

ORDINANCE NO. 3490
ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS
TO AMEND MARIN COUNTY CODE CHAPTER 7.80 CERTIFIED UNIFIED PROGRAM
AGENCY (CUPA) AND ADD CHAPTERS 7.81 UNDERGROUND STORAGE TANK
PROGRAM, 7.82 HAZARDOUS MATERIALS BUSINESS PLANS AND THE CALIFORNIA
ACCIDENTAL RELEASE PREVENTION PROGRAM, AND 7.83 HAZARDOUS WASTE
GENERATORS.

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN DOES HEREBY ORDAIN AS FOLLOW:

SECTION I: Section 7.80 of the Marin County Code is hereby amended to read:

Chapter 7.80 CERTIFIED UNIFIED PROGRAM AGENCY (CUPA) – Regulatory Fees and Public File Review.

7.80.000 Title.

7.80.005 Purpose.

7.80.010 Definitions.

7.80.015 Fee Schedule.

7.80.020 Underground Storage Tank Fees.

7.80.025 Hazardous Materials Business Plan and California Accidental Release Prevention Fees.

7.80.030 Hazardous Waste Generator and Hazardous Waste Treatment Fees.

7.80.035 State CUPA Surcharge Fee.

7.80.040 Delinquent Fees.

7.80.045 Public inspection of documents (file review).

7.80.000 Title.

This Chapter shall be known as the Marin County Public Works Department Certified Unified Program Agency (CUPA) Regulatory Fees and Public File Review.

7.80.005 Purpose.

The provisions of this Chapter establishing fees associated with Hazardous Materials and Hazardous Waste Regulations are enacted pursuant to the provisions of California Health and Safety Code, Sections 101325 and 101280; Division 20, Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500) and Chapter 6.11 (commencing with Section 25404); California Code of Regulations, Title 27; California Water Code (commencing with Section 13700), and California Constitution, Article XI, Section 7. Enactment of the fees is necessary in order to provide a source of revenue with which to defray the personnel and other costs incurred by the County in conducting the regulatory programs established and otherwise identified by State and local laws and regulations. The costs incurred by the County for such regulatory purposes are not met by any grants by the State of California, any fees prescribed by the State, and other County revenues are insufficient to cover such costs.

7.80.010 Definitions.

As used in this Chapter, the terms identified in Sections 7.80.010 through 7.80.030 shall be ascribed the meanings contained therein:

- a. "Certified Unified Program Agency (CUPA)" means the Agency certified by the Secretary of the California Environmental Protection Agency to implement the unified program specified in Chapter 6.11 of the California Health and Safety Code and Title 27 California Code of Regulations. The Public Works Department for Marin County is the CUPA for both the incorporated and unincorporated areas of Marin County.
- b. "County" means the County of Marin, or Marin County.
- c. "Director" means the Director of the Public Works Department for Marin County, or his/her designee.
- d. "Health and Safety Code" means the California Health and Safety Code.
- e. "Public Works Department" means the Public Works Department for Marin County.

7.80.015 Fee Schedule.

Pursuant to Health and Safety Code, Division 20, Chapter 6.11, Section 25404.5(a), each CUPA shall institute a single fee system for all CUPA programs. Any existing fees for programs now under CUPA are to be replaced by the single fee system. These fees are to be set to a level sufficient to pay necessary and reasonable cost incurred by the CUPA in administering the CUPA programs. The changes in the fee schedule shall become in effect upon the effective date of the ordinance codified in this section. Future amendments may be added to cover the costs of implementing the various CUPA programs. No refund or rebate of a permit application shall be allowed by reason of the fact that the permit is denied or the permittee discontinues the activity or use of a facility prior to the expiration of the term of that permit.

7.80.020 Underground Storage Tank Fees.

The following fees and charges are enacted:

Annual permit to operate (store): Per tank	\$1,000.00
Plan check/installation inspection: Per tank (up to 5 hours staff time*)	\$500.00
Modification of tank system:	
No plan check: Per tank (up to 3 hours staff time*)	\$300.00
Plan check: Per tank (up to 5 hours of staff time*)	\$500.00
Removal of tank(s): Per tank (up to 5 hours staff time*)	\$500.00
Transfer of permit: All tanks	\$200.00
In-place closure: Per tank (up to 5 hours of staff time*)	\$500.00
Temporary closure	\$100.00
Consultation/facility oversight.....	\$100.00/hour

*Additional hours billed at \$100.00/hours.

7.80.025 Hazardous Materials Business Plan and California Accidental Release Prevention Fees.

The following fees and charges are enacted:

Hazardous Materials in Tanks (both Aboveground and Underground)

<u>Fee Group</u>	<u>Volume</u>	<u>Fee</u>
<i>Total Volume of Hazardous Material in Tanks (both Aboveground and Underground)</i>		
T1	Aggregates of up to and including 500 gallons	\$247.50
T2	Aggregates of 501 -- 1,500 gallons	\$275.00
T3	Aggregates of 1,501 -- 12,000 gallons	\$302.50
T4	Aggregates of 12,001 -- 40,000 gallons	\$330.00
T5	Aggregates of >40,000 gallons	\$357.50

Volume of Hazardous Materials NOT Contained in Tanks

R1	Aggregates of 0 -- 55 gallons	\$50.00
	(Applicable only if you use hazardous materials in a tank)	
R2	Aggregates of 56 -- 165 gallons, 200 -- 500 cubic feet, and 500 – 1,000 pounds.....	\$412.50
R3	Aggregates of 166 -- 550 gallons, 501 – 1,000 cubic feet, and 1,001 – 5,000 pounds.....	\$440.00
R4	Aggregates of 551 -- 1,100 gallons, >1,001 cubic feet, and 5,001 -- 10,000 pounds	\$467.50
R5	Aggregates of >1,101 gallons and >10,001 pounds.....	\$495.00
F	Farms	\$165.00
	California Accidental Release Prevention Program (CalARP)	\$2,500.00
	Consultation/facility oversight	\$100.00/hour

7.80.030 Hazardous Waste Generator and Hazardous Waste Treatment Fees.

The following fees and charges are enacted:

Hazardous waste generator not in combination with other programs	\$200.00
Hazardous waste generator in combination with other programs	\$425.00
Hazardous waste generator classified as a large quantity generator	\$600.00
Hazardous waste onsite treatment/tiered permitting	\$550.00
Hazardous waste generator classified as a farm	\$150.00
Consultation/facility oversight	\$100.00/hour

7.80.035 State CUPA Surcharge Fee.

The term “State CUPA Surcharge” shall be deemed to refer to those provisions and fees prescribed pursuant to contained in Section 25404.5 Paragraph (c), and Section 25287 Paragraphs “(a)” and “(b)” of the Health and Safety Code.

