

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM
3.15
(ID # 6982)

MEETING DATE:
Tuesday, April 2, 2019

FROM : ENVIRONMENTAL HEALTH:

SUBJECT: ENVIRONMENTAL HEALTH: Initiation of Revision of Ordinance No. 651.4 Relating to Disclosure of Hazardous Materials and the Formulation of Business Plans. All Districts. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Pursuant to Board Policy A-67, adopt an order initiating a revision to Ordinance No. 651.4 relating to disclosure of hazardous materials and the formulation of business plans; and
2. Direct the Department of Environmental Health to prepare and process the amendment to Riverside County Ordinance No. 651.4.

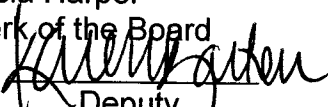
ACTION: Policy


Keith Jones, Director Environmental Health 3/7/2019

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: April 2, 2019
xc: Environmental Health, Co.Co.

Kecia Harper
Clerk of the Board
By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: N/A			Budget Adjustment:	No
			For Fiscal Year:	18/19

C.E.O. RECOMMENDATION: APPROVE

BACKGROUND:

Summary

Governor Brown signed Senate Bill 483 on September 28, 2013; Assembly Bill 2748 and Senate Bill 1261 on September 28, 2014; Senate Bill 612 on October 2, 2015; and Assembly Bill 1689 on July 31, 2017, all making changes to Health and Safety Code Chapter 6.95, Hazardous Materials Response Plans and Inventory law. These changes updated and clarified requirements for Hazardous Materials Business Plans.

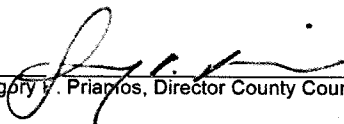
Therefore, in order to promote good business, the Department of Environmental Health recommends being more consistent with California Health and Safety Code. The forthcoming amendments will accommodate this recommendation.

Impact on Residents and Businesses

The expected impact on citizens would be continued safety due to regulation of facilities with hazardous materials. Potential positive fiscal impacts on business will be fewer mobile communication facilities, such as cellular towers, requiring a permit and oversight by the Department of Environmental Health, therefore realizing a savings in permit fees going forward.

Attachment

Riverside County Ordinance 651.4



 Gregory V. Priamos, Director County Counsel 3/7/2019

ORDINANCE 651
(AS AMENDED THROUGH 651.4)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE 651
REQUIRING DISCLOSURE OF HAZARDOUS MATERIALS AND THE
FORMULATION OF BUSINESS EMERGENCY PLANS

Section 1. PURPOSE, AUTHORITY AND IMPLEMENTATION. The purpose of this Ordinance is to implement, within the County of Riverside, the Hazardous Materials Release Response Plans and Inventory Law, Chapter 6.95 of the California Health and Safety Code (CH&SC), to establish a system for permitting businesses that handle hazardous materials, to enforce minimum standards respecting such materials, and to designate the County of Riverside, Community Health Agency, Department of Environmental Health, (DEH) as the administering agency responsible for administering and enforcing Chapter 6.95 CH&SC.

The DEH may require compliance with the applicable Articles of the most currently adopted California Fire Code.

Pursuant to section 25500, paragraph two, CH&SC, it is the intent of the County of Riverside, Board of Supervisors to impose additional and more stringent requirements on businesses that handle hazardous materials than those imposed by Chapter 6.95 CH&SC.

Section 2. DEFINITIONS The terms used in this Ordinance shall be as defined in the Hazardous Materials Release Response Plans and Inventory Law Chapter 6.95 CH&SC as amended, and the Hazardous Materials Release Reporting, Inventory, and Response Plans Regulations as specified in Title 19 of the California Code of Regulations (CCR), as amended , except for the following:

- a. **“Business”** means an employer, person, self-employed individual, trust, firm, joint stock company, limited liability company, corporation, partnership, or association. “Business” shall also include a business organized for profit or nonprofit and any agency, department, office, board, commission, or bureau of a city, county, state, federal, or special district. For purposes of this Ordinance, households that generate, store, handle, dispose, treat or recycle hazardous materials of the kind and in the amounts customary for traditional households, do not constitute a business.
- b. **“Business Emergency Plan”** means a separate plan for each business location that meets the requirements of Chapter 6.95 CH&SC.
- c. **“CUPA”** means the Certified Unified Program Agency.
- d. **“Cumulative Quantity”** means the total amount of hazardous materials categorized into one Department of Transportation, Hazard Class number, as described in 49 Code of Federal Regulations (CFR).

