governs the storage, dispensing, use and handling of regulated materials. To the extent the application of this article to the registration and use of pesticides is preempted by an express provision of an act of Congress or a statute adopted by the State Legislature, this article does not apply. The provisions of Division II apply to all regulated materials, including highly toxic, toxic, moderately toxic and minimum threshold quantities of regulated materials.

**SEC. 24.205. - Regulated materials.**

a. "Regulated materials," including, but not limited to, gases, are those materials which meet the following criteria:

1. The materials fall under the definition of highly toxic, toxic or moderately toxic materials.

2. The materials meet either of the following criteria:

(a) They are shipped in compressed gas cylinders and the material is or becomes or acts as a gas upon release at normal temperature and pressure (sixty-eight (68) degrees Fahrenheit and seven hundred sixty (760) mm Hg).

(b) The material is used or handled as a gas whether or not the material meets the definition of a compressed gas in Chapter 14, "Fire Prevention," of the Mountain View City Code or 49 CFR Sec. 173.11.

b. Materials which meet the foregoing criteria are subject to the provisions of this article unless exempted by the fire chief or his/her designee based upon scientific evidence provided by a toxicologist or other professional acceptable to the city.

**SEC. 24.210. - General obligation.**

a. No person shall cause, suffer or permit the storage, handling, use or dispensing of materials regulated by this article:

1. In a manner which is contrary to a provision of this article or any other federal, state or local statute, code, ordinance, rule, regulation or standard of performance relating to materials subject to this article; or

2. In a manner which causes an unauthorized discharge or which imposes a significant risk of such unauthorized discharge.

b. A person responsible for a facility shall, as soon as he or she has knowledge of an unauthorized discharge from or at such facility, immediately notify the fire chief or designee of such discharge.

**SEC. 24.215. - Permits for system upgrades.**

a. No person shall upgrade, repair, modify, close or remove a facility without first complying with the process and procedures as set forth in Division VIII, "Applications and Permits," of this chapter.

b. The extent of system upgrades shall be determined by the following conditions:

1. If a building permit is required for a piping modification, then upgrading of the entire system for that gas shall be required.

2. If a building permit is not required for piping modification, such as for connecting an existing piping system to a new piece of equipment, then upgrading of the entire system shall not be required.

**SEC. 24.220. - Closure.**

a. It shall be unlawful for any person to abandon, remove or close a facility or other area regulated by this article until a closure plan has been submitted to and approved by the fire chief or his/her designee.

b. A closure plan and a closure plan review fee as set by the schedule of fees as adopted by the city council shall be submitted by a responsible person to the fire chief or his/her designee at least thirty (30) days prior to facility closure. The property owner of the property upon which the regulated materials are stored shall be responsible for the closure in the event the regulated materials are abandoned or when the permittee has not complied with all provisions of this section. The closure plan shall demonstrate to the satisfaction of the fire chief or his/her designee that regulated materials which are or have been stored, dispensed, handled or used at the facility will be transported, disposed of or reused in a manner consistent with public health and safety. The fire chief or his/her designee may waive all or part of the thirty (30) day period upon a finding of good cause.

**SEC. 24.225. - Seismic protection.**

Persons responsible for a facility with one (1) or more stationary tanks and piping systems used for regulated materials shall cause such tanks and piping systems to be seismically braced in accordance with the provisions of Chapter 8, "Buildings," of the Mountain View City Code.

**SEC. 24.230. - Security.**

Responsible persons shall cause facilities where materials subject to this article are stored, handled, dispensed or used to be secured against unauthorized entry.

**SEC. 24.235. - Breathing apparatus.**

a. In order to provide for immediate initial on-scene response in the event of an unauthorized discharge and to provide on-scene assistance to firefighters and other emergency response personnel, persons responsible for any facility where highly toxic or corrosive regulated materials are present shall provide a minimum of two (2) self-contained breathing apparatus. When self-contained breathing apparatus would be inadequate protection due to the nature of the gases present, other appropriate protective equipment shall be provided for on-site emergency response personnel.

b. The self-contained breathing apparatus or other protective equipment shall be suitable for use with the material present and shall be readily available to on-site emergency response personnel in a location that provides safety for those expected to

don the apparatus. c. A "location that provides safety" is one which is not likely to be immediately affected by the release of a regulated material.