A state of California surcharge as required by the Health and Safety Code and California Code of Regulations shall be added to each fee. (Ord. 3357 §§ 1 and 2, 2003; Ord. 3330 §§ 1 and 2, 2001; Ord. 3313 §§ 1 and 2, 2000; Ord. 3263 § 1, 1997; Ord. 3262 § 1 (part), 1997)

7.80.040 Delinquent Fees.

All fees delinquent for thirty (30) days shall be subject to a penalty of twenty-five (25) percent of the permit fee. For each additional month, or fraction thereof, in which the delinquency continues, an additional penalty of twenty-five (25) percent of the fee shall be collected. Delinquent penalty fees will continue to be assessed for each additional month up to one hundred percent of the permit fee. (Ord. 3262 § 1 (part), 1997)

7.80.045 Public inspection of documents (file review).

(a) The Public Works Department shall maintain records related to the CUPA programs, including Administration Enforcement Orders. These documents shall be available for public review during the regular working hours of the Department of Public Works, Waste Management Division.

(b) A written request to inspect documents must be submitted to the Public Works Department, Waste Management Division. The request must specify what type of information is requested and state the business name and address whose documents are requested.

(c) The Public Works Department, Waste Management Division shall review the document(s) requested for inspection and set aside any confidential information.

(d) The Public Works Department, Waste Management Division shall notify the person(s) making the request of the date and time that the document(s) will be available for inspection. The Public Works Department, Waste Management Division shall make available such documents within ten working days of receipt of request for review.

(e) Files shall not be removed from the premises of the Public Works Department, Waste Management Division by members of the public.

(f) A fee will be charged for any copying services provided. (Ord. 3262 § 1 (part), 1997)

SECTION II: Chapter 7 of the Marin County Code is hereby amended to add Sections 7.81, 7.82 and 7.83:

Chapter 7.81 CERTIFIED UNIFIED PROGRAM AGENCY (CUPA) – Underground Storage Tank Program

7.81.005 Title.

7.81.010 Purpose.

7.81.015 Administration.

7.81.020 Definitions.

7.81.025 Incorporation and Implementation of State Laws and Regulations.

7.81.030 Operating Permit Required.

7.81.035 Installation Permit/Extension Requirements.

7.81.040 Modify Permit/Extension Requirements.

7.81.045 Closure In Place Permit/Extension Requirements.

7.81.050 Removal Permit/Extension Requirements.

7.81.055 Application Filing.

7.81.060 Application Contents.

7.81.065 Issuance of Permit.

7.81.070 Denial.

7.81.075 Permit Conditions.

7.81.080 Term.

7.81.085 Grounds for Revocation, Modification or Suspension of Permit.

7.81.090 Method of Permit Revocation. Modification or Suspension.

7.81.095 Number of Permits.

7.81.100 Fees.

7.81.105 Violations.

7.81.110 Administrative Enforcement.

7.81.115 Penalties.

7.81.120 Injunctions.

7.81.125 Cease and Desist Orders.

7.81.130 Hearing Authority.

7.81.135 Appeals.

7.81.005 Title.

This Chapter shall be known as “Underground Storage of Hazardous Substances.”

7.81.010 Purpose.

It is the purpose of this Chapter to incorporate and implement of the California Health and Safety Code, Division 20, Chapters 6.7, 6.75 and 6.11 and California Code of Regulations, Title 23, Division 3, Chapters 16 and 18 which establish standards and procedures regarding underground storage tanks and a fund for underground storage tank cleanup, to establish a procedure for issuance of permits for underground storage tanks, and to establish a procedure

for enforcement of the requirements of this Chapter, in order to prevent and control unauthorized discharges of hazardous substance stored underground.

7.81.015 Administration.

Except as otherwise provided, the Director, or his/her designee, is charged with the responsibility of administering this Chapter, and shall be authorized from time to time to promulgate and enforce such rules or regulations consistent with the purposes, intent, and express terms of this Chapter as he or she deems necessary to implement such purposes, intent and express terms. No rules or regulations promulgated by the Director or amendments thereof shall be enforced or become effective until thirty (30) calendar days following the date on which the proposed rules or regulations are filed with the Clerk of the Board of Supervisors.

7.81.020 Definitions.

Except as expressly provided to the contrary, those terms referred and defined by Sections 25281 and 25299.25 of the California Health and Safety Code shall be ascribed the same meaning as used in this Chapter.

- a. "Administrative Enforcement Order (AEO)" includes any of the order variations including the Expedited Consent Order, Draft Unilateral Order, Stipulation and Order, and Unilateral Order.
- b. "California Code of Regulations" means Title 23 of the California Code of Regulations.
- c. "Certified Unified Program Agency (CUPA)" means the Agency certified by the Secretary to implement the unified program specified in Chapter 6.11 of the California Health and Safety Code. The Public Works Department for Marin County is the CUPA for both the incorporated and unincorporated areas of Marin County.
- d. "County" means the County of Marin, or Marin County.
- e. "Director" means the Director of the Public Works Department for Marin County, or his/her designee.
- f. "Facility" means any one, or a combination of, underground storage tanks used by a single business entity at a single location or site.
- g. "Health and Safety Code" means Chapter 6.7 of the California Health and Safety Code.
- h. "Operator" means any person in control of, or having daily responsibility for, the daily operation of an underground storage tank system.
- i. "Owner" means the owner of an underground storage tank.
- j. "Permitting Authority" means the Board of Supervisors for Marin County or its designee.
- k. "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, limited liability company, or association. "Person" also includes any city, county, district, the state, another state of the United States, any department or agency of this state or another state, or the United States to the extent authorized by federal law.
- l. "Public Works Department" means the Public Works Department for Marin County.

