

**ORDINANCE AMENDING CHAPTER 18C FOR THE AUTHORITY AND OVERSIGHT OF  
HAZARDOUS MATERIALS AND WASTE**

**ORDINANCE NO. \_\_\_\_\_**

**An ordinance of the County of Santa Barbara amending Chapter 18C.**

**WHEREAS**, periodically, an administrative clean-up of current Santa Barbara County Code is required to ensure that both County staff and the public have easy and logical access to current code regulations; and

**WHEREAS**, authority, duties, responsibilities and jurisdiction for the oversight of Hazardous Materials Release Response Plans and Inventory program, Underground Storage of Hazardous Substances program, Hazardous Waste Control program, Aboveground Storage of Petroleum program, California Accidental Release Prevention program, and the Unified Hazardous Waste and Hazardous Materials Regulatory program (hereafter “Programs”) was transferred to Environmental Health Services on July 1, 2013; and

**WHEREAS**, outdated language and code chapter references relating to above mentioned Programs were repealed from Chapter 15, Fire Prevention and Chapter 18, Health and Sanitation, as part of this collective effort to correct code references; and

**WHEREAS**, said Programs are specifically regulated by the Environmental Health Services’ “Certified Unified Program Agency” (CUPA); and

**WHEREAS**, CUPA authority and oversight shall be set forth in this ordinance as Chapter 18C-Environmental Health Services, Article III “Certified Unified Program Agency;” and

**WHEREAS**, authority and oversight has not changed from existing law and authority but shall simply be clarified and property located within County code Chapter 18C-Environmental Health Services.

**NOW THEREFORE**, the Board of Supervisors of the County of Santa Barbara ordains as follows:

An ordinance amending Chapter 18C of the Santa Barbara County Code, relating to the authority of the Certified Unified Program Agency regarding hazardous waste generators and hazardous materials storage.

**CHAPTER 18C – ENVIRONMENTAL HEALTH SERVICES**

**Article III. – Certified Unified Program Agency (CUPA)**

**Sec. 18C-31. Purpose.**

The County of Santa Barbara shall implement and enforce Health & Safety Code (H&SC) and applicable implementing regulations per Section 18C-32. The Santa Barbara County Board of Supervisors designates the Santa Barbara County Environmental Health Services’ Certified Unified

Program Agency (CUPA) as the county agency responsible for implementing and enforcing said H&SC and applicable regulations in the County of Santa Barbara.

For the County of Santa Barbara, the CUPA is certified by the California Environmental Protection Agency to regulate businesses that handle hazardous materials, generate or treat hazardous waste or operate aboveground or underground storage tanks. The CUPA is charged with protecting public health and the environment by ensuring compliance with applicable laws and regulations and responding to incidents involving hazardous materials, as appropriate.

### **Sec. 18C-32. - Successor of authority.**

- (a) Environmental Health Services succeeds to and is vested with the duties, purposes, responsibilities and jurisdiction, imposed by law or contract or memoranda, as they relate to hazardous materials, hazardous substances and hazardous wastes, including, but not limited to, the following state laws, together with their implementing regulations and provisions of the Santa Barbara County Code:
  - (1) Chapter 6.11 (Unified Hazardous Waste and Hazardous Materials Regulatory Program), §§ 25404 et seq., of division 20 of the Health and Safety Code;
  - (2) Chapter 6.5 (Hazardous Waste Control), §§ 25100 et seq., of division 20 of the Health and Safety Code;
  - (3) Chapter 6.67 (Aboveground Storage of Petroleum), §§ 25270 et seq., of division 20 of the Health and Safety Code;
  - (4) Chapter 6.7 (Underground Storage of Hazardous Substances), §§ 25280 et seq., of division 20 of the Health and Safety Code;
  - (5) Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), §§ 25500 et seq., of division 20 of the Health and Safety Code;
- (b) Environmental Health Services will remain vested with the duties, purposes, responsibilities and jurisdiction imposed by law or contract or memoranda to implement the CUPA until changed by resolution of the Santa Barbara County board of supervisors.
- (c) Nothing in this section shall prevent the Environmental Health Services Director, or his/her designee, to adopt policies and procedures in order to implement the program regulations, stated above, in accordance with said statutory and regulatory requirements.