**SEC. 24.240. - Incompatible materials.**

Responsible persons shall cause regulated materials to be separated from other incompatible hazardous materials in accordance with Article I, Division III of this chapter. Construction materials shall be compatible with the toxic gases they serve. Compatibility of construction materials shall be based on nationally recognized standards such as the National Association of Corrosion Engineers (NACE).

**SEC. 24.245. - Leak testing.**

Responsible persons shall cause containers of regulated materials to be tested for leaks immediately upon delivery and again immediately prior to departure of such containers from facilities. Testing methods shall be approved by the fire chief or his/her designee in accordance with appropriate nationally recognized industry standards and practices, if any. Appropriate remedial action shall be immediately undertaken when leaks are detected.

**SEC. 24.250. - Protective plugs and caps.**

Responsible persons shall cause the protective plugs and caps of containers of regulated materials to be in place at all times unless and until the material is properly placed into use.

**SEC. 24.255. - Emergency response plan.**

a. If the preparation of an emergency response plan for the facility is not required by any other law, a responsible person shall prepare, or cause to be prepared, and filed with the fire chief or his/her designee, a written emergency response plan.

b. If the preparation of an emergency response plan is required by any other law, a responsible person shall file a copy of the plan with the fire chief or his/her designee.

**SEC. 24.260. - Emergency response coordinator.**

a. If not required to do so by another law, a person responsible for a facility subject to this article shall designate, or cause to be designated, an on-site emergency response coordinator, whom shall be adequately trained, and whom shall serve as liaison to the fire department.

b. The emergency response coordinator shall ascertain all on-site locations where regulated materials are stored, handled and used, shall become familiar with the emergency response plan and the chemical nature of such regulated material, shall act as facility liaison to the fire department and shall be prepared to respond in an emergency.

**SEC. 24.265. - Annual maintenance.**

a. Responsible persons shall cause all safety control systems at a facility to be tested at a minimum of annually and maintained in good working condition.

b. Maintenance and testing shall be performed by persons qualified to perform the maintenance and tests.

c. Maintenance records and test certifications shall be available to the fire chief or his/her designee upon inspection or request.

**SEC. 24.270. - Reduced flow valve and devices – Highly toxic materials.**

All containers of materials other than lecture bottles classified as highly toxic regulated materials and having a vapor pressure exceeding twenty-nine (29) psia shall be equipped with a reduced flow valve when commercially available. If a reduced flow valve is not available, the container shall be used with a reduced flow device. All reduced flow devices shall be part of the valve assembly and visible to the eye when possible; otherwise, they shall be installed as close as possible to the cylinder source.

**SEC. 24.275. - Fire extinguishing systems.**

a. Except as provided in subsection (c) of this section, responsible persons shall cause all interior and exterior use areas and all indoor storage areas and storage buildings to be protected from fire by automatic sprinkler systems.

b. The design of the sprinkler system shall be not less than that required under the current edition of NFPA 13 for ordinary hazard Group II with a minimum design area of three thousand (3,000) square feet. Where the materials or storage arrangement require a higher level of sprinkler system protection in accordance with nationally recognized standards, the higher level of sprinkler system protection shall be provided.

c. If the chemical properties of the regulated materials are such that the materials will be incompatible with the use of a sprinkler system, the fire chief or his/her designee may require alternative forms of fire protection.

## DIVISION III. - CLASSIFICATION OF MATERIALS

### SEC. 24.300. - General.

Regulated materials shall be classified as highly toxic, toxic, moderately toxic or Min. T.Q. materials as defined in Division I.

### SEC. 24.305. - Exempt amounts.

a. Except as provided in subsection (b) of this section, any single regulated material which would otherwise be regulated is exempt from regulation under this article if all of the following are met:

1. The aggregate quantity of any single regulated material in a control area or exterior storage does not exceed the Min. T.Q.

