

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE  
COUNTY OF SANTA CLARA REPEALING DIVISION B11 AND  
ENACTING A NEW DIVISION B11 OF THE SANTA CLARA COUNTY  
ORDINANCE CODE PERTAINING TO HEALTH AND SANITATION,  
AMENDING TITLE A18, CHAPTER ONE, PERTAINING TO THE  
DEPARTMENT OF PUBLIC HEALTH, AND AMENDING TITLE A33,  
CHAPTER VI, PERTAINING TO THE DEPARTMENT  
OF ENVIRONMENTAL HEALTH

**Summary**

**This ordinance repeals Division B11 and enacts a new Division B11 of the Santa Clara County Ordinance Code relating to Health and Sanitation with improved organization, updated language, the deletion of provisions already in state law and the addition of new provisions. The new provisions authorize fees for services not previously recognized, provide citation authority for all programs, provide more detail on the permitting process, provide more detail on recording notices of violation, and enhance provisions for small state water systems. New provisions in the garbage and refuse chapter provide criteria on the self-hauling of garbage, the granting of franchises, the responsibility of collectors, the requirements for collection service, the placement of containers, and the treatment of medical waste. New provisions in the chapter regulating toxic gases eliminate inconsistencies between the chapter and the Fire Code, specify the toxic assessment to classify gases and incorporate the consensus guidelines into the ordinance. New provisions in the hazardous materials storage chapter provide for the regulation of underground tanks by state law, add spill protections for aboveground tanks, change the name of required plans, extend the time period for a temporary permit, and increase civil penalties. Requirements in the hazardous waste management and California accidental release prevention chapters are streamlined and consolidated in a new Unified Program chapter. Additionally a section pertaining to meetings during epidemics is moved from the repealed Division B11 to Title A18, Chapter One, and additional clarification of the duties of the Director of Environmental Health are added to Title A33, Chapter VI.**

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ORDAINS AS FOLLOWS:

SECTION 1: Title B of the Santa Clara County Code is amended by the repeal of Division B11.

SECTION 2: Title B of the Santa Clara County Code is amended by adding a new Division B11 to be entitled and to read as follows:

**Division B11**

**ENVIRONMENTAL HEALTH**

**CHAPTER I. GENERAL ENVIRONMENTAL HEALTH AND ENFORCEMENT**

**Sec. B11-1. Definitions.**

- (a) Department means the Department of Environmental Health, Environmental Resources Agency, County of Santa Clara.
- (b) Director means the director of the Department of Environmental Health or designee or duly authorized representative of the county health officer pursuant to the authority contained in section 101280(b) or section 452 of the California Health and Safety Code.
- (c) Dwelling unit means a building or portion thereof used or intended for use as a residence.
- (d) Fees mean fees established by resolution of the board of supervisors.
- (e) Permit means environmental health permit to operate.
- (f) Permittee means any person to whom a permit is issued pursuant to this division; any authorized representative, agent or designee of such person; or any person who is required pursuant to this division to obtain a permit but fails to obtain such a permit.
- (g) Person means an individual, firm, association, partnership, corporation, and/or public entity.
- (h) Qualified registered engineer means an individual who is registered as a professional engineer with the state board of registration for professional engineers.
- (i) Registered environmental health specialist means a person who holds a valid certificate of registration as a registered environmental health specialist issued by the California Department of Health Services.

**Sec. B11-2. Reserved.**

**Sec. B11-3. Environmental health fees—maximum annual increase.**

All fees referenced in this division will be subject to an annual increase based on the percentage change in the Consumer Price Index, All Urban Consumers (All Items), for the San Francisco-Oakland-San Jose, CA Area, with the Standard Reference Base (1982-84 = 100), as published by the United States Department of Labor, Bureau of Labor of Statistics. The "annual average" percentage published by the Bureau of Labor Statistics will be used to determine the maximum annual increase. This percentage, which is calculated at the end of each calendar year, is available in January following the end of the previous calendar year. If reasonable program costs exceed the maximum annual increase, an additional fee increase may be established by resolution of the board of supervisors. Fees will be rounded to the nearest whole dollar.

**Sec. B11-4. Right of entry.**

- (a) The director has the right to enter upon any premises at all reasonable times to make inspections and tests as necessary to enforce the provisions of this division and state law. This right of entry will be exercised only at reasonable hours unless otherwise required by an emergency, and entry will be made to any establishment or property only with the consent of the owner, manager, manager's representative, or tenant thereof, or with an inspection warrant or other remedy

provided by law to secure entry.

