

ORDINANCE NO.: 2013-059

*Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina,
Chapter 9, Fire Prevention and Protection to add Article V Hazardous Materials*

BE IT ORDAINED by the Mayor and Council this 18th day of June, 2013, that the 1998 Code of Ordinances of The City of Columbia, South Carolina, Chapter 9, Fire Prevention and Protection is amended add Article V Hazardous Material Incident Recovery to read as follows:

ARTICLE V. HAZARDOUS MATERIALS

Sec. 9-101. Purpose.

- (a) It is the intent of this chapter to develop a database of information concerning the location and disposal of hazardous materials in the city. This database will be used to protect all emergency personnel from injury or death occurring from an explosion or fire because of unknown dangerous materials present.
- (b) It is further intended to use this database to protect the natural environment through the monitoring of use and disposal of hazardous materials within the city.
- (c) It is further intended to locate and identify those businesses that should report extremely hazardous substances under SARA Title III, in order to form site plans and assure compliance.

Sec. 9-102. Scope.

- (a) This ordinance shall apply to all materials which are highly flammable, or which may react to cause fires or explosions, or which by their presence create or augment a fire or explosion hazard, or which because of the toxicity, flammability, or liability of explosion render firefighting, rescue or public safety operations abnormally dangerous or difficult, or create a threat to public health, safety or the environment.

This ordinance shall also apply to flammable or combustible liquids which are chemically unstable and which may spontaneously form explosive compounds, or undergo evolution of heat to be a fire hazard. Hazardous materials shall include such materials as flammable solids, corrosive liquids, radioactive materials, oxidizing materials, potentially explosive materials, poisonous gases, and hazardous materials known or suspected of chronic toxicity, as defined in this chapter. However, this ordinance shall not include heating fuels, lubricating oils, hydraulic oils, lubricating greases or compressed gases for residential use.

- (b) The storing, handling, and dispensing of materials covered by this ordinance shall be conducted pursuant to the requirements of any and all applicable state and federal codes, and the most current edition of the various standard or international codes that have been adopted by the City Council relating to building, fire prevention, gas, mechanical and plumbing.
- (c) A current material safety data sheet for all hazardous materials inventory stored, handled, or used on a premise shall be made available to emergency personnel and a copy shall be located near the entrance to the premise and immediately available.
- (d) This chapter recognizes that transporters of hazardous materials must comply with all United States Department of Transportation regulations, such hazardous materials regulations governing both interstate and intrastate activities.

Sec. 9-103. Jurisdiction.

The provisions of this chapter shall apply to all lands within the jurisdiction of the city.

Sec. 9-104. Definitions.

(a) For the purposes of this chapter, the following definitions as identified by the United Nations' classification system shall apply:

Class 1 Explosives.

Division 1.1 Explosives with a mass explosion hazard.

Division 1.2 Explosives with a projection hazard.

Division 1.3 Explosives with predominantly a fire hazard.

Division 1.4 Explosives with no significant blast hazard.

Division 1.5 Very insensitive explosives.

Class 2 Gases.

Division 2.1 Flammable gases (can be ignited very easily).

Division 2.2 Nonflammable gases.

Division 2.3 Poison gases (Any gas of such nature that a small amount of the gas, when mixed with air, is dangerous to life).

Class 3 Flammable liquids.

Division 3.1 Flashpoint below minus 18oC (0oF).

Division 3.2 Flashpoint minus 18oC and above but less than 23oC (73oF).

Division 3.3 Flashpoint of 23oC and up 61oC (141oF).

Class 4 Flammable solids; spontaneously combustible materials; and, materials dangerous when wet.

Division 4.1 Flammable solids (A solid substance, other than one classified as an explosive, which is liable to cause fires through friction, through absorption of moisture, through spontaneous chemical changes, or as a result of retained heat from manufacturing or processing.).

Division 4.2 Spontaneously combustible materials.

Division 4.3 Materials that are dangerous when wet.

Class 5 Oxidizers and organic peroxides.

Division 5.1 Oxidizers (evolve oxygen either spontaneously or with mild heating).

Division 5.2 Organic peroxides.

Class 6 Poisonous and etiologic (infectious) materials.

Division 6.1 Poison A: A liquid so toxic that an extremely small amount of the vapor formed by the liquid is dangerous to life.

Poison B: Less toxic liquids and solids that are hazardous either by contact with the body (skin absorption) or by ingestion.

Poison C: Liquids or solids that evolve toxic or strongly irritating fumes when heated or when exposed to air.

Division 6.2 Etiological (infectious) materials.

Class 7 Radioactive materials.

Any material or combination of materials that spontaneously emits ionizing radiation.

Class 8 Corrosives.

Any acids, alkaline caustic liquids, and other corrosive liquids which when in contact with living tissue, will cause severe damage of such tissue by chemical action; in case of leakage will materially damage or destroy other containers of other hazardous commodities by chemical action and cause the release of their contents; or are liable to cause fire when in contact with organic matter or with certain materials.