2. The quantity of the material in a single vessel does not exceed the amounts specified as follows:

i. One (1) pound.

ii. A concentration below the permissible exposure limit (PEL).

3. The aggregate quantity of all regulated materials in a control area or exterior storage does not exceed the exempt amounts specified in Chapter 50 of the currently adopted edition of the International Fire Code.

b. Notwithstanding the exemption in subsection (a) of this section, no amount of highly toxic regulated materials is exempt from the provisions for flow-limiting devices and fire extinguishing systems described in Division II of this article.

### SEC. 24.310. - Calculations for determining the class of mixtures.

a. The $LD_{50}$ value for mixtures containing regulated materials shall be calculated using the following formula:

$$LC_{50} \text{ of Gas Mixture (ppm)} = \frac{1}{(\text{molar fraction of toxic component}/\ \text{ppm } LC_{50} \text{ of toxic component})}$$

b. If more than one (1) toxic component is present, the $LC_{50}$ value shall be calculated using the following formula:

$$LC_{50} \text{ of Gas Mixture (ppm)} = \frac{1}{\sum_{i=1}^{n} [(fi)/LC_{50}i)]}$$

where fi is the mole fraction of the $i^{th}$ toxic component of the gas mixture and $LC_{50}i$ is the $LC_{50}$ of the $i^{th}$ toxic component of the gas mixture.

## DIVISION IV. - HAZARD CLASSIFICATION AND CONTROL TABLE

### SEC. 24.400. - General.

a. The requirements for controls for the use or indoor storage of regulated materials shall be cumulative as the hazard class of regulated material increases in accordance with the following table:

**HAZARD CLASSIFICATIONS AND CONTROLS**

| Hazard Classification | Hazard Controls |
|---|---|
| Highly Toxic | Includes Division II, highly toxic, toxic, moderately toxic minimum threshold quantity and exempt amount controls |
| Toxic | Includes Division II, toxic, moderately toxic minimum threshold quantity and exempt amount controls |
| Moderately Toxic | Includes Division II, moderately toxic minimum threshold quantity and exempt amount controls |
| Minimum Threshold Quantity | Includes Division II minimum threshold quantity and exempt amount controls |
| Exempt Amounts | Other applicable statutes, codes and ordinances |

b. All control equipment for materials regulated by this article shall meet appropriate nationally recognized standards, if any, and shall be approved by the fire chief or his/her designee.

c. Halogenated, noncarbon based gases may hydrolyze to their base mineral acid upon contact with moisture. Therefore, the monitoring and compatibility requirements of this article shall apply to their decomposition products.

**DIVISION V. - HIGHLY TOXIC CONTROLS**

**SEC. 24.500. - Highly toxic controls.**

Persons responsible for any facility where highly toxic materials are present shall comply with all of the requirements of Divisions II, V, VI, VII and VIII of this article.

**SEC. 24.505. - Piping.**

a. Piping for highly toxic materials shall be designed and fabricated from materials compatible with the material to be contained. Piping shall be of strength and durability sufficient to withstand the pressure, structural and seismic stress and exposure to which it may be subjected, as required by the California Building Code, adopted in Chapter 8 of the Mountain View City Code.

b. Secondary containment shall be provided for piping for highly toxic materials. The secondary containment shall be capable of directing a sudden release into an approved discharge treatment system and shall be monitored continually with a continuous gas monitoring system approved by the fire chief or his/her designee. Secondary containment includes, but is not limited to, double-walled piping. Secondary containment for piping under subatmospheric conditions may not be required if the piping is equipped with an alarm and cylinder fail-safe to close valve activated by a loss of vacuum.

**SEC. 24.510. - Automatic shutoff.**

An automatic shutoff valve which is of "fail-safe to close" design shall be provided. Each of the following shall activate automatic shutoff:

a. Gas detection at PEL in occupiable areas; at ½ IDLH (or 0.05 $LC_{50}$ if no established IDLH) in unoccupiable areas;

b. Manual activation of emergency shutoff valves, from remote locations;

c. Failure of emergency power;

d. Failure of primary containment;

e. Activation of manual fire alarm; and

f. Failure of required exhaust flow ventilation rate.