### **Sec. 18C-33. Definitions.**

Unless the context provides otherwise, the definitions contained in the statutes and regulations of California Health and Safety Code (H&SC) Chapters 6.11, 6.5, 6.67, 6.7, and 6.95 and the California Code of Regulations (CCR) Title 19, Title 22, Title 23, and Title 27, shall apply.

#### **Additional Definitions for Santa Barbara County CUPA shall include:**

- (a) "CUPA jurisdiction" means all of the unincorporated and incorporated areas of Santa Barbara County.
- (b) "Unified Program" means the collective group of programs identified in Section 18C-34, that are subject to regulation by the CUPA.

- (c) "Unified Program Facility Permit" or "Permit" means a consolidated permit as defined in Section 25404 (a)(6) of Chapter 6.11 of Division 20 of the California Health and Safety Code.
- (d) "Unified Program Activity(ies)" means any activity, or activities, regulated by the H&SC code sections and their implementing regulations contained in Section 18C-32 of this Article III.

### **Sec. 18C-34. Implementation of the Unified Program.**

The CUPA shall implement and enforce the Unified Program within the County of Santa Barbara. Except as so provided, the Unified Programs include, but are not limited to: the Hazardous Materials Business Plan, the California Accidental Release Prevention program, the Underground Storage Tank program, the Aboveground Petroleum Storage Act Requirements for Spill Prevention, Control and Countermeasure Plans, and the Hazardous Waste Generator and Onsite Hazardous Waste Treatment programs. The CUPA manager may coordinate Unified Program oversight with all state and local agencies and officials.

### **Sec. 18C-35. Unified Program Facility Permit Required.**

Any business or person engaging in an activity that is subject to regulation by the CUPA, as set forth in this Article III, shall possess a valid Unified Program Facility Permit issued by the CUPA.

### **Sec. 18C-36. Scope of Unified Program Facility Permit.**

The Permit shall identify the specific Unified Program Activity(ies), the specific location where such activity may be conducted or operated, and the business or persons to whom the Permit is issued.

The Permit shall be valid only for the identified Unified Program Activity(ies) conducted or operated at the identified location and only by the business or persons identified in the Permit.

No Permit or approval shall be issued by the CUPA under the Unified Program until all applicable fees and surcharges that are due have been paid to Santa Barbara County Environmental Health Services.

### **Sec. 18C-37 Terms of Unified Program Facility Permit.**

A Permit shall be valid for a period of one year. The Permit shall identify the specific Unified Program Activity(ies) permitted. The Permit shall be renewed annually on or before the permit expiration date. A permittee's failure to pay the annual fee shall result in submission to the County's collections agency and/or applicable enforcement action as described in this Article III. The Permit shall not be transferred from one person, entity, or business to another, or from one location to another. The Permit shall be made readily available at the permitted location.

The fees imposed by County ordinance pertaining to the CUPA are nonrefundable and a permittee who terminates operations or the activities regulated by the Permit shall not be entitled a refund of fees for any remaining portion of that Permit period.

**Sec. 18C-38. Denial, Suspension or Revocation of Unified Program Facility Permit or Permit Element.**

The CUPA manager or his designee may deny, suspend, or revoke a Permit or a portion of a Permit for specific Unified Program Activity(ies) if a complaint, investigation, or inspection reveals that a permittee, a permittee’s employee, or any person acting with the permittee’s consent or under the permittee’s authority, has or may have violated any provision of this Article III or any legal requirement imposed on the permitted facility in connection with its operation.

Suspension or revocation of a Permit shall not affect the CUPA’s authority to institute or continue a disciplinary proceeding against a permittee, including the collection of fees and/or enforcement penalties.