- (b) All inspections specified herein will be at the discretion of the director, and nothing in this division will be construed as requiring the department to conduct any such inspection nor will any actual inspection made imply a duty to conduct any other inspection. Furthermore, nothing in this division may be construed to hold the county or any officer, employee or representative of the county responsible for any damage to persons or property by reason of making an inadequate or negligent inspection or by reason of any failure to make an inspection or reinspection or by reason of any failure to take any enforcement or remedial action.

**Sec. B11-5. Investigation.**

The director may make such investigation of an applicant or permittee and facility or activity as the director deems necessary to carry out the purposes of this division.

**Sec. B11-6. Criminal penalties.**

- (a) Any person conducting any activity in violation of this division is guilty of a misdemeanor and penalties are as defined in Penal Code section 19. A person is guilty of a separate offense for each and every day during which any portion of that day any violation of any provision of this division is committed or permitted by such person.
- (b) Pursuant to section 836.5 of the California Penal Code, the director or his or her designated representative is hereby empowered to issue citations for violations of this division.
- (c) In any criminal action brought pursuant hereto, in which the county prevails, the court will award reasonable expenses, including attorney's fees, incurred by the county in investigation and prosecution of the action.

**Sec. B11-7. Civil penalties.**

In addition to or in lieu of criminal penalties, any person who violates any requirement of this division will be liable for civil penalties to the full extent provided by state law and this division. The District Attorney or Office of the County Counsel may file a civil action as appropriate. Such liability may include, but is not limited to, liability for administrative civil penalties as provided in Health and Safety Code Sections 25514.5 and 25182. In any civil action brought pursuant hereto, in which the county prevails, the court will award reasonable expenses, including attorney's fees, incurred by the county in investigation and litigation of the action.

**Sec. B11-8. Enforcement cost recovery.**

- (a) A permittee must reimburse the department for actual costs incurred by the department for any enforcement activities related to a permit revocation or suspension proceeding.
- (b) Upon suspension or revocation of a permit, the director will provide an invoice for these enforcement costs indicating the total hours expended, the basis for the expenditure, and the hourly cost rate of the department.
- (c) Charges for enforcement costs invoiced by the department pursuant to this section will be based on hourly rate in an amount established by resolution of the board of supervisors.

**Sec. B11-9. Remedies not exclusive.**

Remedies in this division are in addition to and do not supersede or limit any and all other remedies, civil, criminal or administrative.

**Sec. B11-10. Power of director to make additional regulations.**

The director is hereby authorized to make all necessary rules, regulations, and guidelines as is necessary to carry out the intent of this division.

**Sec. B11-11. Professional assistance for director determinations.**

Whenever the approval or satisfaction of the director may be required in this division for a design, monitoring, testing or other technical submittal by an applicant or permittee, the director may, at his or her discretion, require the applicant or permittee, at the applicant's or permittee's sole cost and expense, to retain a suitably qualified independent engineer, or chemist, or other appropriate professional consultant, acceptable to the director, for the purpose of evaluating and rendering a professional opinion respecting the adequacy of the submittal to achieve the purposes of this division. The director is entitled to rely on the evaluation and/or opinion of the engineer, chemist or professional consultant in making the relevant determinations provided for in this division.

**CHAPTER II. ENVIRONMENTAL HEALTH PERMITS AND FEES**

**ARTICLE 1. GENERAL**

**Sec. B11-20. Purpose and authority.**

The purpose of this chapter is to establish a permit system for activities subject to local ordinance, state statutes, orders, quarantines, and rules or regulations relating to public health and environmental health. Department expenses resulting from implementation of this division are to be offset by permit fees collected. The authority for this chapter is contained in sections 25404.5, 101280(d) and 113920 of the California Health and Safety Code.

**Sec. B11-21. Permits.**

- (a) Prior to the commencement of any activity for which this division requires a permit, the applicant must first apply for and obtain the required permit from the director.
- (b) The director will review the permit application for accuracy and completeness, and may make an examination of the premises, buildings, equipment, and apparatus associated with the requested permit. If the director finds the proposed activity to be in accordance with the laws and regulations of the state, local ordinances, and requirements of the director, a permit will be issued after receipt of payment of the required permit fee(s).
- (c) The director may condition a permit in a manner as is deemed necessary to carry out the purposes of this chapter.
- (d) No person may conduct any activity for which this division requires a permit without such a permit. If a permit is not obtained prior to the commencement of any activity requiring a permit pursuant to this division, in addition to the fee for the permit, the applicant may be subject to a penalty equal to twenty-five percent of the permit fee.
- (e) Upon change of ownership, the new owner must apply for a permit within ten calendar days of commencing any activity for which this division requires a permit. If after ten calendar days the new owner has not submitted the required application(s) for the required permit(s), in addition to the permit fee(s), the new owner may be subject to a penalty equal to twenty-five percent of the permit fee(s).
- (f) A permit may be suspended or revoked for cause.