**SEC. 24.515. - Emergency control station.**

Signals from emergency equipment shall be transmitted to an emergency control station which is continually staffed by trained personnel. Continual staffing shall not be required during periods when regulated materials have been purged from all process piping and equipment and are no longer being used or dispensed.

**DIVISION VI. - TOXIC CONTROLS**

**SEC. 24.600. - Toxic controls.**

Responsible persons shall cause materials which are classified as toxic materials to be provided with the controls specified in Divisions II, VI, VII and VIII of this article.

**SEC. 24.605. - Connections.**

a. Piping and tubing for toxic materials shall be installed in accordance with appropriate nationally recognized standards, if any, shall be approved by the fire chief or his/her designee and shall have welded connections compatible with the regulated material throughout unless an exhausted enclosure is provided.

b. Material which is not compatible with ferrous piping may be installed in nonferrous piping approved by the fire chief or his/her designee.

c. Where connections other than welding connections meet appropriate nationally recognized industry standards, if any, a person responsible for a facility may seek an exception from the fire chief or his/her designee. A request for exception and a fee as set by the schedule of fees as adopted by the city council shall be filed with the fire chief or his/her designee for approval. The request shall document the standards and reason for the exception.

**SEC. 24.610. - Local gas shutoff.**

a. Manual activation controls for local gas shutoff shall be provided at locations near the point of use and near the source, as approved by the fire chief or his/her designee.

b. The fire chief or his/her designee may require additional controls at other places, including but not limited to the entry to the building, the area in the building where regulated materials are stored or used and emergency control stations.

c. Manually activated shutoff valves shall be of fail-safe to close design.

**SEC. 24.615. - Emergency power.**

Emergency power shall be provided for:

a. Exhaust ventilation, including the power supply for treatment systems;

b. Gas detection systems;

c. Emergency alarm systems;

d. Temperature control systems which comply with the California Fire Code.

**SEC. 24.620. - Excess flow control.**

a. Portable tanks and cylinders containing toxic material shall be provided with excess flow control.

b. Excess flow control shall be permanently marked to indicate the maximum design flow rate.

**SEC. 24.625. - Gas detection.**

A continuous gas detection system where the analytical instrument is maintained in continuous operation and sampling is performed without interruption shall be provided to detect the presence of a gas at or below the permissible exposure limit in occupiable areas and at or below ½ IDLH (or 0.05 $LC_{50}$ if no established IDLH) in unoccupiable areas. Analysis is allowed to be performed on a cyclical basis at intervals not to exceed thirty (30) minutes. In occupied areas where air is recirculated and not exhausted to a treatment system (e.g., breathing zone), the fire code official may require a cyclical basis at intervals not to exceed five (5) minutes. The detection system shall initiate a local alarm and transmit a signal to a continually staffed remote location (to provide an immediate response to an alarm). The alarm shall be both visual and audible and shall be designed to provide warning both inside and outside of the interior storage, use or handling area. The audible alarm shall be distinct from all other on-site alarms.

**SEC. 24.630. - Exhaust ventilation monitoring.**

A continuous monitoring system shall be provided to assure that the required exhaust ventilation rate is maintained. The monitoring system shall initiate a local alarm. The alarm shall be both visual and audible and shall be designed to provide warning both inside and outside of the interior storage, use or handling area.

**SEC. 24.635. - Seismic shutoff valves.**

A seismically activated shutoff valve which is of "fail-safe to close" design shall be provided for automatic shutoff of regulated materials.

**SEC. 24.640. - Toxic corrosives.**

Inert construction materials shall be used for the primary containment of toxic regulated materials which are corrosive. Alternatively, secondary containment shall be provided for toxic materials which are corrosive.