7.81.025 Incorporation and Implementation of State Laws and Regulations.

Except as otherwise expressly provided by this Chapter, all requirements, limitations and exemptions contained in Chapters 6.7, 6.11 and 6.75 of the Health and Safety Code (commencing with Section 25280) and Chapters 16 and 18, Division 3, Title 23 of the California Code of Regulations, as under this Chapter, and are hereby incorporated herein by reference. The Public Works Department is hereby designated pursuant to Section 25283 of the Health and Safety Code as the agency responsible for implementation and enforcement of Chapter 6.7, 6.75 and 6.11 of the Health and Safety Code and Title 23, Division 3, Chapters 16 and 18 of the California Code of Regulations.

7.81.030 Operating Permit Required.

- a. No person shall own or operate an underground storage tank within the County of Marin unless by authority of a valid Certified Unified Program Agency operating permit issued to the owner or operator pursuant to the provisions of this Chapter, except as otherwise provided in subdivisions (c) and (d) of Sections 25283.5 and 25284 of the Health and Safety Code.
- b. Such Operating Permit(s) are site, facility and owner specific and may not be transferred to other owners or locations. Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid operating permit has been previously issued shall have thirty (30) days after the date of assumption of ownership to apply for a new operating permit. During the period from the date of application until the operating permit is issued or denied, the person shall not be held to be in violation of this Section.
- c. An operating permit issued pursuant to this Chapter for an underground storage tank installed on or before December 22, 1988, shall require compliance with Section 25292 of the Health and Safety Code. A permit issued pursuant to this Chapter for an underground storage tank installed after December 22, 1988, shall require compliance with Section 25291 of the Health and Safety Code.
- d. This section does not obviate the requirement to obtain valid permits pursuant to Title 16 and 19 of this Code, or compliance with other applicable ordinances, including, but not limited to the Marin County Zoning Code.

7.81.035 Installation Permit/Extension Requirements.

- a. Permit. No person will install an underground storage tank or underground storage tank system within the County of Marin, unless by authority of a valid permit for such installation, issued to the owner or operator pursuant to the provisions of this Chapter. Activities authorized under the permit shall be completed within ninety (90) days of permit approval.
- b. Extension of Permit. The Director may, in his/her discretion, extend the completion date one time, for ninety (90) days. Activities authorized under the permit will be completed within ninety (90) days of permit approval.

7.81.040 Modify Permit/Extension Requirements.

- a. Permit. No person will modify an underground storage tank or underground storage tank system within the County of Marin, unless by authority of a valid permit for such repair issued to the owner or operator pursuant to the provisions of this Chapter. Activities authorized under the permit will be completed within ninety (90) days of permit approval.
- b. Extension of Permit. The Director may, in his/her discretion, extend the completion date one time, for ninety (90) days. Activities authorized under the permit will be completed within ninety (90) days of permit approval.

7.81.045 Closure In Place Permit/Extension Requirements.

- a. Permit. No person will close in place an underground storage tank or underground storage tank system within the County of Marin, unless by authority of a valid permit for such closure in place, issued to the owner or operator pursuant to the provisions of this Chapter.
- b. Permit Application. An application for a closure in place permit must be applied for within thirty (30) days of ceasing operation of the underground storage tank. All closure in place permits will be evaluated on a case-by-case basis. Activities authorized under the permit will be completed within ninety (90) days of permit approval.
- c. Extension of Permit. The Director may, in his/her discretion, extend the completion date one time, for ninety (90) days. Activities authorized under the permit will be completed within ninety (90) days of permit approval.

7.81.050 Removal Permit/Extension Requirements.

a. Permit. No person will remove an underground storage tank or underground storage tank system within the County of Marin, unless by authority of a valid, permit for such removal, issued to the owner or operator pursuant to the provisions of this Chapter. Activities authorized under the permit will be completed within ninety (90) days of permit approval.

b. Extension of Permit. The Director may, in his/her discretion, extend the completion date one time, for ninety (90) days. Activities authorized under the permit will be completed within ninety (90) days of permit approval.

7.81.055 Application Filing.

All applications for a permit under this Chapter, including applications for renewal or extension of permits, shall be filed with the Director.

7.81.060 Application Contents.

Application for a permit under this Chapter shall be filed on a form provided by and shall contain such additional information as requested by the Director.

7.81.065 Issuance of Permit.

The Permitting Authority hereby designates the Director as its designee for the issuance of permits.

7.81.070 Denial.

A permit will not be issued, renewed, or extended if the Director, upon inspection of the underground storage tank, determines that it does not comply with this Chapter. A permit may not be issued, renewed, or extended if the application has not paid the local fees and state surcharges assessed pursuant to Chapter 7.80 of Title 7 of this Code and Section 7.81.085 of this Chapter.

7.81.075 Permit Conditions.

Permits issued pursuant to this Chapter shall be subject to conditions imposed by the Board and such additional conditions as the Director determines are necessary to promote the purposes and objects of Chapters 6.7 and 6.75 of the Health and Safety Code, and of this Chapter.

7.81.080 Term.

The term of an operating permit issued pursuant to the provisions of this Chapter shall be from date issued until December 31st of the year in which the permit was issued.

7.81.085 Grounds for Revocation, Modification or Suspension of Permit.

Any permit issued pursuant to this Chapter may be revoked, modified or suspended during its term, upon one or more of the following grounds:

- a. Violation of any of the terms or conditions of the permit, including nonpayment of fees;
- b. Obtaining the permit by misrepresentation or intentional failure to fully disclose all relevant facts;
- c. A change in any condition that requires modification or termination of the operation of the underground storage tank; or
- d. Violation of any provision of this Chapter, including the state laws and regulations incorporated by reference in this Chapter.

