AGENDA ITEM NO. I-10

ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. 2775

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD ADDING ARTICLE XIII, SECTIONS 11-300 TO 11-309; 11-315 TO 11-317; 11-325 TO 11-326; 11-335 TO 11-340; 11-345 TO 11-348; AND 11-355 TO 11-358, INCLUSIVE, TO THE CITY CODE CONCERNING THE CERTIFIED UNIFIED PROGRAM AGENCY

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WHEREAS, on March 1, 1997, the California Environmental Protection Agency certified the City as a certified unified program agency ("CUPA"); and

WHEREAS, the Oxnard Fire Department staff administers the CUPA; and

WHEREAS, subsection 25404(a)(1)(C) of the Health and Safety Code empowers the CUPA with the responsibility and authority to implement and enforce the requirements of the unified program; and

WHEREAS, subsection 25404(c) of the Health and Safety Code defines the unified program requirements to be implemented by the City's CUPA; and

WHEREAS, subsection 25404.2(a)(1)(A) of the Health and Safety Code authorizes a CUPA to develop and implement a procedure for issuing a unified program facility permit to a unified program facility; and

WHEREAS, subsection 25404.5(a)(2)(A) of the Health and Safety Code authorizes the City Council to establish fees to defray the City's costs for administering and implementing the unified hazardous waste and hazardous materials management regulatory program, a part of the unified program.

Now, therefore, the City Council of the City of Oxnard does ordain as follows:

Part 1. Article XIII is hereby added to read as follows:

"ARTICLE XIII. CERTIFIED UNIFIED PROGRAM AGENCY"

"DIVISION 1. UNIFIED PROGRAM GENERAL PROVISIONS"

"SEC. 11-300. PURPOSE.

The purpose of this Article is to implement the unified hazardous waste and hazardous materials management regulatory program and to provide for fees to defray the costs to the City of administering and implementing such program in its capacity as a certified unified program agency ("CUPA")."

"SEC. 11-301. DEFINITIONS.

The definitions contained in Division 20 Chapters 6.11, 6.67, 6.7, and 6.95 of the California Health and Safety Code, and the definitions contained in Division 20 Chapter 6.5 Article 2 of the California Health and Safety Code shall apply to this Article."

"SEC. 11-302. IMPLEMENTATION OF THE UNIFIED PROGRAM.

(A) The CUPA shall implement the unified program within the CUPA jurisdiction. Except as so provided, the CUPA shall implement 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 and the unified program manager may coordinate unified program activities with all state and local agencies and officials.

(B) Any annual fee, permit fee, renewal fee, late fee, processing fee or any other fee, surcharge or penalty required to be paid by this Article shall be established and authorized in a schedule of fees adopted by resolution of the City Council."

"SEC. 11-303. UNIFIED PROGRAM FACILITY PERMIT REQUIRED.

A unified program element, as set forth in section 11-302, shall not be operated without a valid Unified Program Facility Permit ("UPFP") issued by the CUPA."

"SEC. 11-304. SCOPE OF UNIFIED PROGRAM FACILITY PERMIT.

(A) The UPFP shall identify the specific activity licensed, the specific location or locations in the CUPA jurisdiction where such activity may be conducted or operated, and the person or persons to whom the UPFP is issued.

(B) The UPFP shall be valid only for the identified activities conducted or operated at the identified locations in the CUPA jurisdiction and only by the person or persons identified in the UPFP."

"SEC. 11-305. UNIFIED PROGRAM FACILITY PERMIT FEES.

The owner or operator of a facility which is required to have a UPFP shall, at the time of application or renewal, pay an annual fee for such permit."

"SEC. 11-306. TERMS OF UNIFIED PROGRAM FACILITY PERMIT.

A UPFP is valid on July 1 and expires on June 30 of the following year. A UPFP shall be renewed annually on or before August 1 of the year in which the permit expires. A permittee's failure to pay the annual fee shall automatically revoke the permit to operate."

"SEC. 11-307. LATE PAYMENT SURCHARGES.

(A) If a permittee fails to pay the fee within thirty calendar days after the due date, the City shall add a late payment surcharge to the base fee.

(B) If the City issues a delinquent notice, the City shall assess a late fee charge for each month the delinquency amount is not paid.

(C) The imposition or payment of the fees imposed by this section shall not prevent the imposition of any other fees prescribed by this Code."

"SEC. 11-308. ONE-TIME PROCESSING FEE.

The City shall collect a processing fee to reimburse the CUPA for the costs of administrating and implementing the unified hazardous waste and hazardous materials management regulatory program. The permittee shall pay the fee with the submittal of the first business plan for the permitted facility."

"SEC. 11-309. DENIAL, SUSPENSION, OR REVOCATION OF UNIFIED PROGRAM FACILITY PERMIT OR PERMIT ELEMENT.

(A) The CUPA coordinator or his or her designee may deny, suspend, or revoke a UPFP or a permit element if a complaint or investigation, 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 or any requirement established by law.

(B) Suspension or revocation of a permit shall not affect the CUPA's authority to institute or continue a disciplinary proceeding against a permittee upon any ground or otherwise take an action against a permittee on these grounds."

"DIVISION 2. HAZARDOUS WASTE CONTROL"

"SEC. 11-315. PURPOSE.

The purpose of this Division is to establish a system of permitting business activities that generate hazardous waste, to provide for fees to defray the costs to the CUPA of issuing such permits, and to enforce minimum standards and regulations concerning such waste."

"SEC. 11-316. HAZARDOUS WASTE FACILITY PERMIT REQUIRED.

Any activity that produces hazardous waste is prohibited unless:

(A) Such activity is one for which the State of California requires a Hazardous Waste Facility Permit ("HWFP"); or

(B) Such activity is one for which a current UPFP has been issued by the CUPA."