**SEC. 24.645. - Emergency alarms.**

When materials regulated by this article are transported through exit corridors or exit enclosures, there shall be an emergency telephone system, a local manual alarm station or a signaling device approved by the fire chief or his/her designee at not more than one hundred fifty (150) foot intervals and at each exit doorway throughout the transport route. The signals shall be relayed to an approved central, proprietary or remote station service or a constantly attended on-site location and shall also initiate a local audible alarm.

**DIVISION VII. - MODERATELY TOXIC CONTROLS**

**SEC. 24.700. - Moderately toxic controls.**

Persons responsible for a facility shall cause materials which are classified as moderately toxic materials to be provided with the controls specified in Divisions II, VII and VIII of this article.

**SEC. 24.705. - Piping, valves and fittings.**

a. Piping, valves, fittings and related components shall be designed and fabricated from materials compatible with the material to be contained. They shall have strength and durability sufficient to withstand the pressure, structural, seismic and any other stress and exposure to which they may be subjected.

b. Expansion chambers shall be provided between valves whenever appropriate in accordance with nationally recognized standards, and shall be approved by the fire chief or his/her designee. Chambers shall be sized to provide protection for piping, valves and instrumentation and to accommodate the expansion of regulated materials.

**SEC. 24.710. - Signage.**

a. Stationary aboveground tanks shall be placarded with hazard identification signs as specified in NFPA 704 for the specific material contained.

b. Signs prohibiting smoking shall be posted in indoor storage, use and handling areas and within twenty-five (25) feet of outdoor storage, use and handling areas, except within buildings designated as "no smoking" buildings.

c. Signs shall not be obscured or removed.

d. Signs shall be in English and other languages as may be appropriate, as determined by the fire chief or his/her designee.

e. Signs shall be durable.

f. The size, color and lettering shall be in conformance with nationally recognized standards determined by the fire chief or his/her designee to be applicable to the regulated material.

**SEC. 24.715. - Inert gas purge system.**

Gas systems for regulated materials shall be provided with individually dedicated inert gas purge systems (e.g., nitrogen, helium, argon and neon). A dedicated inert gas purge system may be used to purge more than one gas, provided the gases are compatible. Purge gas systems shall be located in an approved gas cabinet unless the system operates by vacuum demand.

**DIVISION VIII. - MINIMUM THRESHOLD QUALITY CONTROLS**

**SEC. 24.800. - Minimum threshold quantity controls.**

Responsible persons shall cause materials which do not exceed the minimum threshold quantity as defined in Sec. 24.118 to be provided with controls specified in Divisions II and VIII of this article.

**SEC. 24.805. - Exhaust ventilation.**

a. Storage of cylinders shall be within ventilated gas cabinets, exhausted enclosures or within a ventilated separate gas storage room as defined in the California Fire Code.

~~b. Storage of portable and stationary tanks shall be within a separate ventilated room without other occupancy or use.~~

~~c. If gas cabinets are provided, the room or area in which they are located shall have independent exhaust ventilation when properly exhausted cabinets are not utilized.~~

~~d. Exhaust systems for gas cabinets, exhausted enclosures and separate gas storage rooms shall be designed to handle the accidental release of gas. Such exhaust systems shall be capable of diluting, absorbing, neutralizing, burning or otherwise processing the entire contents of the single tank or cylinder of gas which presents the highest potential hazard.~~

~~e. Systems utilized for such processing shall be designed as a treatment system, as described in Sec. 24.815, below. If a total containment system is utilized, the system shall be designed to handle the maximum anticipated pressure of release to the system when the system reaches equilibrium.~~

**~~SEC. 24.810. - Gas cabinets.~~**

~~When gas cabinets are provided, they shall be:~~

~~a. Operated at negative pressure in relation to their surrounding area;~~

~~b. Provided with self-closing limited access ports or fire-rated windows to give access to equipment controls. The average velocity of ventilation at the face of access ports or windows shall be not less than two hundred (200) feet per minute (FPM) with a minimum of one hundred fifty (150) FPM at any point of the access port or window;~~

~~c. Connected to a treatment system;~~

~~d. Provided with self-closing doors;~~

~~e. Constructed of steel with a thickness of not less than twelve (12) gauge; and~~