- (g) Before resuming any activity for which a permit was suspended, the director may reinstate the permit upon determination that conditions that prompted the suspension no longer exist. Before resuming any activity for which a permit was revoked, an applicant must obtain a new permit upon application and payment of a new permit fee.
- (h) The permit(s) required by this division will be in addition to any other license or permit required by this county or by any other public jurisdiction.
- (i) The permit will expire on the last day of the month of purchase of the succeeding year and will be renewable from year to year upon payment of the fee required by resolution of the board of supervisors, or upon payment of fee plus penalties.

**Sec. B11-22. Permit fees.**

- (a) Annual permit fees are required to be paid to the department for each unit, location or facility needing a permit. Such fees will be established by resolution of the board of supervisors.
- (b) No refund or rebate of a permit fee will be allowed by reason of the fact that the permit is denied, or the permittee discontinues the permitted activity or use of a facility prior to the expiration of the term, or that the permit is suspended or revoked prior to the expiration of the term.

**Sec. B11-23. Delinquency date; penalty.**

In the case of a permit or registration renewal, the delinquency date is the day after the expiration date. If any fee required by this division is not paid prior to the delinquency date, in addition to the fee, the applicant will pay a penalty equal to twenty-five percent of the unpaid balance.

**Sec. B11-24. Geographic area of application.**

Permits required by this division will be required of any business or activity within the area in which the director enforces any state statute, local ordinance, order, quarantine, rule or regulation relating to public health or environmental health, whether within or outside an incorporated city. Enforcement within cities is pursuant to California Health and Safety Code Section 101375 and as indicated in Chapter XV.

**Sec. B11-25. Multiple activities.**

If a person engages in, conducts, manages, or carries on at the same time more than one of the activities herein defined by this division, that person will be deemed to be engaging in, conducting, managing or carrying on each activity separately and apart from the other activity, whether located on the same premises or not, and must pay the permit fee for each separate activity.

**Sec. B11-26. Fictitious names.**

A permit may be issued pursuant to this division to a corporation duly authorized to transact business in this state, or to a person operating under a fictitious name who has complied with all of the provisions of chapter 5 of part 3, division 7 of the Business and Professions Code of this state or any statute superseding or taking the place of that code section. Otherwise, all permits must be issued in the true name of the individual or individuals applying therefore. Except as above provided, no business so permitted may operate under any false or fictitious name. A permit issued to a corporation must designate the corporation by the exact name that appears in the articles of incorporation of that corporation.

**Sec. B11-27. Temporary permits.**

An applicant may apply for a temporary permit if the applicant certifies in writing to the director that the business, activity or occupation can only be carried on for a limited time because of:

- (a) The seasonal nature of the occupation, business or activity; or
- (b) Statutory or ordinance regulations or restrictions; or
- (c) Termination or loss of lease; or
- (d) Acquisition by the public of the premises on which the occupation or business or other activity is situated; or
- (e) Any other reason approved by the director.

Upon presentation of the certification and acceptance by the director, a temporary permit may be issued for any period specified by the director, not to exceed thirty days; and the permit fee will be twenty-five percent of the annual permit fee for that activity.

**Sec. B11-28. Transfer of permit.**

- (a) The permit is nontransferable except for a mobile food facility, a refuse collection vehicle, liquid waste pumper vehicle, or greasewaste handler. If, during the permit year, a mobile food facility, refuse collection vehicle, liquid waste pumper, or greasewaste vehicle must be replaced and is taken entirely out of the business and a new one is to be used as a replacement, the director may transfer the permit to the new vehicle or facility.
- (b) If a permit is issued to a partnership and the partnership is changed by the addition or deletion of partners, the permit may be transferred to the new partnership if the new owner/partnership makes application for a transfer and pays a transfer fee in an amount as established by resolution of the board of supervisors.

**Sec. B11-29. Identification.**

The director may issue, in conjunction with any permit required by this division, further identification in the form of a license plate, decal or gummed sticker. Upon issuance of same, the director will advise the permittee as to where this identification is to be affixed.

**Sec. B11-30. Posting of permit.**

- (a) Every person having a permit required by this division and conducting, managing or carrying on a business or occupation at a fixed place of business must keep the permit posted and exhibited, while in force, in some conspicuous part of the place of business.
- (b) A vehicle permit issued under the provisions of this division must be maintained with the vehicle at all times while the vehicle is being operated in the conduct of the business.

**Sec. B11-31. Carrying permit if no fixed location.**

Every person having a permit required by his division and not having a fixed place of business must carry the permit with him or her at all times while carrying on the business or occupation for which it was granted.