(b) Extremely hazardous substances are those substances designated as such by the Administrator of the United States Environmental Protection Agency.

(c) For the purpose of registration, the following Registration Categories are hereby established and defined:

Category A: Includes any facility which uses, produces or stores any amount of extremely hazardous substance(s) as defined by Section 304 of the Emergency Planning and Community Right-to-Know Act of 1986 (SARA TITLE III); and meets or exceeds the Reportable Quantities under the Extremely Hazardous Substances list, or under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 list.

Category B: Includes any facility which produces hazardous chemical(s) and/or stores hazardous chemical(s) for wholesale and/or any facility which uses hazardous chemicals as defined in Sec. 9-104 of this chapter and meets or exceeds quantities listed in Sec. 9-104 (e) of this chapter.

Category C: Includes any facility which handles or stores any hazardous chemical(s) as defined in Sec. 9-104 (a) of this chapter and meets or exceeds quantities listed Sec. 9-104 (e) of this chapter for retail sale to the general public.

(d) For the purpose of registration, the term "hazardous chemicals" does not include:

1. Any food, food additive, color additive, drug or cosmetic regulated by the Food and Drug Administration.
2. Any substance to the extent it is used for personal, family or household purposes.
3. This chapter shall not apply to farmers, provided, their storing, handling, and use of hazardous materials is for farming purposes only.
4. Any substance to the extent it is used by a food service facility in the preparation of such food for human consumption.
5. Any substance to the extent it is stored and used by the facility for janitorial and housekeeping purposes only.
6. Any substance to the extent it is used in a medical research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.
7. Any substance which meets the definition of Other Regulated Material-Domestic (ORM-D) due to its form, quantity, or packaging, while maintained in that form, quantity or packaging.

(e) A registration shall be required for the use, handling, production, and/or storage of any quantity of hazardous chemicals as defined under Sec. 9-104 of this ordinance, which meets or exceeds the below-listed amounts.

NOTE: A registration shall also be required for these facilities which adhere to Sec. 9-104(a) of this ordinance:

- Division Amount
- Class 1 1.1 Any
1.2 Any
1.3 Any
1.4 Any
1.5 Any
- Class 2 2.1 200 lbs
2.2 None
2.3 Any
- Class 3 3.1 55 gals
3.2 110 gals
3.3 110 gals
- Class 4 4.1 10 lbs
4.2 10 lbs
4.3 10 lbs
- Class 5 5.1 200 lbs
5.2 10 lbs

Class 6 6.1 Any
6.2 Any
Class 7 Any
Class 8 55 gals

Sec. 9-105. Registration and fees required.

- (a) Any person or entity possessing or storing hazardous materials, as defined herein within the corporate limits of the City of Columbia, shall be required to register such materials with the Columbia Fire Department by January 1st of each year.
- (b) No registration shall be valid after the last day of the year in which it was issued.
- (c) Government agencies are not exempted from compliance.
- (d) Registrations are nontransferable.
- (e) Facilities registering under Category A, as defined in Sec. 9-104 (c) of this ordinance may report inventories under the requirements and provisions of the Emergency Planning and Community Right-to-Know Act (SARA TITLE III).
- (f) Facilities registering Class 7, Radioactive Materials, as defined in Sec. 9-104 of this ordinance, may submit a copy of the most recent Department of Health and Environmental Control (DHEC), Bureau of Radiological Health inventory file.
- (g) Any person, firm, or corporation applying for a permit to store, handle, and/or use hazardous chemicals as required by Sec. 9-104 of this ordinance shall make application to the Building License Division of City of Columbia on such forms as the City Fire Marshal shall supply. Each applicant shall be required to furnish information concerning his/her business, including but not limited to the following: A Hazardous Materials Inventory Statement and a Hazardous Materials Management Plan as defined in the International Fire Code as adopted by the City and/or Tier II Hazardous Chemical Inventory Facility information as required by the State of South Carolina.

Sec. 9-106. Official's right of entry.

- (a) The appropriate official designated by the City of Columbia or a duly authorized fire official may at all reasonable times request access to any building whether completed or under construction, or to any property for the purpose of making an inspection or investigation to enforce any of the provisions of this ordinance, or to establish a pre-fire plan and, if denied, and a belief exists as to probable cause that hazardous materials are present, then such official shall obtain a search warrant to allow inspection of the premises.
- (b) If an emergency appears to exist, the City of Columbia may petition for a court order enjoining the owner or occupant of the premises from conducting business or storing product in question.
- (c) No person, owner, or occupant of any building or premise shall fail, after proper credentials are displayed, to permit entry into any building or onto any property by the appropriate official designated by the City of Columbia, or a duly authorized agent, for the purpose of inspections or pre-fire planning pursuant to this ordinance

Sec. 9-107. Sampling permitted.