~~f. Internally protected by approved automatic fire sprinklers.~~

**~~SEC. 24.815. - Treatment systems.~~**

~~a. Treatment systems shall be utilized to process all exhaust ventilation to be discharged from gas cabinets, exhausted enclosures or separate storage rooms. Treatment systems shall be designed to reduce the maximum allowable discharge~~

~~concentration of the gas to one-half (½) IDLH (or 0.05 $LC_{50}$ if no established IDLH) at the point of discharge to the atmosphere as specified below.~~

~~b. When more than one (1) gas may be emitted to the treatment system, the treatment system shall be designed to handle the worst-case release based on the release rate, the quantity and the IDLH (or 0.1 $LC_{50}$ if no established IDLH) for all the gases stored or used.~~

~~c. In the event a revised IDLH is published, the city shall establish a new timetable for existing facilities to upgrade their treatment systems to meet the revised IDLH value.~~

**~~SEC. 24.820. - Treatment systems sizing.~~**

~~Treatment systems shall be sized to process the worst-case release of each gas based on the maximum flow rate of release from the cylinder or tank utilized which presents the highest potential hazard. The entire contents of tanks and cylinders shall be considered.~~

**~~SEC. 24.825. - Stationary tanks.~~**

~~a. Stationary tanks shall be labeled with the maximum rate of release for the gas contained based on any valves or fittings that are inserted directly into the tank.~~

~~b. If multiple valves or fittings are provided, the maximum flow rate of release for the valve or fitting with the highest flow rate shall be indicated.~~

~~c. If liquefied gases are in contact with any valve or fitting, the liquid flow rate shall be utilized for purposes of computation of the maximum flow rate of release. All flow rates indicated on the label shall be converted to cubic feet per minute of gas at normal temperature and pressure.~~

**SEC. 24.830. - Portable tanks and cylinders.**

a. For portable tanks and cylinders, the maximum flow rate of release shall be calculated based on the actual release data or calculations using actual valve manufacturer's specifications. When this data is not available, the maximum flow rate of release shall be calculated based on the total release from the cylinder or tank within the time specified in the table below:

| Container | Nonliquefied (Minutes) | Liquefied (Minutes) |
|---|---|---|
| Cylinders | 5 | 30 |
| Portable Tanks | 40 | 240 |

b. When portable tanks or cylinders are equipped with approved reduced flow orifices in the cylinder valve, the worst-case release may be determined by the maximum achievable flow through the orifice as determined by the valve manufacturer or the gas supplier. Reduced flow and excess flow valves shall be permanently marked to indicate the maximum design flow rate. Such markings shall indicate the flow rate for air under standard conditions. Lettering shall be one-quarter (1/4) inch high minimum, and be in contrast to the color is it printed upon.

c. When cylinders are manifolded together, the maximum release rate shall be the sum of the release rates for all of the manifolded cylinders.

**SEC. 24.835. - Piping and controls.**

All primary piping for regulated materials shall pass a helium leak test of 1x10-9 cubic centimeters/second where practical, or other nationally recognized standard. Tests shall be conducted by a qualified third party not involved with the construction of the piping and control systems.

**DIVISION IX. - EXTERIOR STORAGE**

**SEC. 24.900. - General.**

Persons responsible for a facility where there is exterior storage of any regulated material shall comply with the provisions of Divisions II, III and IX of this article and of the International Fire Code as amended and adopted in Chapter 14 of the Mountain View City Code.