**Sec. B11-32. Exhibition of permit on request.**

Every person having a permit required by this division must produce and exhibit the same whenever requested to do so by the director or any duly authorized agent of the director.

**Sec. B11-33. Denial, suspension, or revocation of permit/hearing.**

Except as otherwise specifically provided by state law or ordinance code provision, all permit denial, suspension or revocation procedures will be as follows:

- (a) The director may deny, suspend, or revoke any permit issued under this division for any of the following causes, arising from acts or omissions of the permittee:
  - (1) Whenever the director determines that the permit holder fails to meet the requirements of the permit, local ordinances, or applicable state law or regulations;
  - (2) Fraud, willful misrepresentation, or any willful inaccurate or false statement in applying for a new or renewed permit;
  - (3) Fraud, willful misrepresentation, or any willful inaccurate or false statement in any report required by this division;
  - (4) Any of the grounds upon which the permit would be subject to immediate revocation.
- (b) The director will serve notice on the applicant or permit holder, by United States mail addressed to the business address shown on the application or permit, of the director's intention to deny, suspend, or revoke the permit on the grounds stated therein. The notice will also state that the applicant or permit holder has fifteen days within which to request a hearing or the permit will be denied, suspended, or revoked. When circumstances warrant, the director may order a hearing at any reasonable time within this fifteen-day period to expedite the permit suspension or revocation process.
- (c) The hearing will be held by the director or authorized designee within fifteen calendar days of receipt of a request for a hearing. The director's decision will be final.

**Sec. B11-34. Immediate permit suspension or revocation.**

- (a) Except as otherwise specifically provided by state law or ordinance code provision and notwithstanding section B11-33, the director may immediately suspend or revoke a permit if the director determines that the permitted activity is imminently hazardous to public health, safety, or welfare. Imminently hazardous means any condition, based upon inspection findings or other evidence, that can cause disease transmission or an unsafe or hazardous condition, including but not limited to, contamination of drinking water, sewage contamination, or an unsafe public pool.
- (b) The director will serve on the permit holder, within forty-eight hours of the suspension or revocation, written notice of the grounds for the immediate suspension or revocation of the permit. The permit holder may appeal the suspension or revocation by filing a written notice with the director within fifteen calendar days of the suspension or revocation.
- (c) If an appeal is requested, a hearing will be conducted by the director within fifteen calendar days of the date the request is received. The director's decision will be final.

**ARTICLE 2. PLAN AND CONSTRUCTION APPROVAL**

**Sec. B11-40. Submittal of plans.**

No person may begin construction, reconstruction or alteration of any facility or auxiliary structure or equipment of any facility defined in this division without first submitting plans and specifications to the director. In addition, the director may require other information as necessary to determine if the facilities comply with all laws and regulations of the State of California and the County of Santa Clara. The plans, specifications and other information will be reviewed and approved by the director before any permits are issued.

**Sec. B11-41. Application for approval.**

- (a) Application. To obtain approval, an applicant must first file a written application to the director on a form furnished by the director for that purpose. Every application must:
  - (1) Identify and describe the work to be covered by the approval for which the application is made.
  - (2) Describe the property on which the proposed work is to be done by legal description, street address or similar description that will readily identify and locate the proposed building or work.
  - (3) Indicate the use or occupancy for which the proposed work is intended.
  - (4) Be accompanied by plans, diagrams, computations, specifications, and other data as required by subsection (b) of this section.
  - (5) Be signed by the applicant, or the applicant's authorized agent.
  - (6) Provide other data and information as may be required by the director.
- (b) Plans and specifications. Plans, engineering calculations, diagrams, and other data must be submitted with each application for approval. Plans are not required to be prepared by an architect or engineer. However, the director may require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the state to practice in those fields even if not required by state law to be so licensed.

**Sec. B11-42. Plan check fees.**

With the submission of plans, specifications and supporting data as required in section B11-41 of this chapter, a plan check fee must be paid to the director as established by resolution of the board of supervisors.

**Sec. B11-43. Plan approval.**

- (a) Issuance. The application, plans, specifications, computations, and other data filed by an applicant for approval will be reviewed by the director. Upon approval, the director will endorse in writing or stamp the plans and specifications "APPROVED." The approved plans and specifications must not be changed, modified, or altered without authorization from the director, and all work must be done in accordance with the approved plans.
- (b) Expiration of application for plan approval. Applications, for which no approval is granted within one hundred eighty days following the date of application, will expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the director. The director may extend the time for action by the applicant for a period not exceeding sixty days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action to be taken. No application will be extended more than once. In order to renew action on an application after expiration, the applicant must resubmit plans and pay a new plan check fee.
- (c) Retention of plans. One set of approved plans, specifications, and computations will be retained by the director for a period of not less than ninety days from date of completion of the work covered by approval; and at least two sets of approved plans and specifications will be returned to the applicant, one set of which must be kept on the site of the work at all times during which the work approved is in progress.