**Sec. 18C-39. Hazardous Waste Generator Permit Required.**

No person shall engage in any business activity that routinely produces a Resource Conservation and Recovery Act (RCRA) or non-RCRA hazardous waste, as defined by H&SC Chapter 6.5 and CCR Title 22 at any location in the CUPA jurisdiction unless such activity is permitted by the CUPA.

**Sec. 18C-40. Hazardous Waste On-Site Treatment Permit Required.**

Tiered Permitting refers to a graduated series of requirements applicable to RCRA or non-RCRA hazardous waste generators conducting onsite, fixed treatment of their own RCRA or non-RCRA hazardous wastes generated at the same location. There are three tiers of hazardous waste treatment. The level of regulation is scaled to the relative risk and complexity involved under each treatment tier. In ascending order, the tiers are:

- (a) Conditional Exemption
- (b) Conditional Authorization
- (c) Permit-By-Rule

Prior to treatment of RCRA or non-RCRA hazardous wastes, the owner, operator, business, or person shall possess a Permit issued by the CUPA indicating the tier of treatment that is occurring at the fixed location.

**Sec. 18C-41. Hazardous Materials Release Response Plans and Inventory (“Business Plan”) Permit Required**

The owner or operator of a Unified Program facility located within the CUPA jurisdiction which is required to submit a Business Plan as described in H&SC Chapter 6.95 must have a Permit issued by the CUPA.

**Sec. 18C-42. Risk Management Plan Permit Required.**

The owner or operator of a Unified Program facility that is required to submit a Risk Management Plan pursuant to the Article 2 of Chapter 6.95 of Division 20 of the H&SC and CCR Title 19 of Division 2, Chapter 4.5, must have a Permit issued by the CUPA.

### **Sec. 18C-43. Underground Storage of Hazardous Substances Permit Required.**

The owner or operator of a facility that operates an underground storage tank system or systems shall possess a Permit issued by the CUPA in accordance with H&SC Chapter 6.7 and CCR Title 23.

### **Sec. 18C-44. Underground Storage Tank System Installation, Repair, Modification, or Closure Plan Check Permit Required.**

An underground storage tank system and its ancillary components subject to H&SC Chapter 6.7 and CCR Title 23 shall not be installed, repaired, modified, or closed unless an Installation, Repair, Modification, or Closure Plan Review Permit is issued to the owner or operator of the underground storage tank, or their authorized designee. A Plan Review Permit application shall be submitted to the CUPA, on forms furnished by the CUPA, and the applicable fee as set forth in Santa Barbara County Code, Chapter 15, or its successor Chapter, paid to the CUPA prior to the issuance of a Plan Review Permit.

### **Sec. 18C-45. Aboveground Petroleum Storage Act Permit Required.**

The owner or operator of a Unified Program facility located within the CUPA jurisdiction which is subject to H&SC Chapter 6.67 must have a Permit issued by the CUPA.

### **Sec. 18C-46. Permitting Process**

Every person as owner, lessee, agent, or otherwise, who operates, carries on or engages in any business which is subject to regulation by the CUPA (as set forth in Sections 18C-39 through 18C-45) shall possess a Permit, issued by the CUPA per Sections 18C-46.1 through 18C-46.5.

#### **Sec. 18C-46.1 - Same—Applications.**

Every person carrying on or conducting a business subject to regulation by the CUPA, shall make an application to the CUPA via the statewide information management system as described in Health and Safety Code Chapter 6.11, or as otherwise directed by the CUPA manager. Such application shall be made under penalty of perjury. The application shall state the name and address of the business, the address at which such business is proposed to be carried on, and an indication of the business activities.

All persons engaging in existing businesses covered by the requirements of this Article III shall submit an application within sixty days of the effective date of this Article. If said application is not received within sixty days, the business is in violation of Section 18C-46 and enforcement action pursuant to section 18C-48 et seq. may be initiated by the CUPA.