7.81.090 Method of Permit Revocation, Modification or Suspension.

The Director may revoke, modify, or suspend a permit by issuing a written notice stating the reasons therefore, and serving same together with a copy of the provisions of this Chapter, upon the holder of the permit. The revocation, modification or suspension shall become effective fifteen (15) days after service of the notice, unless the holder of the permit enters into a settlement agreement with the Director or appeals the notice in accordance with the provisions of Section 7.81.120. If such an appeal is filed, the revocation, modification or suspension shall not become effective until a final decision on the appeal is issued.

7.81.095 Number of Permits.

A business or facility which operates or conducts an enterprise at more than one address or location shall apply for and comply with all requirements necessary to obtain a separate permit issued pursuant to this Chapter for each location where an enterprise is maintained. Each place where a different street address is assigned to an enterprise shall be deemed to constitute prima facie separate location. With respect to an enterprise conducted at a single location whose operation involves the operation and maintenance of an underground storage tank in functions which are different from each other, or involves functions that are separated by significant physical distances, the Public Works Department may, in its discretion, require more than one Permit and as many Permits as it deems necessary and appropriate to effectively administer the provisions of this Chapter.

7.81.100 Fees.

Fees associated with permits and other regulatory functions under this Chapter are prescribed by Chapter 7.80.020 of this code.

7.81.105 Violations.

It shall be unlawful for any person to violate any provision of Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code or this Chapter. Each and every day a violation of Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code or this Chapter continues shall constitute a separate offense. The person committing or permitting such offenses may be charged with a separate offense for each such violation. Any violation of this chapter, or of Chapter 6.5 (commencing with Section 25280 of the Health and Safety Code) is a public nuisance and may be abated as such, in accordance with applicable law and Marin County Code Chapter 1.05.

7.81.110 Administrative Enforcement.

a. Pursuant to Section 25404.1.1 of the Health and Safety Code, if the Director determines that a person has committed, or is committing, a violation of any law, regulation, permit, information request, order, directive, variance, or other requirement that the Director is authorized to enforce or implement pursuant to this Chapter, the Director may issue an administrative enforcement order requiring that the violation be corrected and imposing an administrative penalty as specified in Section 7.81.100 hereof.

b. By written policy the Director shall adopt procedures for enforcing this Chapter. Such procedures shall contain those elements required by, and shall be consistent with the provisions stated in Section 25404.1.1 of the Health and Safety Code, or any successor statute thereto. The administrative enforcement procedures adopted shall not be exclusive, but are cumulative with all other remedies available by law and under this Chapter.

7.81.115**Penalties.**

For violations defined in Section 7.81.090 of this Chapter, violators shall be subject to the applicable civil penalties provided in subdivisions (a) through (f) of Section 25299 of the Health and Safety Code.

7.81.120 Injunctions.

When any person has engaged in, is engaged in, or threatens to engage in, any acts or practices which violate this Chapter, or any resolution, rule, or regulation adopted pursuant to this Chapter, the Office of the County Counsel for Marin County may apply to any court of competent jurisdiction for an order enjoining those acts or practices, or for an order directing compliance.

7.81.125 Cease and Desist Orders.

a. The Director may issue a cease and desist order requiring the owner or operator of any facility, or any other person responsible for any violation of this Chapter, to take any of the following actions:

1. Immediately discontinue any prohibited discharge of a hazardous material.
2. Immediately discontinue any other violation of this Chapter.
3. Satisfactorily remediate the area affected by the violation.

b. The Director may issue an administrative enforcement order, pursuant to Section 7.81.095 of this Chapter, if it has been determined that an owner or operator has not complied with any or all provision(s) of any cease and desist order.

7.81.130 Hearing Authority.

Whenever the term "Hearing Authority" is utilized in this Chapter, it shall be deemed to refer to one or more persons assigned the responsibility of conducting a hearing.

- a. County management personnel who the County Executive finds are qualified by training and experience to conduct such hearings;
- b. Any person or persons, qualified by training or experience, who the County Executive may employ or who are retained by contract to conduct such hearings; or
- c. Administrative law judges assigned to the State of California Office of Administration Hearings. The County Executive is hereby authorized to contract in the name of the County for the retention of hearing services at rates which do not exceed financial limitations established by the County's annual budget.

7.81.135 Appeals.

Pursuant to subdivisions (d) through (h) of Section 25404.1.1 of the Health and Safety Code, any person served with an order pursuant to this Chapter who has been unable to resolve any violation with the Public Works Department, may within fifteen (15) days after service of the order, request a hearing by filing a notice of defense with the Director.

If an appeal is not filed within the time or in the manner prescribed above, the right to review of the action against which the complaint is made shall be deemed to have been waived.

Chapter 7.82 CERTIFIED UNIFIED PROGRAM AGENCY (CUPA) – Hazardous Materials Business Plan and the California Accidental Release Prevention Programs

7.82.005 Title.

7.82.010 Purpose.

7.82.015 Administration.

7.82.020 Definitions.

- 7.82.025 Incorporation and Implementation of State Laws and Regulations.
- 7.82.030 Operating Permit Required.
- 7.82.035 Application Filing.
- 7.82.040 Applications Contents.
- 7.82.045 Issuance of Permit.
- 7.82.050 Denial.
- 7.82.055 Permit Conditions.
- 7.82.060 Term.
- 7.82.065 Grounds for Revocation, Modification or Suspension of Permit.
- 7.82.070 Method of Permit Revocation, Modification or Suspension.
- 7.82.075 Number of Permits.
- 7.82.080 Fees.
- 7.82.085 Determination--Exemptions.
- 7.82.090 Request for Exemption.
- 7.82.095 Violations.
- 7.82.100 Administrative Enforcement.
- 7.82.105 Penalties.
- 7.82.110 Injunctions.
- 7.82.115 Cease and Desist Orders.
- 7.82.120 Hearing Authority.
- 7.82.125 Appeals.

7.82.005 Title.

This Chapter shall be known as “Hazardous Materials Business Plans and the California Accidental Release Prevention Program.”