**SEC. 24.905. - Distance limitation to exposures.**

Exterior storage of regulated materials shall not be within seventy-five (75) feet of a building, structure, property line, street, alley, public way or exit to a public way

~~unless the storage is shielded by a structure which has a minimum fire-resistive rating of two (2) hours and which interrupts the line of sight between the storage and the exposure. The shielding structure shall be at least five (5) feet from any exposure.~~

**~~SEC. 24.910. - Openings in buildings subject to exposure.~~**

~~Notwithstanding Sec. 24.905, when an exterior storage area is located within seventy-five (75) feet of a building, openings into the building other than piping shall not be above the height of the top of the shielding structure referred to in Sec. 24.905 nor within fifty (50) feet horizontally from the exterior storage area, whether or not protected by a shielding structure.~~

**~~SEC. 24.915. - Air intakes.~~**

~~No exterior storage area for regulated materials shall be within seventy-five (75) feet of any air intake.~~

**~~SEC. 24.920. - Canopies.~~**

~~Portable tanks and cylinders stored outside of buildings shall be stored under a canopy constructed of noncombustible materials. Such exterior storage shall not be considered indoor storage. An automatic fire sprinkler system in accordance with Article II, Division II of this chapter, or alternative systems as determined by the fire chief or his/her designee for materials incompatible with water, shall be provided for canopies installed for the storage of regulated materials.~~

**~~SEC. 24.925. - Stationary tank controls.~~**

~~Controls on stationary tanks shall be in accordance with the following:~~

~~a. Pressure relief devices shall be vented to a treatment system designed in accordance with the provisions of Sec. 24.815 of this article.~~

~~b. Where filling or dispensing connections are provided, they shall be provided with a means of local exhaust. Such exhaust shall be designed to capture fumes and vapors. The exhaust shall be directed to a treatment system designed in accordance with the provisions of Sec. 24.815 of this article.~~

~~c. Stationary tanks shall be provided with a means of excess flow control on all tank inlet or outlet connections. Inlet connections that are designed to preclude backflow and pressure relief devices are exempt from this requirement.~~

**SEC. 24.930. - Gas cabinets for leaking cylinders.**

a. At least one (1) gas cabinet or exhausted enclosure shall be provided for the handling of leaking cylinders. The cabinet or enclosure shall be within or adjacent to the exterior storage area and connected to a treatment system as specified in Sec. 24.815 of this article.

b. A gas cabinet or exhausted enclosure need not be provided for leaking cylinders if all cylinders are stored within gas cabinets or exhausted enclosures and the exhaust is directed to a treatment system designed in accordance with the provisions of Sec. 24.815 of this article.

c. Encapsulating equipment or other equipment designed to contain high-pressure cylinders and their contents as approved by the fire chief or his/her designee shall be acceptable in meeting the intent of this section in lieu of gas cabinets or exhausted enclosures.

**SEC. 24.935. - Local exhaust for leaking portable tanks.**

a. A means of local exhaust shall be provided to capture regulated material leaking from portable tanks. The local exhaust may consist of portable ducts or collection systems designed to be applied to the site of a leak in a valve or fitting on the tank. The local exhaust system shall be connected to a treatment system as specified in Sec. 24.815 of this article.

b. A local exhaust system shall be provided within or immediately adjacent to every storage area and within separate gas storage rooms used for portable tanks.

**SEC. 24.940. - Tank cars and piping.**

a. The provisions of this article shall not apply to tank cars which meet all requirements of the U.S. Department of Transportation, while such tank cars are used for the transportation and unloading of regulated material, as such terms are used in the Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801, et seq. Unloading does not include the use of tank cars to store regulated materials.

b. The provisions of this article shall apply to piping and control systems, automatic shutoff valves, emergency control stations, gas detection systems, treatment systems and alarm systems used with piping which connects tank cars to facilities for the unloading and delivery of regulated material, and to tank cars used to store regulated materials.

~~**DIVISION X. - PERMIT PROCESS**~~

~~**SEC. 24.960. - General.**~~

~~Responsible persons shall obtain and keep current a regulated materials permit. The process and procedures set forth in Division IV, "Hazardous Materials Business Plan," Division VII, "Applications and Permits," Division VIII, "Remedial Action," Division IX, "Hearing and Appeal Procedure," Division X, "Enforcement," and Division XI, "Miscellaneous," of Article I of Chapter 24 of the Mountain View City Code shall govern regulated materials.~~

~~**SECS. 24.12—24.99. - Reserved.**~~"

Section 2. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 4. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

Section 5. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) (the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly).

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