All persons engaging in a business covered by the requirements of this Article which will commence operations on or after the effective date of this Article, shall submit an application thirty days prior to commencing operations.

#### **Sec. 18C-46.2 - Same—Issuance of permit.**

The CUPA shall make or cause to be made an inspection of said applicant and the proposed place of business, and the manner in which the hazardous materials and/or waste(s) are produced, handled, transported, stored, treated and disposed of. If the CUPA finds that all provisions of this Article, and of federal and state statutes and regulations have been, and will be, complied with, the CUPA shall issue such Permit; otherwise the CUPA shall order the applicant to bring the business or operation into

compliance with all requirements within a period of time established by the CUPA. Upon failure to comply, the application shall be denied.

Such permits shall be good for one year from date of issuance, and shall be annually renewed by re-submitting an updated application to the statewide information management system with any and all changes to the business and operation reflected in the application. Such permits shall be nontransferable and nonassignable. Every business covered by the requirements of this Article existing prior to the effective date of this Article shall apply for a CUPA Permit in the manner required by Section 18C-46.1.

It shall not be necessary for the CUPA to investigate businesses prior to renewal issuance of the Permit. Said existing businesses are required to comply with the provisions of this Article III and the provisions of the state statutes and regulations.

### **Sec. 18C-46.3. - Same—Revocation of permit—Hearing.**

Whenever the CUPA shall determine from investigation, examination or inspection of any business covered by the requirements of this Article III, that the holder of any Permit issued under the provisions of this Article has violated any of the provisions of this Article, or any provisions of the state statutes or regulations regarding the production, handling, transportation, storage, treatment or disposal of hazardous materials and/or wastes, and has not complied with the orders of the CUPA to provide corrections, the CUPA may serve a written notice upon such permittee to appear before the Environmental Health Services' Director (hereafter "Director") to show cause as to why such permit shall not be revoked. Such notice shall contain a brief statement of the alleged violation, and the time and place of the hearing, which shall be held within ten days after the receipt of the notice. The permittee may appear in person or with counsel and present such evidence as he or she may desire regarding the alleged violation and show cause why the Permit shall not be revoked. The Director shall receive such information, evidence and testimony as may concern the circumstances of the alleged violation, and the formal rules of evidence shall not apply. If the Director shall determine that any of the provisions of this chapter, or any of the provisions of the state statutes, or any of the provisions of state regulations have been or are being violated, he or she may revoke or temporarily suspend such permit, until such time as the act, default or omission has been remedied.

### **Sec. 18C-46.4. - Same—Summary suspension.**

Any permit issued pursuant to this Article III may be summarily suspended by the Director for cause. Cause shall be any violation of this chapter, or any violation of the provisions of the state statutes or regulations which, in the opinion of the director, poses an imminent hazard to, or threatens the, public health and safety or the environment. Reinstatement of said permit shall not be effected unless the act, default or omission which was the grounds for summary suspension shall have been remedied prior to the time or reinstatement.

The holder of any permit so summarily suspended pursuant to this Section shall have the right to file a written request to the Director requesting a hearing to be held within twenty days after the effective date of such suspension. The hearing shall be held as set forth in section 18C-46.3. and the Director shall determine whether or not cause exists for such suspension. If he should so determine that cause exists for such suspension, he may suspend such permit until such time as the act, default or omission has been remedied.

### **Sec. 18C-46.5. - Same—Exemptions.**

The following are exempt from CUPA hazardous waste generator Permit requirements as set forth in this Article III:

- (a) Any person or business whose routine operation does not normally produce a hazardous waste but who must properly store and dispose of a hazardous waste caused by illegal dumping, the occasional accidental discharge, or accidental spillage of a hazardous material onto the land;
  - (i) For the purposes of this Section, 18C-46.5(a), "occasional" shall be determined by the CUPA who will take into account the nature of the business operations, materials and wastes involved as well as the expected duration of cleanup and remediation.
- (b) Any person or business who is involved in a one-time project;
  - (i) For the purposes of this Section, 18C-46.5(b), "one-time project" means a planned event that does not ordinarily occur at the business, site, or location.