7.82.010 Purpose.

It is the purpose of this Chapter to incorporate and implement Division 20, Chapters 6.95 and 6.11 of the California Health and Safety Code and Title 19-Division 2, Chapter 4, Article 4 of the California Code of Regulations which establishes standards and procedures regarding the reporting of the location, type, quantity, and health risks of hazardous materials handled, used, stored or disposed of within the unincorporated area of Marin County, and within the incorporated territory of each municipality within Marin County. Chapter 6.95 of the California Health and Safety Code also establishes the authority for the regulation and permitting of facilities engaged in such activities. It is also the purpose of this Chapter to establish the procedures for the enforcement of these laws.

7.82.015 Administration.

Except as otherwise provided, the Director, or his/her designee, is charged with the responsibility of administering this Chapter, and shall be authorized from time to time to promulgate and enforce such rules or regulations consistent with the purposes, intent, and express terms of this Chapter as he or she deems necessary to implement such purposed, intent and express terms. No rules or regulations promulgated by the Director or amendments thereof shall be enforced or become effective until thirty (30) calendar days following the date on which the proposed rules or regulations are filed with the Clerk of the Board of Supervisors.

7.82.020 Definitions.

Except as expressly provided to the contrary, those terms referred to and defined by Sections 25501 through 25501.4 of the California Health and Safety Code shall be ascribed the same meaning as used in this Chapter.

- a. "Administrative Enforcement Order (AEO)" includes any of the order variations including the Expedited Consent Order, Draft Unilateral Order, Stipulation and Order, and Unilateral Order.
- b. "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.
- c. "Board" means the Board of Supervisors for Marin County.
- d. "California Code of Regulations" means Title 19 of the California Code of Regulations.
- e. "Certified Unified Program Agency (CUPA)" means the Agency certified by the Secretary to implement the unified program specified in Chapter 6.11 of the California Health and Safety Code. The Public Works Department for Marin County is the CUPA for both the incorporated and unincorporated areas of Marin County.
- f. "County" means the County of Marin, or Marin County.
- g. "Director" means the Director of the Public Works Department for Marin County, or his/her designee.
- h. "Health and Safety Code" means Chapter 6.95 of the California Health and Safety Code.
- i. "Operator" means any person in control of, or having daily responsibility for, the daily operation that results in the storage and/or manages hazardous materials.
- j. "Owner" means the owner of a facility that stores and/or manages hazardous materials.
- k. "Permitting Authority" means the Board of Supervisors for Marin County or its designee.
- l. "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, limited liability company, or association. "Person" also includes any city, county, district, the state, federal government, or any department or agency thereof.
- m. "Public Works Department" means the Public Works Department for Marin County.
- n. "Secretary" means the Secretary of the California Environmental Protection Agency.

7.82.025 Incorporation and Implementation of State Laws and Regulations.

Except as otherwise expressly provided by this Chapter, all requirements, limitations, and exemptions contained in Article 1 (commencing with Section 25501) and Article 2 (commencing with Section 25531) of Chapter 6.95 of the Health and Safety Code as under this Chapter, are hereby incorporated herein by reference. The Public Works Department, as a CUPA, is hereby designated pursuant to subdivision (a)(1)(C) of Section 25404 of the Health and Safety Code as the agency responsible for implementation and enforcement of Chapter 6.95 (commencing with Section 25500), and the regulations adopted pursuant thereto.

7.82.030 Operating Permit Required.

- a. Except as provided for in Sections 7.82.095, 7.82.100, and 7.82.105 of this Chapter, no person shall own or operate a business within the County of Marin that stores or manages hazardous materials in quantities that are in excess of threshold levels stipulated in Section 25503.5 of the Health and Safety Code unless by authority of a valid permit for such ownership or operation issued to the owner or operator pursuant to the provisions of this Chapter.
- b. Such operating permit is site, business and owner specific and may not be transferred to other owners or locations. Any person assuming ownership of a business as described in this Section for which a valid operating permit has been previously issued shall have thirty (30) days after the date of assumption of ownership to apply for a new operations permit. During the period from the date of application until the permit is issued or refused, the person shall not be held to be in violation of this Section.
- c. Aboveground storage tanks (spill prevention control and countermeasure). The county of Marin adopts by reference the Aboveground Storage Tank Program requirements of Chapter

6.67, of Division 20 of the California Health and Safety Code beginning with Section 25270 and any future amendments.

d. This Section does not obviate the requirement to obtain valid permits to Title 16 and 17 of this Code, or compliance with other applicable ordinances, including but not limited to the Marin County Zoning Code.

7.82.035 Application Filing.

All applications for a permit under this Chapter shall be filed with the Director.

7.82.040 Applications Contents.

Application for a permit under this Chapter, including application for renewal or extension of a permit, shall be filed on a form or forms provided by and containing such information as prescribed by the Director.

7.82.045 Issuance of Permit.

The Permitting Authority hereby designates the Director as its designee for issuance of permits.

7.82.050 Denial.

An operating permit will not be issued or renewed, if the Director, upon inspection of the business or facility, determines that it does not comply with the provisions of Article 1 (commencing with Section 25501) and Article 2 (commencing with Section 25531) of Chapter 6.95 of the Health and Safety Code and of this Chapter. An operating permit may not be issued if the application has not paid the local fees, state surcharges or any other charges assessed pursuant to Chapter 7.80 of Title 7 of this Code and Section 7.82.090 of this Chapter.

7.82.055 Permit Conditions.

Permits issued pursuant to this Chapter shall be subject to such conditions as the Public Works Department determines are necessary to comply with the provisions of Article 1 (commencing with Section 25501) and Article 2 (commencing with Section 25531) of Chapter 6.95 of the Health and Safety Code and of this Chapter.

7.82.060 Term.

The term of an operating permit issued pursuant to the provisions of this Chapter shall be from date issued until December 31st of the year in which permit was issued.