- (d) Validity of approval. The granting of approval of plans, specifications, and computations is not be construed to be a permit for, or approval of, any other jurisdiction. The granting of approval based on plans, specifications, and other data will not prevent the director from thereafter requiring the correction of errors in the plans.
- (e) Expiration. Every approval granted by the director under the provisions of this chapter will expire by limitation and become null and void if the construction, reconstruction, alteration, or other work authorized by the approval has not commenced within one hundred eighty days from the date of approval. Before the work can be recommenced, a new approval must be obtained. The fee for the new approval will be twenty-five percent of the amount required for the original plan check fee. Any applicant holding an unexpired plan approval may apply for an extension of the time within which work may commence under that plan approval. The director may extend the time for action by the applicant for a period not exceeding one hundred eighty days on written request by the applicant. No approval will be extended more than once.
- (f) Suspension or revocation. The director may, in writing, suspend or revoke an approval whenever the approval was issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation.

**Sec. B11-44. Inspections.**

- (a) General. All work for which approval is granted is subject to inspection by the director. Approval, as a result of an inspection, is not to be construed as an approval of any other jurisdiction. The applicant must leave all work accessible and exposed during inspection.
- (b) Inspection construction card. The approved plan and construction card must be posted or otherwise made available to allow the director to conveniently make the required entries regarding inspection of the work. The plan and construction card must remain available by the applicant until final approval is granted.

**Sec. B11-45. Reinspection fees.**

In the event that a permittee is required by the director to make changes and/or corrections in a facility or other activity requiring a permit, for the purpose of bringing the facility or activity into compliance with the provisions of this division and/or state law, the director will charge the permittee a reinspection fee for each and every reinspection performed by the director after the first inspection following the direction to correct, until the necessary changes and/or corrections are made. The reinspection fee will be established by resolution of the board of supervisors.

**Sec. B11-46. Service fees.**

A service fee will be charged for services not otherwise covered by fees noted elsewhere in this division, including but not limited to consultation services, plan reviews of existing permitted activities, equipment evaluations and reviews, site evaluations, and investigations. The service fee will be established by resolution of the board of supervisors. No part of this fee will be refundable.

**CHAPTER III. FOOD AND SWIMMING POOL PERMITS**

**Sec. B11-50. Exemptions from permit fees.**

- (a) The payment of permit fees imposed by chapter II will not be required of any blind person if the person files with the director a certificate issued by a licensed physician or surgeon or by the Bureau of Vocational Rehabilitation of the Department of Education of the State of California that he/she is a blind person.

As used in this section, "blind" means a person having central visual acuity not to exceed 20-200 in the better eye, with corrective lenses, or visual acuity greater than 20-200, but with a limitation in the field of vision so that the widest diameter of the visual field subtends an angle not greater than twenty degrees.

- (b) Except as otherwise required by state law, any person or organization which conducts exclusively for charitable purposes, any activity defined in section B11-53 of this chapter, from which no person benefits through the distribution of profits, payment of excessive charges or compensation will be exempted from payment of the permit fees required by this chapter.

Facts showing entitlement to this exemption must be shown by affidavit filed with the director.

**Sec. B11-51. Employee-related permit fees.**

- (a) For the purpose of determining employee-related permit fees, an "employee" means any person who works on the premises for wages or other remuneration, including owner(s) of the activity and members of their respective families working on the premises, with or without pay.
- (b) For the purpose of determining compliance with the permit provisions, the number of employees will be computed by totaling the number of hours worked by all employees on the premises during any seven day period, dividing that sum by the number of days the facility is open for business per week, then dividing that number by eight.
- (c) The director may impose a penalty of twenty-five percent of the permit fee paid at any time the director determines that there are more employees on the premises during any twenty-four-hour period than is allowed by the permit. The director may require the permit holder to immediately apply and pay a fee for a new permit applicable to the maximum number of employees permitted on the premises. Failure of the permit holder to pay any penalty imposed or apply and pay for a new permit can be grounds for revocation of the permit.
- (d) Facilities held in common means equipment or facilities used in common by two or more food facilities whether owned in common or owned by another party.

**Sec. B11-52. Permit fees for grocery stores.**

For the purpose of determining the permit fee for grocery stores, the "total square footage" means the square footage of the total area devoted to storage, display, preparation and sales.

**B11-53. Definitions of regulated food facilities and activities.**

The activities defined within this section require a permit to be issued by the director.