"SEC. 11-317. HAZARDOUS WASTE FACILITY PERMIT FEES.

The owner or operator of a facility which is required to have a HWFP shall pay an annual fee for such permit. The fee shall be due and payable upon demand by the City."

"DIVISION 3. HAZARDOUS WASTE ON-SITE TREATMENT"

"SEC. 11-325. HAZARDOUS WASTE ON-SITE TREATMENT PERMIT REQUIRED.

One or more of the following permits are required for hazardous waste on-site treatment:

(A) Permit-By-Rule

(B) Conditional Authorization

(C) Conditional Exemption"

"SEC. 11-326. HAZARDOUS WASTE ON-SITE TREATMENT PERMIT FEES.

The owner or operator of a facility which is required to have a Hazardous Waste On-Site Treatment Permit ("HWO-STP") shall pay an annual fee for such permit. The fee shall be due and payable upon demand by the City."

"DIVISION 4. HAZARDOUS MATERIALS RELEASE RESPONSE PLANS AND INVENTORY"

"SEC. 11-335. PURPOSE.

The purpose of this Division is to establish reporting, disclosure and monitoring requirements for the release and inventory of hazardous materials and to defray the costs to the CUPA of such monitoring."

"SEC. 11-336. HAZARDOUS MATERIALS BUSINESS PLAN FEES.

The owner or operator of a facility which is required to submit a Hazardous Materials Business Plan ("HMBP") shall pay an initial fee when such plan is submitted and an annual fee thereafter. The annual fee shall be due and payable upon demand by the City."

"SEC. 11-337. REPORTING OF CARBON DIOXIDE COMPRESSED GAS.

Any business where carbon dioxide is stored in an amount greater than or equal to 200 cubic feet or greater than or equal to 22.8 pounds shall file a HMBP as required by state law."

"SEC. 11-338. COMPRESSED GAS CYLINDER EXEMPTION.

Compressed gas cylinders and tanks containing the following hazardous materials for the following purposes and stored in the following quantities are exempt from the inventory provisions of the HMBP if an inventory and processing fee are submitted to the CUPA with the first HMBP for the facility:

(A) Non-refrigerated or non-cryogenic helium compressed gas of not more than 400 cubic feet at standard temperature and pressure for the purpose of filling party balloons; or

(B) Non-refrigerated or non-cryogenic carbon dioxide compressed gas of not more than 873 cubic feet or not more than 100 pounds at standard temperature and pressure for carbonation of beverages."

"SEC. 11-339. COMPRESSED AIR AND OXYGEN EXEMPTION.

Compressed air and oxygen in cylinders, bottles, and tanks used by fire departments and other government emergency response agencies for the purposes of emergency response and safety are exempt from the inventory provisions of the HMBP."

"SEC. 11-340. RISK MANAGEMENT PLAN FEES.

The owner or operator of a facility which is required to submit a Risk Management Plan shall pay an initial fee when such plan is submitted and an annual fee thereafter. The annual fee shall be due and payable upon demand by the City."

"DIVISION 5. UNDERGROUND STORAGE OF HAZARDOUS SUBSTANCES"

"SEC. 11-345. PURPOSE.

The purpose of this Division is to prevent and control the unauthorized discharge of hazardous substances stored underground and to provide for fees to defray the costs to the CUPA of enforcing this Division."

"SEC. 11-346. UNDERGROUND STORAGE TANK PERMIT FEES.

The owner or operator of a facility that operates an underground storage tank shall pay an annual fee for an Underground Storage Tank Permit ("USTP"). The fee shall be due and payable upon demand by the City."

"SEC. 11-347. RE-INSPECTION FEE.

A re-inspection fee shall be paid prior to the re-inspection of an underground storage tank in the following instances:

(A) If the USTP is denied for failure to pay appropriate fees;

(B) If the underground storage tank fails to comply with requirements set forth in this Code or by state law; or

(C) If an inspection or re-inspection is cancelled by the owner or operator of the facility or tank to be inspected less than 24 hours prior to the scheduled inspection."

"SEC. 11-348. INSTALLATION, REPAIR, REPLACEMENT, MODIFICATION, OR CLOSURE PERMIT REQUIRED.

An underground storage tank or its components shall not be installed, repaired, replaced, modified, or closed unless an Installation, Repair, Replacement, Modification, or Closure Permit is issued to the owner or operator of the underground storage tank."

"DIVISION 6. ABOVEGROUND STORAGE OF PETROLEUM"

"SEC. 11-355. PURPOSE.

The purpose of this Division is to establish a permitting system for facilities where petroleum is stored aboveground and to provide for fees to defray the costs to the CUPA to issue such permits."

"SEC. 11-356. ABOVEGROUND STORAGE TANK PERMIT REQUIRED.

Petroleum shall not be stored in an aboveground storage tank unless an Aboveground Storage Tank Permit ("ASTP") is issued to the owner or operator."

"**SEC. 11-357. ABOVEGROUND STORAGE TANK FEES.**

The owner or operator of a facility that operates an aboveground storage tank shall pay an annual fee for an ASTP. The fee shall be due and payable upon demand by the City."

"**SEC. 11-358. ABOVEGROUND STORAGE TANK CLOSURE PERMIT REQUIRED.**

An aboveground storage tank shall not be demolished, removed, or closed unless an Aboveground Storage Tank Closure Permit ("ASTCP") is issued to the owner or operator."

Part 2. Within 15 days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the city. Ordinance No. ____ was first read on _____, 20__ and finally adopted on _____, 20__ to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

_____
Dr. Thomas E. Holden, Mayor

ATTEST:

_____
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

_____
Gary Gillig, City Attorney