7.82.065 Grounds for Revocation, Modification or Suspension of Permit.

Any permit issued pursuant to this Chapter may be revoked, by the Director during its term, upon one or more of the following grounds:

- a. Violation of any of the terms or conditions of the permit, including nonpayment of fees;
- b. Obtaining the operating permit by misrepresentation or intentional failure to fully disclose all relevant facts;
- c. A change in any condition that results in or requires modification or termination of the operation of the facility; or
- d. Violation of any provision of this Chapter, including the state laws and regulations incorporated by reference in this Chapter.

7.82.070 Method of Permit Revocation, Modification or Suspension.

The Director may revoke an operating permit by issuing a written notice stating the reasons therefore, and serving same together with a copy of the provisions of this Chapter, upon the holder of the permit. The revocation, modification or suspension shall become effective fifteen

(15) days after service of the notice, unless the holder of the permit enters into a settlement agreement with the Director or appeals the notice in accordance with the provisions of Section 7.82.140 of this Chapter.

7.82.075 Number of Permits.

A business which operates or conducts an enterprise at more than one address or location shall apply for and comply with all requirements necessary to obtain a separate permit issued pursuant to this Chapter for each location where an enterprise is maintained. Each place where a different street address is assigned to an enterprise shall be deemed to constitute prima facie separate location. With respect to an enterprise conducted at a single location whose operation involves the handling of different and multiplicity of types of hazardous materials in functions which are different from each other, or involves functions that are separated by significant physical distances, the Public Works Department may, in its discretion, require more than one Permit and as many Permits as it deems necessary and appropriate to effectively administer the provisions of this Chapter.

7.82.080 Fees.

Fees for the Permits and other regulatory functions associated with this Chapter are prescribed by Chapter 7.80 of Title 7 of this Code.

7.82.085 Determination--Exemptions.

a. Pursuant to notice and public hearing given in connection with the enactment of this Chapter the Marin County Department of Public Works, under subdivision (c)(3) of Section 25503.5 of Chapter 6.95 of the Health and Safety Code, has found that the following substances would not pose a present or potential danger to the environment or to human health and safety if released into the environment. Therefore, the following substances warrant exemption from provisions of this Chapter and Chapter 6.95 of the Health and Safety Code provided that they are not stored in a friable, powdered, or finely divided state:

- 1. Lead;
- 2. Silver;

b. Pursuant to notice and public hearing given in connection with the enactment of this Chapter, the Marin County Department of Public Works under subdivision (c)(3) of Section 25503.5 of the Health and Safety Code, has found that the following hazardous materials, under stated circumstances, would not pose a present or potential danger to the environment or to human health and safety if released into the environment. Therefore, the following hazardous materials warrant exemption from provisions of this Chapter and Chapter 6.95 of the Health and Safety Code.

- 1. Helium gas used for inflation of balloons and stored in quantities of not more than one thousand (1,000) cubic feet at standard temperature and pressure.
- 2. Carbon dioxide gas used for carbonation of beverages and stored in quantities of not more than six thousand (6,000) cubic feet at standard temperature and pressure

7.82.090 Request for Exemption.

Pursuant to subdivision (c)(3) of Section 25503.5 of the Health and Safety Code, a business may, upon application to the Director, request to be exempted from any portion of this Chapter.

7.82.095 Violations.

It shall be unlawful for any person to violate any provision of Article 1 (commencing with Section 25501) and Article 2 (commencing with Section 25531) of Chapter 6.95 of the California Health and Safety Code and of this Chapter. Each and every day a violation of Article 1 (commencing

with Section 25501) and Article 2 (commencing with Section 25531) of Chapter 6.95 of the Health and Safety Code and of this Chapter continues shall constitute a separate offense. The person committing or permitting such offenses may be charged with a separate offense for each such violation and punished accordingly. Any violation of this chapter, or of Chapter 6.5 (commencing with Section 25280 of the Health and Safety Code) is a public nuisance and may be abated as such, in accordance with applicable law and Marin County Code Chapter 1.05.

7.82.100 Administrative Enforcement.

a. Pursuant to Section 25404.1.1 of the Health and Safety Code, if the Director determines that a person has committed, or is committing, a violation of any law, regulation, permit, information request, order, variance, or other requirement that the Director is authorized to enforce or implement pursuant to this Chapter, the Director may issue an administrative enforcement order requiring that the violation be corrected and imposing an administrative penalty as specified in Section 7.82.120 hereof.

b. By written policy, the Director shall adopt procedures for implementing administrative enforcement actions. Such procedures shall contain those elements required by, and shall be consistent with the provisions of Section 25404.1.1, of the Health and Safety Code or any successor statute thereto. The administrative enforcement procedures adopted shall not be exclusive, but are cumulative with all other remedies available by law and under this Chapter.

7.82.105 Penalties.

Criminal, civil, and administrative penalties as specified in Article 1 (commencing with Section 25501) and Article 2 (commencing with Section 25531) of Chapter 6.95 of the Health and Safety Code apply to violations defined by Section 7.82.110 of this Chapter.

7.82.110 Injunctions.

When any person has engaged in, is engaged in, or threatens to engage in, any acts or practices which violate this Chapter, or any resolution, rule, or regulation adopted pursuant to this Chapter, the office of the County Counsel for Marin County may apply to any court of competent jurisdiction for an order enjoining those acts or practices, or for an order directing compliance.

7.82.115 Cease and Desist Orders.

a. The Director may issue a cease and desist order requiring the owner or operator of any facility, or any other person responsible for any violation of this Chapter, to take any of the following actions:

1. Immediately discontinue any prohibited discharge of hazardous waste or hazardous substance.
2. Immediately discontinue any other violation of this Chapter.
3. Satisfactorily remediate the area affected by the violation.

b. The Director may issue an administrative enforcement order, as specified in Section 7.82.115, if it has been determined that an owner or operator has not complied with any or all provision(s) of a previously issued cease and desist order.

7.82.120 Hearing Authority.

Whenever the term "Hearing Authority" is utilized in this Chapter, it shall be deemed to refer to one or more persons listed who is assigned the responsibility of conducting a hearing.

a. County management personnel whom the County Executive finds are qualified by training and experience to conduct such hearings;

- b. Any person or persons, qualified by training or experience, who the County Executive may employ or who are retained by contract to conduct such hearings; or
- c. Administrative law judges assigned to the State of California Office of Administrative Hearings. The County Executive is hereby authorized to contract in the name of the County for the retention of hearing services at rates which do not exceed financial limitations established by the County's annual budget.

7.82.125 Appeals.

Pursuant to subdivisions (d) through (h) of Section 25404.1.1 of the Health and Safety Code, any person served with an order pursuant to this Chapter who has been unable to resolve any violation with the Director, may within fifteen (15) days after service of the order, request a hearing by filing a notice of defense with the Director.

If an appeal is not filed within the time or in the manner prescribed above, the right to review of the action against which the complaint is made shall be deemed to have been waived.

Chapter 7.83 CERTIFIED UNIFIED PROGRAM AGENCY (CUPA) – Hazardous Waste Generator Program

7.83.005 Title.

7.83.010 Purpose.

7.83.015 Administration.

7.83.020 Definitions.

7.83.025 Incorporation and Implementation of State Laws and Regulations.

7.83.030 Operating Permit Required.

7.83.035 Application Filing.

7.83.040 Application Contents.

7.83.045 Issuance of Permit.

7.83.050 Denial.

7.83.055 Permit Conditions.

7.83.060 Term.

7.83.065 Grounds for Revocation, Modification or Suspension of Permit.

7.83.070 Method of Permit Revocation, Modification or Suspension.

7.83.075 Number of Permits.

7.83.080 Fees.

7.82.085 Determination--Exemptions.

7.82.090 Request for Exemption.

7.83.095 Violations.

7.83.100 Administrative Enforcement.

7.83.105 Penalties.

7.83.110 Injunctions.

7.83.115 Cease and Desist Orders.

7.83.120 Hearing Authority.

7.83.125 Appeals.

7.83.005 Title.

This Chapter shall be known as "Hazardous Waste Generators."

7.83.010 Purpose.

It is the purpose of this Chapter to incorporate and implement Division 20, Chapters 6.5 (commencing with Section 25100), 6.11 of the California Health and Safety Code and Title 22-California Code of Regulations. The provisions of these codes establish the authority for the

regulation and permitting of facilities that generate, store or treat hazardous wastes. It is also the purpose of this Chapter to establish the procedures for the enforcement of these laws.

7.83.015 Administration.

Except as otherwise provided, the Director, or his/her designee, is charged with the responsibility of administering this Chapter, and shall be authorized from time to time to promulgate and enforce such rules or regulations consistent with the purposes, intent, and express terms of this Chapter as he or she deems necessary to implement such purposes, intent and express terms. No rules or regulations promulgated by the Director or amendments thereof shall be enforced or become effective until thirty (30) calendar days following the date on which the proposed rules or regulations are filed with the Clerk of the Board of Supervisors.

7.83.020 Definitions.

Except as expressly provided to the contrary, those terms referred to and defined by Sections 25110 through 25124 of the California Health and Safety Code shall be ascribed the same meaning as used in this Chapter.

- a. "Administrative Enforcement Order (AEO)" includes any of the order variations including the Expedited Consent Order, Draft Unilateral Order, Stipulation and Order, and Unilateral Order.
- b. "Business" means the conduct of activity and is not limited to a commercial or proprietary activity.
- c. "Board" means the Board of Supervisors for Marin County.
- d. "California Code of Regulations" means Title 19 of the California Code of Regulations.
- e. "Certified Unified Program Agency (CUPA)" means the Agency certified by the Secretary to implement the unified program specified in Chapter 6.11 of the California Health and Safety Code. The Public Works Department for Marin County is the CUPA for both the incorporated and unincorporated areas of Marin County.
- f. "County" means the County of Marin, or Marin County.
- g. "Director" means the Director of the Public Works Department for Marin County, or his/her designee.
- h. "Hazardous waste facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste. A hazardous waste facility may consist of one or more treatment, transfer, storage, resource recovery, disposal, or recycling hazardous waste management units, or combinations of these units.
- i. "Health and Safety Code" means Chapter 6.95 of the California Health and Safety Code.
- j. "Operator" means the person responsible for the overall operation of the facility.
- k. "Owner" means the person who owns a facility or part of a facility.
- l. "Permitting Authority" means the Board of Supervisors for Marin County or its designee.
- m. "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, limited liability company, or association. "Person" also includes any city, county, district, the state, federal government, or any department or agency thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.
- n. "Public Works Department" means the Public Works Department for Marin County.
- o. "Secretary" means the Secretary of the California Environmental Protection Agency.

7.83.025 Incorporation and Implementation of State Laws and Regulations.

Except as otherwise expressly provided by this Chapter, all requirements, limitations and exemptions contained in Chapter 6.5 (commencing with Section 25100) of the Health and Safety Code and 22CCR, as under this Chapter, are hereby incorporated herein by reference.

The Public Works Department is hereby designated pursuant to subdivision (a)(1)(C) of Section 25404 of the Health and Safety Code as the agency responsible for implementation and enforcement of Chapter 6.5 (commencing with Section 25100), and the regulations adopted pursuant thereto with the exception of Sections applicable to persons operating transportable treatment units.

7.83.030 Operating Permit Required.

a. No person shall own or operate a business within the County of Marin that generates, handles, or stores hazardous waste unless by authority of a valid, permit for such ownership or operation issued to the owner or operator pursuant to the provisions of this Chapter.

b. Such a permit is site, business and owner specific and may not be transferred to other owners or locations. Any person assuming ownership of a hazardous waste facility for which a valid operating permit has been previously issued shall have thirty (30) days after the date of assumption of ownership to apply for a new permit. During the period from the date of application until the permit is issued or denied, the person shall not be held to be in violation of this Section..

c. This Section does not obviate the requirement to obtain valid permits to Title 16 and 17 of this Code, or compliance with other applicable ordinances, including but not limited to the Marin County Zoning Code.

7.83.035 Application Filing.

All applications for a permit under this Chapter, including applications for renewal or extension of permits, shall be filed with the Director.