- (a) Bakery means any room, building, premises, or place that is used or operated for commercial baking, preparing, manufacturing, processing, or packaging of bakery products. It includes all rooms of a bakery in which bakery products or ingredients are stored or handled.
- (b) Bed and breakfast facility means a food establishment of twenty guestrooms or less, which provides overnight transient occupancy accommodations, which serves food only to its registered guests, which serves only a breakfast or similar early morning meal, and with respect to which the price of the food is included in the price of the overnight transient occupancy accommodation. For purposes of this section, bed and breakfast facility refers to an establishment as to which the predominant relationship between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this section, the existence of some other legal relationship as between some occupants and the owner or operator is immaterial.

- (c) Certified farmers' market means a location certified by the county agricultural commissioner and operated as specified in article 6.5 (commencing with section 1392) of title 3 of the California Code of Regulations.
- (d) Commissary means a food facility in which food, containers, equipment, or supplies are stored or handled for use in food establishments, vehicles, mobile food preparation units, food carts, or vending machines.
- (e) Confectionery means a food facility wherein prepackaged confections are the only food items offered for sale and where the total retail value of all confections held on site exceeds five hundred dollars.
- (f) Facilities held in common means equipment or facilities used in common by two or more food facilities whether owned in common or owned by another party.
- (g) Food establishment means any room, building or place, or portion thereof, maintained, used or operated for the purpose of storing, preparing, serving, manufacturing, packaging, transporting, salvaging or otherwise handling food at the retail level. Food establishment includes bakeries, restaurants and grocery stores as defined elsewhere in this chapter.
- (h) Food establishment does not include a food vehicle, vending machine, satellite food distribution facility, temporary food facility, remote access food facility, certified farmers' market, or mobile food preparation unit; a cooperative arrangement wherein no permanent facilities are used for storing or handling food; a private home; or a church, private club, or other nonprofit association which gives or sells food at occasional events.
- (i) Food facility means food establishment, food vehicle, vending machine, roadside stand, temporary food facility, satellite food distribution facility, mobile food preparation unit, and remote access food facility. Food facility also includes places used in conjunction with these operations, including but not limited to storage facilities for food-related utensils, equipment and materials.
- (j) Food salvage operation means any room, building or place, or site, or portion thereof, maintained, used or operated for or in conjunction with the retail sale of:
  - (1) Food in dented, broken, or otherwise damaged cans, bottles, packages, or containers; or
  - (2) Food which has been removed from its original container or package because of damage to the container or package.
- (k) Grocery store means any room, building or place, or portion thereof, maintained, used or operated for or in conjunction with the retail sale of staple food stocks, meats and other foods, and household supplies by a retail grocer.
- (l) Health food store means a food facility which sells at retail food products which may include, but are not limited to, vitamins, minerals, food additives, herbal remedies, organic foods or similar food products which are represented to be highly beneficial to health.
- (m) Ice cream vehicle means any mobile food facility upon which packaged ice cream products, and prepackaged snack food and drink incidental thereto, are displayed, sold or offered for sale at retail.
- (n) Limited food sales means a food facility wherein the sale of food is incidental to the primary business activity subject to the following categories of operation:
  - (1) Category I. All food is nonpotentially hazardous and limited to prepackaged and bulk

candy and snacks, and prepackaged beverages, and where the total retail value of all food held on site exceeds five hundred dollars.

- (2) Category II. Food sales may include potentially hazardous food sold only in a prepackaged state.
  - (3) Category III. Food sales extending beyond the foregoing description will be considered as food establishments as otherwise defined in this chapter.
- (o) Liquor store means a food facility wherein the primary sales item is alcoholic and nonalcoholic beverages, and where all items are prepackaged and nonpotentially hazardous except as provided below:
- (1) Category I. Food sales may include potentially hazardous food sold only in a prepackaged state.
  - (2) Category II. Food sales extending beyond category I will be considered as food establishments as otherwise defined in this chapter.
- (p) Mobile food facility means any conveyance, used in conjunction with the service of food or beverage, operating out of a commissary or other approved facility, upon which prepackaging food or approved non-prepackaged food is sold or offered for sale at retail. Mobile food facility does not include a mobile food preparation unit or a stationary mobile food preparation unit.
- (q) Mobile food preparation unit means any vehicle, or portable food service unit, upon which food is cooked, wrapped, packaged or portioned for service, sale or distribution.
- (r) Non-motorized food vehicle means any vehicle, without a motor, which is no longer than ten feet in length, as measured from the most forward and rearward projection of any part of the vehicle, upon which only one kind or type of specialty food item is displayed, sold or offered for sale at retail, or given away to the public.
- (s) Occasional event means an event that occurs not more than three days in any ninety-day period.
- (t) Produce stand means a food establishment which has one side open to the outside air during business hours and which sells, offers for sale, or gives away only produce or shell eggs, or both.
- (u) Produce vehicle means any mobile food facility upon which fruits or vegetables in their raw or natural state are displayed, sold or offered for sale.
- (v) Remodeling means to restore to previous condition or to repair or reconstruct. For purposes of this chapter, when fixed or installed equipment or appurtenances are changed or replaced, the change or replacement must first be approved by the director.
- (w) Remote access food facility means a food operation that has, but not limited to, food, or beer, or soft drink stand or cart selling only a single, specialty item, and operated on the same premises as, and in conjunction with, one of the food activities permitted herein. Both the remote access food facility and the parent food facility must be under the same ownership.
- (x) Restaurant means any coffeeshop, cafeteria, short-order cafe, luncheonette, tavern, cocktail lounge, sandwich stand, delicatessen, soda fountain, in-plant or employee eating establishment, and any other eating establishment, organization, club, including veterans' club, boardinghouse, guesthouse, or political subdivision, which gives, sells or offers for sale, food to the public, guests, patrons or employees as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering functions.