The appropriate official may verify the contents or labeling of any chemical container by taking a sample for analysis if the holder or owner of a chemical container is unable to identify or substantiate the contents through the production of trade-accepted manifests and/or acceptable documentation.

Sec. 9-108. Vehicle inspection.

No materials shall be transported in any vehicle which has physical, mechanical or electrical defects which could cause or contribute to fire, explosion, spillage or release or which is improperly placarded, as provided in the United States Department of Transportation Regulation.

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Sec. 9-109. Disposal.

Disposal of materials shall be by methods meeting all requirements of local, state and federal law. Upon registration of hazardous materials, a list of materials for disposal, method of disposal, and location of disposal shall be supplied. Chemicals or chemical waste which are not produced within the City of Columbia shall not be disposed of within the city.

Sec. 9-110. Reimbursement.

In the event of a spill or release of any hazardous materials, as defined by this ordinance, which would require the City of Columbia to commit its resources, the party or parties responsible for such spill or release shall pay all costs incurred by the City of Columbia or supporting agencies including, but not limited to, all actual personnel costs, materials and supplies, equipment costs and legal fees, in its efforts to mitigate any risks to life, property and/or the environment caused by such a spill or release. Equipment costs shall be calculated in accordance with the then current FEMA's Schedule of Equipment Rates. The City of Columbia Fire Chief or his designee or an authorized fire official shall have the sole authority to commit the City's hazardous materials resources.

Person shall mean an individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, governmental entity, or any other legal entity.

Party or Parties Responsible shall mean the person(s) whose act or omission caused a release; or, the person(s) who owned or had custody or control of the hazardous substances or waste at the time of such release without regard to fault or proximate cause; or, the person or persons who owned or had custody or control of the container which held the hazardous substance at the time or immediately prior to such release without regard to fault or proximate cause.

Sec. 9-111. Enforcement and administration.

(a) The City of Columbia Finance Department shall bill the party or parties responsible for payment of the hazard material incident response fee after responding to a hazardous material incident or release in the City of Columbia.

(b) *Method of payment.* The party or parties responsible shall issue a certified check made payable to the City of Columbia within 60 days of receiving the bill for the hazardous materials incident response fee. The certified check shall be mailed or delivered to the City of Columbia's Finance Department.

(c) *Other remedies.* This section shall not prohibit the City of Columbia from pursuing any other remedy, whether civil or criminal, or from instituting any appropriate action or proceedings, including injunction in a court of competent jurisdiction. Nor shall the recovery of expenses under this section in any way release the various parties, or limit them from legal liability incurred as a result of hazardous material cleanup or abatement as defined under any local, state or federal rule or regulation.

Sec. 9-112. Notices and orders.

Whenever the City of Columbia fire marshal or a duly authorized agent or authorized fire official finds in any building or upon any premises dangerous or hazardous conditions or materials, there shall be issued such notice or orders to remove or remedy the conditions as may be necessary for the protection of life and property from fire and smoke or explosion.

Sec. 9-113. Violations and penalties.

Any person or entity failing to register material(s) as required by this ordinance shall be guilty of a misdemeanor and punishable upon conviction in accordance with Section 1-5.

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Sec. 9-114. Conflicts of other laws.

Whenever the requirements or provisions of this section are in conflict with the requirements or provisions of any other lawfully adopted ordinance, the more restrictive requirements shall apply. Further, this section shall not restrict or replace cost recovery from funding sources available under state and federal regulations including but not limited to the Revolving Fund established under Section 311(K) of the Federal Water Pollution Trust Fund established under Comprehensive Environmental Response, Compensation and Liability Act (42 USC 9611).

This ordinance intends to provide regulations consistent with nationally recognized practices for the reasonable protection of life and property from the hazards of fire and explosion due to storage, use or handling of hazardous materials, substances and devices, and to minimize hazards to life and property due to fire and panic.

Sec. 9-115. Fire risk analysis and planning.

Facilities subject to the requirements of this ordinance shall assist local fire departments in preplanning objectives. Upon request, the owner or operator of the facility shall provide information to the local fire department for the development and implementation of emergency plans. The appropriate local fire official may at reasonable and mutually acceptable times request access to any building, or to any property for the purpose of fire risk analysis and planning and, if denied, then shall make a written request to the City of Columbia fire chief.

Sec. 9-116 to 130. Reserved.

Requested by:

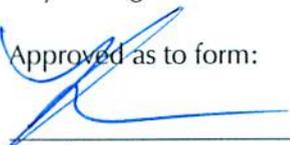
Fire Chief


MAYOR

Approved by:


City Manager

Approved as to form:


City Attorney

ATTEST:

City Clerk

Public Hearing: 5/21/2013
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Final Reading: 6/18/2013