- e. **“Department of Environmental Health (DEH)”** means the County of Riverside, Community Health Agency, Department of Environmental Health.
- f. **“Director”** means the Director of the Department of Environmental Health or his designee.
- g. **“Handle”** means to use, generate, process, produce, package, re-package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion.
- h. **“Permittee”** means a business or person that holds a permit issued pursuant to this Ordinance.
- i. **“Unified Program Consolidated Form”** (UPCF) means the form designed for use by businesses providing a standardized format. This document consolidates information regulated businesses are required to provide for different program elements to the CUPA.

Section 3. REQUIREMENTS FOR HANDLING HAZARDOUS MATERIALS

a. **Manner of Handling**

No person or business shall cause or allow the handling of hazardous materials:

1. In a manner that violates any provision of this Ordinance or ,
2. In a manner that causes an unauthorized release of hazardous materials or,
3. In a manner that poses a significant risk of unauthorized release of hazardous materials.

b. **Correction of Unsafe Conditions**

Whenever the owner or an employee of a business discovers or becomes aware of any condition that is likely to cause injury to the public, employees of the business, or damage to either property or the environment, the owner or operator of the business shall immediately correct that condition. If the condition is a hazard likely to cause serious injury or death to the public, employees, or is a hazard likely to cause substantial damage to property or the environment, the business owner or operator shall, until the unsafe condition has been corrected, immediately cease the operation of the unsafe portion of the business.

c. **Storage**

The owner or operator of a business where hazardous materials are stored shall accomplish all of the following:

1. **Physical Separation of Materials.**

The separation or protection of a hazardous material from any other material or factor that may cause or contribute to a fire, explosion, production of a flammable, toxic, or poisonous gas, or the deterioration of any primary or secondary containment is required.

2. **Physical Separation from Buildings.**

Hazardous material storage areas shall be separated by distance or physical barriers from residences and other buildings when the quantities of materials or their hazardous characteristics constitute a fire or health hazard.

3. Restricted Access.

Hazardous materials handling areas shall be secured against unauthorized entry.

d. Warning Signs

Hazard identification signs specified and in conformity with the National Fire Protection Association (NFPA) Standard 704 shall be placed in locations where hazardous materials are stored or handled in quantities requiring a permit and at entrances to the business. Aboveground storage tanks containing a hazardous material shall be posted with the appropriate NFPA 704 sign on a visible side or sides, and be readable.

e. Posting and Labeling

The following shall be posted with the appropriate signage: entrances and exits; hazardous materials storage areas; emergency equipment; and pesticide storage areas. Emergency contact information shall be posted in a conspicuous location. Containers holding hazardous materials shall be labeled as to the contents. Other information may be required on the label by the DEH as stipulated in the current Business Emergency Plan instructions.

f. Failure to Comply:

Failure or refusal of the owner or operator of any business to comply with the requirements for handling hazardous material, in this section, shall constitute a violation of this Ordinance.

Section 4. PERMIT REQUIRED

a. Permit

Except as provided in Chapter 6.95 CH&SC, no person shall operate or maintain a business where hazardous materials, or a mixture containing hazardous materials, are handled in a quantity that is equal to or greater than an amount specified in Section 7 of this Ordinance without a valid permit issued by the DEH. The owner or operator of a business shall obtain a permit for handling hazardous materials from the DEH.

For a previously non-permitted business, a permit fee and completed Business Emergency Plan are due at the time a hazardous material, or a mixture containing a hazardous material, is first handled at a business in a quantity that is equal to or greater than an amount specified in Section 7 of this Ordinance. A permit may be issued at any time during the year.

b. Requirements. For a business to handle hazardous materials in quantities specified in Section 7 of this Ordinance, a completed Business Emergency Plan shall be submitted to the DEH. The Business Emergency Plan shall be

submitted on the forms provided by the DEH with the appropriate fee as specified in Ordinance 640 and referenced in Section 8 of this Ordinance. All permits shall expire annually on the one-year anniversary of the date of program qualification. A new permit shall be applied for on or before the date of expiration.