- (y) Satellite food distribution facility means a location where only prepackaged, unit servings of food are distributed which have been prepared or stored in an approved food facility operated by a school, governmental agency, or nonprofit organization.
- (z) Vending machine means any self-service device which, upon insertion of a coin, coins, or token, or by similar means, dispenses unit servings of food or beverage, either in bulk or in package, without the necessity of replenishing the device between each vending operation; provided, however, that vending machine does not include devices dispensing peanuts, wrapped candy, gum or prepackaged ice, soda or juices.
- (aa) Vending machine commissary means any room, building, or place, or site, or portion thereof, maintained, used or operated for the storage of equipment and/or food used in conjunction with the retail sale of food from vending machines.
- (bb) Wholesale food processing establishment means any room, building or place or portion thereof, maintained, used or operated for the purpose of commercially packaging, making, cooking, mixing, processing, bottling, canning, packing, slaughtering or otherwise preparing or handling food for wholesale purposes.
- (cc) Wholesale food storage establishment means any room, building or place or portion thereof, maintained, used or operated for the purpose of commercially storing food for wholesale purposes but does not include wholesale food processing establishment.

**Sec. B11-54. Definition pertaining to regulated swimming pools.**

- (a) Cold tub means a basin, chamber or tank constructed of wood or other materials and used for bathing, but not swimming, in water that is cooled or not heated. A cold tub must conform to the standards and requirements promulgated under section 7833 of title 17 of the California Code of Regulations.
- (b) Hot tub means a basin, chamber or tank constructed of wood or other materials and used for bathing, but not swimming, in water that is heated. A hot tub must conform to the standards and requirements promulgated under section 7833 of title 17 of the California Code of Regulations.
- (c) Pool shell refinishing means the application or installation of a new finish surface to the shell of any pool defined in this chapter.
- (d) Public swimming pool or pool means an artificial basin, chamber or tank, used or intended to be used for public swimming, diving or recreative bathing, but does not include baths where the main purpose is the cleaning of the body, nor individual therapeutic tubs.
- (e) Recreational water park means a constructed facility for water contact activities which includes waterslides, wave pools, activity pools, innertube slides, and any other water contact activities.
- (f) Spa pool means a pool, not used under medical supervision, which contains water of elevated temperature, and incorporates a water jet system, an aeration system or a combination of the two systems.
- (g) Special use pool means a pool designed and used exclusively for a single purpose such as wading, instruction, diving, competition or medical treatment where a licensed professional in the healing arts is in attendance.
- (h) Temporary training pool means an artificial basin, chamber or tank intended to be used for instruction in swimming and so constructed as to be readily disassembled for storage or for transporting to and reassembling at a different location.

- (i) Wading pool means an artificial basin, chamber or tank used, or intended to be used, for wading by small children and having a maximum depth of not to exceed forty-six centimeters (eighteen inches) at the deepest point nor more than thirty centimeters (twelve inches) at the side walls.
- (j) Organized camp means an organized camp, as defined in section 18897 of the California Health and Safety Code and subject to state laws and regulations.

## **CHAPTER IV. ON-SITE SEWAGE DISPOSAL**

### **ARTICLE 1. GENERAL**

#### **Sec. B11-60. Intent and application.**

The purpose of this chapter is to establish standards for the approval, installation, and operation of individual, on-site sewage disposal systems consistent with the appropriate California Regional Water Quality Control Board standards and basin plans. The standards are adopted so as to preclude the creation of health hazards and nuisance conditions and to protect surface and groundwater quality.