Nothing in this section is meant to restrict permit requirements of other local, state, or federal agencies.

### **Sec. 18C-47. - Variance.**

The CUPA may grant variances to the permit and fee provisions of this Article only if the waste produced is insignificant as a potential hazard to humans, domestic livestock or wildlife due to its small quantity, low concentration and/or its physical or chemical characteristics. Any variance granted does not exempt the producer from any other applicable laws and regulations governing the management of hazardous wastes.

### **Sec. 18C-48. - Enforcement by CUPA.**

Any owner, operator, business, or person who violates any provision of this Article III is subject to applicable enforcement, fines, penalties, or fees as described in H&SC and CCR, and Section 18C-49

The CUPA is hereby authorized and directed to enter, at any reasonable time, any place of business covered by, or reasonably believed to be covered by, this Article III, to verify compliance with the provisions of this Article. The CUPA shall have the duty of enforcing the provisions of this Article. The CUPA may request the district attorney or county counsel to seek injunctive relief to enjoin violations of the ordinance codified in this Article or any permit or order issued hereunder or any rule, regulation, or requirement promulgated hereunder.

### **Sec. 18C-49. - Penalties.**

Any person who violates any provision of this Article III is subject to civil penalties of up to five hundred dollars per day of violation. All enforcement actions hereunder are cumulative to one another and to any other applicable penalties. Any person who violates any provisions of this Article is guilty of a misdemeanor pursuant to Chapter 1, Section 1-7 of the Santa Barbara County Code. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Article is committed, continued, or permitted by such person and shall be punishable accordingly. Any person convicted of a misdemeanor under the provisions of this Article shall be punishable accordingly. Any person convicted of a misdemeanor will be subject to a mandatory fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

**Sec. 18C-50. - Distribution of fines.**

All penalties or fines collected by any court or judge for any violation of any provisions of this Article shall be paid into the county general fund with fifty percent earmarked for Santa Barbara County Environmental Health Services for the purposes of purchasing supplies, equipment and reference materials to be used in the enforcement of the state statutes, regulations, and County Code.

**Sec. 18C-51. - Other remedies and penalties.**

The remedies and penalties provided by this Article III shall not be construed as restricting any other remedy or penalty provided by the state statutes, regulations, or any other law, regulation, or ordinance.

**Sec. 18C-52. Fees**

The fee resolutions for the regulation of hazardous materials/substances/wastes set forth in Chapter 15, Article V, Section 15-104 shall remain in effect. Environmental Health Services shall administer and implement said fee resolution and collect the fees authorized by said resolution until such time as said resolution is superseded by fee resolutions that are hereafter adopted by the board of supervisors for the Environmental Health Services' implementation of this Article III.

**Sec. 18C-53. - Health officer/Director—Promulgation of rules, regulations and requirements.**

The Santa Barbara County, Public Health Department Health Officer, and/or the Environmental Health Services Director shall prescribe rules, regulations and requirements not in conflict with the general law, for the implementation and enforcement of this Article III.



**PASSED, APPROVED AND ADOPTED** by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

COUNTY OF SANTA BARBARA

STEVE LAVAGNINO

\_\_\_\_\_  
Chair, Board of Supervisors

Date: \_\_\_\_\_

ATTEST:  
MONA MIYASATO  
COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:  
MICHAEL C. GHIZZONI  
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:  
BETSY SCHAFFER, CPA  
AUDITOR-CONTROLLER

By: \_\_\_\_\_  
Deputy County Counsel

By: \_\_\_\_\_  
Deputy

APPROVED  
VAN DO-REYNOSO, MPH, PhD  
DIRECTOR  
PUBLIC HEALTH DEPARTMENT

APPROVED AS TO FORM:  
RAY AROMATORIO, ARM, AIC  
RISK MANAGER

By: \_\_\_\_\_  
Director

By: \_\_\_\_\_  
Risk Manager