



County of San Mateo

Inter-Departmental Correspondence

Department: HEALTH

File #: 18-582

Board Meeting Date: 7/10/2018

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Louise F. Rogers, Chief, Health System
Heather Forshey, Director, Environmental Health Services

Subject: Adopt an Ordinance Amending Chapter 4.92 of Title 4 - Sanitation and Health of the San Mateo County Ordinance Code, Consisting of Section 4.92.010 to Section 4.92.190, and Retitling the Subsequent Ordinance as Hazardous Materials Storage Ordinance

RECOMMENDATION:

Adopt an ordinance amending Chapter 4.92 of Title 4 - Sanitation and Health of the San Mateo County Ordinance Code consisting of section 4.92.010 to section 4.92.190 and retitling the subsequent Ordinance as Hazardous Materials Storage Ordinance, previously introduced on June 26, 2018, and waive the reading of the ordinance in its entirety.

BACKGROUND:

On January 1, 1997, the California Environmental Protection Agency certified San Mateo County as a Certified Unified Program Agency (CUPA), authorized to implement the six program elements in the State's Unified Program as defined by State law (Health and Safety Code Section Chapter 6.11, section 25404 et seq. and California Code of Regulations Title 27, section 15100 et seq.). These six programs are currently known as: Hazardous Waste Generation and Hazardous Waste Onsite Treatment, Aboveground Storage Tanks, Underground Storage Tanks, Hazardous Materials Release Response Plans and Inventories, Uniform Fire Code Hazardous Materials Management Plans and Inventories, and California Accidental Release Prevention.

Prior to becoming a CUPA in 1997, San Mateo County had developed its own ordinance, Chapter 4.92 of Title 4 - Sanitation and Health of the San Mateo County Ordinance Code (Chapter 4.92), addressing only one Unified Program element, the storage of hazardous materials in underground tanks. This version of Chapter 4.92 - in its current form - duplicates many State requirements, lacks consistency with current industry standards, references procedures for underground storage tank decommissioning that are more stringent than surrounding jurisdictions, and contains several outdated requirements pertaining to oversight of underground tanks. Chapter 4.92 has not had any substantive changes since 1983.

DISCUSSION:

Environmental Health Services (EHS) has recognized the need to revise Chapter 4.92. In order to draft a revised ordinance, EHS evaluated the hazardous materials ordinances of neighboring jurisdictions, as well as administrative procedures established in more current County ordinances. Please note that the proposed Chapter 4.92 revision will only affect facilities currently regulated under State law for the storage of hazardous materials or generation of hazardous waste. It does not expand regulatory oversight to businesses not currently regulated under State law.

As part of stakeholder outreach, EHS posted the proposed revisions to Chapter 4.92 on its website. EHS also emailed over 3,000 regulated facilities, inviting them to submit comments and attend an April 6, 2018 public meeting. Fifteen people from businesses in San Mateo County attended the April meeting, where the proposed ordinance changes were presented. EHS has not received any comments to the proposed changes.

The legalization of cannabis in San Mateo County has highlighted the need to revise Chapter 4.92, as the County's cultivation ordinance references compliance with all hazardous materials regulations, specifically those outlined in County ordinance. Additionally, both Chapter 4.92 and the cultivation ordinance share some elements, such as inspections. Ultimately, the revised Chapter 4.92 would align the language between it and the cultivation ordinance, so that all industries subject to hazardous materials regulation would be subject to the same requirements under the cultivation ordinance.

Other proposed Chapter 4.92 revisions include expanding the options for appeals and aligning the ordinance language for conditions for permitting with that of other EHS programs, such as Food and Pool facilities.

County Counsel has determined that the proposed Chapter 4.92 changes are compliant with the California Environmental Quality Act, and an environmental impact study is not required. County Counsel has reviewed and approved the revised ordinance as to form.

Adoption of this ordinance will contribute to the Shared Vision 2025 outcome of a Healthy Community by ensuring that all facilities storing hazardous materials or generating hazardous waste are being managed in a manner to protect the public and environment.

FISCAL IMPACT:

Expected costs of enforcement have already been included in the EHS FY 2017-18 Adopted Budget. Similar arrangements will be made for future budget years. Fines resulting from the adoption of the Chapter 4.92 revision are anticipated to be nominal in total amount; no changes to fees are being proposed.