- c. **Contents of Business Emergency Plan.** The completed Business Emergency Plan shall include all the information required for Business Plans pursuant to Chapter 6.95 CH&SC and the UPCF. The major elements of the required information include:

1. **Business Activities Information**
2. **Statement of Exemption**
3. **Business Owner/ Operator Identification**
4. **Hazardous Materials Inventory**
5. **Site Map and Storage Map**
6. **Emergency Procedures**
7. **Employee Training Plan**
8. **Emergency Notification**
9. **Additional Information**

The DEH may require such additional information as it deems necessary to meet the intent of this Ordinance and state law in protecting the public health, safety, or the environment.

- d. **Permit Issuance**

The DEH will issue a permit to handle hazardous materials when the following requirements have been met:

1. The Business Emergency Plan has been completed, submitted, reviewed and approved by the DEH.
2. The applicable fees, paid in full, as specified in Ordinance 640 and referenced in Section 8 of this Ordinance, have been received.

- e. **Nontransferable Permit.** A permit to handle a hazardous material is not transferable.

- f. **Maintaining Permit and Business Emergency Plan on Premises**

A permit issued pursuant to this Ordinance shall be posted at the permitted place of business. A copy of the approved Business Emergency Plan shall be maintained on-site, clearly identified, and easily accessible to employees.

- g. **Failure to Comply.**

1. Failure or refusal of the owner or operator of any business to submit to the DEH, the completed Business Emergency Plan for a permit to handle hazardous materials, as specified in this section, shall constitute a violation of this Ordinance.

2. Failure or refusal of the owner or operator of any business to submit to the DEH the appropriate fees, as specified in Ordinance 640 and referenced in Section 8 of this Ordinance, shall constitute a violation of this Ordinance.

Section 5 AMENDMENT OF BUSINESS EMERGENCY PLAN

- a. **Changes to the Business Emergency Plan.** An amended or revised copy of the Business Emergency Plan shall be submitted to the DEH within thirty (30) calendar days when any of the following events occur:
 1. **Change of Ownership**
 2. **Change of mailing address or phone number**
 3. **Change in physical location of the business**
 4. **Change of emergency contact person or emergency contact phone number**
 5. **A 100 percent or more increase in the quantity of a previously disclosed hazardous material.**
 6. **Any handling of a previously undisclosed hazardous material subject to the inventory requirements of this Ordinance.**
- b. **Failure to Comply.** Failure or refusal of the owner or operator of any business to comply with the amendment and notification requirements of this section shall constitute a violation of this Ordinance.

Section 6 BUSINESS EMERGENCY PLAN UPDATE REQUIREMENTS.

- a. **Hazardous Material Inventory**

A business shall annually submit to the DEH its hazardous materials inventory on the inventory reporting form, or submit a certification statement reporting current status as it may apply to changes in inventory, if any, within the previous year. Changes to the inventory shall be submitted on forms provided by the DEH or other forms as approved by the DEH.
- b. **Review and Update to the Business Emergency Plan.** At least once every three years the business shall certify to the DEH that a review of the Business Emergency Plan was made and that any necessary changes have been made to the plan. A copy of these changes shall be submitted to the DEH as part of this certification.
- c. **Failure to Comply.** Failure or refusal of the owner or operator of any business to comply with the reporting requirements of this section shall constitute a violation of this Ordinance.