Individual, on-site sewage disposal systems may be considered for the treatment and disposal of domestic sewage where a sanitary sewer is not available consistent with the provisions of section B11-62 of this chapter. Hazardous wastes must not be discharged into any individual, on-site sewage disposal system.

This chapter pertains to premises where there is proposed or exists a residence, place of business or other building or place which people occupy, or where persons congregate, reside or are employed and wherein the volume of waste produced is twenty-five hundred gallons per day or less.

If the amount of waste produced is in excess of twenty-five hundred gallons per day, or where a multiunit building containing more than five units is proposed, the method of treatment and disposal must be as approved by the appropriate California Regional Water Quality Control Board consistent with the requirements of section B11-66 of this chapter. New divisions of land using septic tank systems must be limited to a minimum parcel size of one acre, or to a minimum parcel size of two and one-half acres if within a reservoir watershed.

For any subdivision of land the subdivider must clearly demonstrate that the use of the proposed on-site sewage disposal system will not adversely affect beneficial water uses and will be in the best public interest; feasible, effective and safe. This requirement is satisfied by showing that the on-site sewage disposal system design and siting will be consistent with section B11-67 of this chapter.

#### **Sec. B11-61. County not responsible for damage.**

This chapter is not to be construed as imposing upon the county any liability or responsibility for damage resulting from the defective construction of any sewage disposal system as herein provided, nor will the county or any official or employee thereof be held as assuming any liability or responsibility by reason of the inspection authorized hereunder.

#### **Sec. B11-62. Public sanitary sewer; connection to.**

Every premises where there is proposed a residence, place of business, or other building or place which people occupy, or where persons congregate, reside, or are employed, and which abuts a street or alley in which there exists an approved sanitary sewer, or which property line is within three hundred feet of an approved sanitary sewer, must be connected to the sanitary sewer in the most direct manner possible, provided a right-of-way and any necessary approval from the Santa Clara County Local Agency

Formation Commission is first obtained. On property where an on-site sewage disposal system currently exists, connection to the available sanitary sewer will be required at the time of system failure or when the building is remodeled, increased in square footage or altered in a manner as to change uninhabitable space into habitable space provided any necessary approval from the Santa Clara County Local Agency Formation Commission is first obtained.

**Sec. B11-63. Violations and penalties.**

- (a) No person may construct, add to, repair, alter or maintain any sewage disposal system, sewer pipes or conduits, or any other conduits for the treatment or discharge of sewage, impure waters, or any matter or substance offensive, injurious, or dangerous to health so as to cause any of the following to occur:
  - (1) Sewage, impure waters, or any matter or substance offensive, injurious, or dangerous to health to empty, flow, seep, or drain onto the surface of any land, or saturate the soil within twelve inches of the surface.
  - (2) Sewage, impure waters, or any matter or substance offensive, injurious, or dangerous to health to empty, flow, seep, drain into, or affect any well, spring, stream, river, lake, or other waters.
  - (3) Result in any condition which, in the opinion of the director, is unsafe or dangerous, or creates a nuisance.
- (b) A violation of this section is hereby declared a public nuisance.

**ARTICLE 2. ON-SITE DISPOSAL SYSTEMS**

**Sec. B11-65. Private sewage disposal systems; when used.**

- (a) Every residence, place of business, or other building, or place where persons congregate, reside, or are employed, and which cannot be connected to a sanitary sewer, must be provided with a water flush toilet sewage disposal system. Where the volume of waste produced is in excess of twenty-five hundred gallons per day or where more than five units are proposed, the sewage disposal system must be constructed, altered, reconstructed, and maintained as approved by the California Regional Water Quality Control Board having jurisdiction consistent with section B11-66 of this chapter.
- (b) Every residence, place of business, or other building, or place where persons congregate, reside, or are employed, and which cannot be connected to a sanitary sewer, must be provided with a water flush toilet sewage disposal system. Each detached living unit, except as otherwise provided below, must have its own sewage disposal system. Where the volume of waste produced is less than two thousand five hundred gallons per day, the system must be constructed, altered, reconstructed, and maintained in a manner as to meet the requirements of section B11-67 of this chapter.

Exceptions to the above may be granted by the director as follows:

- (1) Up to two agricultural employee living units, as defined in the zoning ordinance, may be connected to a single individual sewage disposal system.
- (c) Every building, structure, or appurtenance that contains one or more waste producing fixtures such as toilets, sinks, showers or bathtubs, clothes washing machines, dish washing machines, animal wash pads, floor drains or other fixture or fittings intended to drain organic or inorganic waste material must be connected to an individual sewage disposal system that meets the

requirements of this chapter.

**Sec. B11-66. