

CHAPTER 7-18: HAZARDOUS MATERIALS

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7-18-010. Definitions.

(a) “Hazardous Materials” are those materials defined as such by the Fire Code in effect at the time of the application for permit provided herein, pursuant to Title 53, Chapter 7, *Utah Code Annotated*, as amended.

(b) “Hazardous Materials Emergency” means a sudden and unexpected release of any substance that because of its quantity, concentration, or physical, chemical or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

(c) “Expenses” as they refer to a “Hazardous Materials Emergency” mean the actual costs of government and volunteer personnel, including workers compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, and the costs of any contract labor and materials.

(d) “Fire Chief” refers to the chief fire officer of this jurisdiction, including, should fire protection have been contracted to any fire district or other legal entity, the chief fire officer of such district or other legal entity providing fire protection services to this jurisdiction.

(e) “Audit” refers to a visit to any premises by the Fire Chief or a designee of the Fire Chief for the purpose of protecting public safety by determining the type and quantity of hazardous materials present.

(f) “Inspection” refers to visits to any premises by the Fire Chief or a designee of the Fire Chief for the purpose of determining the conditions of storage or manufacture of hazardous materials to protect public safety.

(g) “Material Change” means a change in the type of hazardous material stored or produced and includes changes in the form of the hazardous material generated or produced, such as liquid to solid form, even though the hazardous material is of the original type for which a permit was issued by the Fire Chief. A material change has also occurred when the Fire Chief has reasonable grounds to conclude that a change in quantity of hazardous material generated or stored from that originally permitted by the Fire Chief has enhanced the risk of damage or injury to persons and/or property above the risk inherent in the quantity originally permitted.

7-18-020. Intended Construction.

Hazardous materials as defined in the Fire Code, present a clear danger to public safety and health if not properly handled by those who generate, transport, dispose and store such material. This ordinance shall be construed to promote the public health and safety of this jurisdiction.

7-18-030. Permit Required.

Any person, firm, corporation, limited liability company, partnership or other legal entity whatsoever that generates and/or stores hazardous materials, shall, prior to generation or storage, obtain a permit for the generation and/or storage of hazardous materials as required herein. A permit is required for each type of hazardous material generated or stored and for each business address or premises upon which the hazardous material is to be stored or generated.

7-18-040. Permit Procedure.

The permit required by Section 7-18-030 shall be issued upon application to the Fire Chief. The permit shall issue upon the following conditions:

(a) Hazardous material to be generated or stored is specifically identified and listed by type in the application.

(b) The required permit fee is paid.

(c) An audit by the Fire Chief or designee thereof is completed and establishes that the proposed generation, storage, disposal and transportation of the hazardous materials to be permitted complies with all statutes, rules and regulations pertaining to the generation, storage, transportation and disposal of hazardous material of this jurisdiction, the State of Utah and of the United States.

(d) The required hazardous material audit fee is paid.

(e) The application for permit is fully completed and signed by an agent of the permittee.

(f) Any required land use approvals under the City Zoning Ordinance and/or Subdivision Ordinance have been granted.

7-18-050. Consent to Audit or Inspection.

A completed application for a permit to generate and/or store hazardous materials shall constitute consent of the Fire Chief or a designee thereof to enter without notice and inspect or audit the premises upon which hazardous material is generated and/or stored for the purpose of determining compliance with the Fire Code and all applicable laws and regulations of this jurisdiction, the State of Utah and the United States pertaining to the generation, transportation, disposal and storage of hazardous materials. Nothing in this ordinance shall be construed to restrict other persons duly authorized by law from inspecting or auditing the permitted premises.

7-18-060. Permit Period.

Each permit issued upon application shall be for a term of one year from the date of initial issue of a permit and must be renewed on an annual basis upon meeting the terms and conditions for the initial issuance of a permit.

7-18-070. Permit Fee.

The fee to obtain a permit for the use and/or storage of hazardous materials (and each additional permit required for one business premise) shall be set forth in the City Consolidated Fee Schedule.

7-18-080. Hazardous Material Audit Fees.

There is hereby imposed upon each permit holder a fee, in addition to the permit fee, for the first inspection or audit of the permitted premises made by the Fire Chief to determine the eligibility for the required permit. The fee shall be the cost factor multiplied by the quantity range of each hazardous material for each street address of the premises upon which hazardous material is generated and/or stored, provided, however:

(a) If the hazardous material inspected or audited is held in a container, the calculation of the fee is based on the container capacity without regard to the actual amount of hazardous material present in the container at the time of audit.

(b) The permit fee provided above includes the provision of any 704M placards and/or required use permits and no additional charge may be assessed for them. However, replacement of required placards is the responsibility of the permittee and any permittee shall be charged in the amount as set forth in the City Consolidated Fee Schedule for each replacement placard.

The Fire Chief shall determine and recommend for purposes of calculating the audit fees for each calendar year the cost factor, which shall then be presented to the South Davis Fire District Board for its approval and adoption. The adopted cost factor shall be that cost which reasonably approximates the cost to the Fire District, including indirect costs, to conduct an inspection or audit before factoring in the increased cost caused by a particular quantity of hazardous material being present. The Fire Chief shall publish the annual calculation of the adopted cost factor by posting it conspicuously at each location where permits are issued.

7-18-090. Re-Audit.

In addition to an audit conducted in connection with the original issue of a permit, permit holders shall be subject to an audit under the following circumstances:

(a) A material change with respect to hazardous materials stored or generated has occurred or is anticipated to occur.

(b) The ownership of or the chief operations officer of the facility at which the hazardous material is generated or stored is changed.

(c) There is substantial change in the nature of the business operation concerning the storage or operation of hazardous materials including, but not limited to, changing from storage to production activity, changing the method of, or the standard container used for storage of hazardous materials, and/or cessation of business for a period longer than thirty (30) days.

(d) A spill or release of hazardous materials has occurred of sufficient toxicity and quantity as to be required by any law or regulation of any jurisdiction to be reported to any legal authority.

7-18-100. Fees for Re-Audits.

A fee is hereby assessed for any audit conducted pursuant to Section 7-18-080. The fee shall be that fee which is required for an initial audit of the premises for the purpose of issue or renewal of a permit as set forth in the City Consolidated Fee Schedule, provided, however, the fee for additional audits required because of a material change in the quantity of hazardous materials stored or generated shall be such amount as set forth in the City Consolidated Fee Schedule times the quantity of material added to the original quantity of material permitted at the time of initial issue of the current permit.

7-18-110. Quantity Ranges for Reporting Hazardous Material.

The quantity ranges for reporting hazardous materials for purpose of calculating the fees stated herein shall be as follows:

	RANGE	DESCRIPTION
(a)	Solids: Liquids: Gases:	Up to 500 lbs. 55 gals. above grade 1000 gals. below grade 200 cu. ft. STP
(b)	Solids: Liquids: Gases:	501 to 5,000 lbs. 56 to 550 gals. above grade 1001-10,000 below grade 201 - 2,000 cu. ft. STP
(c)	Solids: Liquids: Gases:	5,001 - 25,000 lbs. 551 - 2,750 gal. above grade 10,001-50,000 gals. below grade 2,001 - 10,000 cu. ft. STP
(d)	Solids: Liquids: Gases:	25,001 - 50,000 lbs. 2,751 - 5,000 gals. above grade 50,001-100,000 gals. below grade 10,001 - 20,000 cu. ft. STP
(e)	Solids: Liquids: Gases:	(More than) 50,001 lbs. (More than) 5,001 gals. above grade 100,001 gals. below grade (More than) 20,001 cu. ft. STP

7-18-120. Penalties.

(a) Willful omission or false statement of material information in a permit application shall be a Class B misdemeanor. Additionally, any such omission or statement shall be grounds for revocation of any permit issued.

(b) Generation and/or storage of hazardous materials without registering such materials and obtaining a permit therefore as provided in this ordinance shall constitute an offense which is a Class B misdemeanor for each day such materials are present without authorization or permit.

7-18-130. Fee Disposition.

The fees paid for permits and audits or inspections hereunder shall be retained by the Fire District for the operation of hazardous materials enforcement programs.

7-18-140. Recovery of Expenses.

The City shall be entitled to recover from those persons whose negligent actions cause any hazardous materials emergency all expenses incurred by the City directly associated with a response to a hazardous materials emergency taken under the provisions of this Chapter or of *Utah Code Ann.* § 53-2-105, as amended, and from any other persons or entities who may, under State or federal law or regulations, be held liable in whole or in part for any hazardous materials emergency within the City.

7-18-150. Payment of Expenses Not an Admission.

The payment of expenses to the City under this Chapter does not constitute an admission of liability or negligence in any legal action for damages.