Section 7. HAZARDOUS MATERIALS HANDLING CLASSIFICATION SYSTEM.

a. Categories of Hazardous Materials. For purposes of permitting businesses pursuant to this Ordinance, categories of hazardous materials shall be as follows:

1. CATEGORY A.

- A. Motor vehicle fuels stored in an underground tank system
- B. Lubricants and coolants stored above or below ground
- C. Hydraulic equipment fluids
- D. Motor vehicle parts cleaning fluids
- E. Used motor oil stored above or below ground
- F. One thousand pounds or less of lead acid batteries
- G. One thousand cubic feet or less of compressed gases used in welding
- H. Carbon dioxide liquid/gas when used in carbonation of beverages at a food serving business
- I. One hundred ten gallons or less of dry cleaning fluid stored above ground when used as a solvent for cleaning garments
- J. One thousand cubic feet or less of helium used for inflation of balloons

2. CATEGORY B.

All hazardous materials defined by Chapter 6.95 CH&SC except the following:

- A. Those listed in Category A of this Ordinance
- B. Those listed in Category C of this Ordinance
- C. Those exempt by Chapter 6.95 CH&SC.
- D. Those exempt by this Ordinance.

3. CATEGORY C.

- A. Extremely Hazardous Waste as defined in Title 22 CCR
- B. Regulated Substance as defined in 40 CFR or Chapter 6.95 of the CH&SC
- C. Extremely Hazardous Substance as defined in 40 CFR
- D. Acutely Hazardous Materials as defined in 40 CFR
- E. Any hazardous substance or mixture which the United States Environmental Protection Agency has taken action upon purs. to Sec. 2606 of Title 15 of the United States Code.

b. Classification of Handlers. A hazardous materials handler shall be classified for fee assessment purposes according to the criteria of this Section. A handler that is eligible for assessment under more than one Hazard Classification Level shall be assessed at the level indicating the greatest hazard potential and based on the types and quantities of hazardous materials handled. The Hazard Classification Levels shall be as follows:

1. Agricultural Handler.

Any business while operating a farm solely for purposes of cultivating the soil raising or harvesting any agricultural or horticultural commodity, that handles a hazardous material, or a mixture containing a hazardous material, which has a cumulative quantity at any one time during the calendar year equal to or greater than a total weight of 500 pounds, or a total volume of 55 gallons, or 200 cubic feet at standard temperature and pressure for compressed gas.

2. Special Handler

Any business, handling only those materials listed in Category A of this Section, which has a cumulative quantity equal to or greater than 55 gallons, 500 pounds or 200 cubic feet of gas at standard temperature and pressure; no more than 1000 cubic feet, at standard temperature and pressure of compressed welding gases such as oxygen, acetylene, argon, etc., when those gases are used as part of a motor vehicle maintenance operation; any business handling motor vehicle fuels listed in Category A of this Section in underground storage tanks regulated by Ordinance 617; any business handling lead acid batteries in quantities less than or equal to 1000 pounds; any business handling dry cleaning fluid used as a solvent in the dry cleaning process less than or equal to 110 gallons total quantity on site stored above ground; any business handling one or more cylinders containing no more than 1000 cubic feet of helium used for inflation of balloons.

3. Level I Handler

Any business handling materials listed in Category B of this section that has a cumulative quantity equal to or greater than 55 gallons but less than 550 gallons, or equal to or greater than 500 pounds but less than 5000 pounds, or equal to or greater than 200 cubic feet of gas but less than 2000 cubic feet of gas at standard temperature and pressure. Also, any business handling materials listed in Category C of this Section that has a cumulative quantity less than or equal to 5 gallons, or less than or equal to 50 pounds, or less than or equal to 20 cubic feet of gas at standard temperature and pressure.

4. Level II Handler

Any business handling materials listed in Category B of this Section that has a cumulative quantity equal to or greater than 550 gallons but less than 5500 gallons, or equal to or greater than 5000 pounds but less than 50,000 pounds or equal to or greater than 2000 cubic feet of gas but less than 20,000 cubic feet of gas at standard temperature and pressure. Also, any business handling materials listed in Category C of this Section which has a cumulative quantity greater than 5 gallons but less than or equal to 55 gallons, or greater than 50 pounds but less than or equal to 500 pounds, or

greater than 20 cubic feet of gas but less than or equal to 200 cubic feet of gas at standard temperature.

5. Level III Handler

Any business handling materials listed in Category B of this Section that has a cumulative quantity equal to or greater than 5,500 gallons, equal to or greater than 50,000 pounds, or equal to or greater than 20,000 cubic feet of gas at standard temperature and pressure. Also any business handling materials listed in Category C of this Section which has a cumulative quantity greater than 55 gallons, or greater than 500 pounds, or greater than 200 cubic feet of gas at standard temperature and pressure.

Section 8. PERMIT FEES. The fee schedule for permits required pursuant to Section 4 of this Ordinance shall be as established in Ordinance 640.

- a. **Penalties.** Businesses that are delinquent in filing a Business Emergency Plan, paying the permit fee, or both, shall be subject to penalties as established under Ordinance 640.
- b. **Other Penalties Not Precluded.** The imposition of, or payment of, a penalty imposed by Ordinance 640 shall not preclude the imposition of any other penalty prescribed by this Ordinance or state law or the prosecution of any violation of this Ordinance or state law.

Section 9. ACCIDENTAL RELEASE PREVENTION PROGRAM.

- a. **California Accidental Release Prevention Program (CalARP) Risk Management Plan.** A business that the DEH determines represents a significant likelihood of risk, pursuant to Chapter 6.95 CH&SC and/or Title 19 CCR and/or Section 112 (r) of the Clean Air Act and/or 40 CFR shall prepare a Risk Management Plan (RMP) in accordance with the requirements found therein.
- b. **Review Fees.** The fee schedule for the DEH review of a RMP for completeness shall be the fee as established under Ordinance 640.
- c. **Failure to Comply.** Failure or refusal of the owner or operator of any business to submit to the DEH within the time specified in Chapter 6.95 CH&SC or by the DEH, the completed RMP, shall constitute a violation of this Ordinance.

Section 10. MAINTENANCE OF RECORDS.

- a. **Records.** All records required by this Ordinance shall be maintained by the business for a period of not less than three (3) years following the expiration of the permit. Such records shall be made available to the DEH during normal working hour.
- b. **Failure to Comply.** Failure or refusal of the owner or operator of any business maintain records as required by this section shall constitute a violation of this Ordinance.

Section 11. CONFLICT WITH OTHER LAWS. Notwithstanding any other provisions of this Ordinance, a hazardous materials handler regulated by any state or federal agency will be exempt from any conflicting provision of this Ordinance. Whenever any provision

of this Ordinance conflicts with a provision in the California Fire Code as adopted by Riverside County, the more restrictive provision shall prevail.

Section 12 Violations.

- a. **Infraction.** Any person, business owner or operator who violates any of the provisions of this Ordinance shall be guilty of an infraction and, upon conviction thereof, shall be punished by: (1) a fine not exceeding one-hundred dollars (\$100.00) for a first violation of this Ordinance; (2) a fine not exceeding two-hundred dollars (\$200.00) for a second violation of this ordinance within one (1) year; (3) a fine not exceeding five hundred dollars (\$500.00) for each additional violation of this Ordinance after a second violation within one (1) year.
- b. **Misdemeanor.** Notwithstanding subsection (a) of this Section, a first and subsequent offense may be charged and prosecuted as a misdemeanor and upon conviction thereof, shall be punished as provided by California Penal Code, Section 19 as it may be amended.
- c. **Separate Violations.** Each day a violation is committed or permitted to continue shall constitute a separate offense.
- d. **Remedies and Penalties in Ordinance 725.** The additional remedies, penalties and procedures for violation of this Ordinance and for recovery of costs related to enforcement provided for Ordinance 725 are incorporated by this reference.
- e. **Correction of Violations.** Payment of any penalty established by this Ordinance shall not relieve person or business from the responsibility of correcting any violation of this Ordinance, statute or regulation, nor shall it relieve a person from the payment of a late fee imposed under Ordinance 640.

Section 13. PUBLIC NUISANCE. The handling of any hazardous material in violation of the provisions of this Ordinance is declared to be a public nuisance.

Section 14. SEVERABILITY. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, business handler or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of the remaining provisions of this Ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this Ordinance hereby declare to be severable.

Adopted:

651 Item 9.2 of 02/16/1988 (Eff: 03/16/1988)

Amended:

651.1 Item 11.4 of 03/30/1993 (Eff: 04/29/1993)

651.2 Item 12.7 of 07/26/1994 (Eff: 08/26/1994)

651.3 Item 13.5 of 03/27/2001 (Eff: 04/26/2001)

651.4 Item 9.1 of 04/14/2009 (Eff: 05/14/2009)