7.83.040 Application Contents.

Application for a permit under this Chapter, including application for renewal or extension of a permit, shall be filed on a form provided by and containing such information prescribed by the Director.

7.83.045 Issuance of Permit.

The Permitting Authority hereby designates the Director as its designee for issuance of permits.

7.83.050 Denial.

A permit will not be issued or renewed if the Director, upon inspection of the hazardous waste facility, determines that it does not comply with this Chapter and/or has not paid the local fees and state surcharges assessed pursuant to Chapter 7.80 of Title 7 of this Code and Section 7.83.080 of this Chapter.

7.83.055 Permit Conditions.

Permits issued pursuant to this Chapter shall be subject to conditions imposed by the Public Works Department and such additional conditions as the Director determines are necessary to promote the purposes and objects of Chapter 6.5 (commencing with Section 25100) of the Health and Safety Code, 22CCR and of this Chapter.

7.83.060 Term.

The term of an operating permit issued pursuant to the provisions of this Chapter shall be from date issued until December 31st of the year in which the permit was issued.

7.83.065 Grounds for Revocation Permit.

Any permit issued pursuant to this Chapter may be revoked during its term, upon one or more of the following grounds:

- a. Violation of any of the terms or conditions of the permit, including nonpayment of fees;
- b. Obtaining the permit by misrepresentation or intentional failure to fully disclose all relevant facts;
- c. A change in any condition that results in or requires modification or termination of the operation of the facility; or
- d. Violation of any provision of this Chapter, including the state laws and regulations incorporated by reference in this Chapter.

7.83.070 Method of Permit Revocation.

The Director may revoke a permit by issuing a written notice stating the reasons for the revocation together with a copy of the provisions of this Chapter, upon the holder of the permit. The revocation, modification, or suspension shall become effective 15 days after service of the notice, unless the holder of the permit enters into a settlement agreement with the Director or appeals the notice in accordance with the provisions of Section 7.83.115 of this Chapter. If such an appeal is filed, the revocation, shall not become effective until a final decision on the appeal is issued.

7.83.080 Fees.

Fees associated with permits and other regulatory functions under this Chapter are prescribed by Chapter 7.80 of Title 7 of this code.

7.83.085 Violations.

It shall be unlawful for any person to violate any provision of Chapter 6.5 (commencing with Section 25100) of the Health and Safety Code, 22CCR, and of this Chapter. Each and every day a violation of Chapter 6.5 (commencing with Section 25100) of the Health and Safety Code, 22CCR, and of this Chapter continues shall constitute a separate offense. The person committing or permitting such offenses may be charged with a separate offense for each such violation. Any violation of this chapter, or of Chapter 6.5 (commencing with Section 25280 of the Health and Safety Code) is a public nuisance and may be abated as such, in accordance with applicable law and Marin County Code Chapter 1.05.

7.83.090 Administrative Enforcement.

- a. Pursuant to Section 25404.1.1 of the Health and Safety Code, if the Director determines that a person has committed, or is committing, a violation of any law, regulation, permit, information request, order, variance, or other requirement that the Director is authorized to enforce or implement pursuant to this Chapter, the Director may issue an administrative enforcement order requiring that the violation be corrected and imposing an administrative penalty as specified in Section 7.83.095 hereof.
- b. By written policy, the Director shall adopt procedures for implementing administrative enforcement actions. Such procedures shall contain those elements required by, and shall be consistent with the provisions of Section 25404.1.1 of the Health and Safety Code or any successor statute thereto. The administrative enforcement procedures adopted shall not be exclusive, but are cumulative with all other remedies available by law and under this Chapter.

7.83.095 Penalties.

Criminal, civil, and administrative penalties as specified in Chapter 6.5 of the Health and Safety Code apply to violations defined by Section 7.83.085 of this Chapter.

7.83.100 Injunctions.

When any person has engaged in, is engaged in, or threatens to engage in any acts or practices which violate this Chapter, or any resolution, rule, or regulation adopted pursuant to this Chapter, the office of the County Counsel for Marin County may apply to any court of competent jurisdiction for an order enjoining those acts or practices, or for an order directing compliance.

7.83.105 Cease and Desist Orders.

A. The Director may issue a cease and desist order requiring the owner or operator of any facility, or any other person responsible for any violation of this Chapter, to take any of the following actions:

1. Immediately discontinue any prohibited discharge of hazardous waste or hazardous substance.
2. Immediately discontinue any other violation of this Chapter.
3. Satisfactorily remediate the area affected by the violation.

b. The Director may issue an administrative enforcement order, pursuant to Section 7.83.090 of this Chapter, if it has been determined that an owner or operator has not complied with any or all provision(s) of any cease and desist order.

7.83.110 Hearing Authority.

Whenever the term "Hearing Authority" is utilized in this Chapter, it shall be deemed to refer to one or more persons listed below assigned the responsibility of conducting a hearing.

- a. County management personnel whom the County Executive finds are qualified by training and experience to conduct such hearings;
 - b. Any person or persons, qualified by training or experience, who the County Executive may employ or who are retained by contract to conduct such hearings; or
 - c. Administrative law judges assigned to the State of California office of Administrative Hearings.
- The County Executive is hereby authorized to contract in the name of the County for the retention of hearing services at rates which do not exceed financial limitations established by the County's annual budget.

7.83.115 Appeals.

Pursuant to subdivisions (d) through (h) of Section 25404.1.1 of the Health and Safety Code, any person served with an order pursuant to this Chapter who has been unable to resolve any violation with the Director, may within fifteen (15) days after service of the order, request a hearing by filing a notice of defense with the Director.

If an appeal is not filed within the time or in the manner prescribed above, the right to review of the action against which the complaint is made shall be deemed to have been waived.

SECTION III: EFFECTIVE DATE AND PUBLICATION

This Ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and a summary shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Supervisors voting for and against the same, in the Marin Independent Journal, a newspaper of general circulation published in the County of Marin.

SECTION VI: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 6th day of May, 2008, by the following vote:

AYES: SUPERVISORS

NOES:

ABSENT:

PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

CLERK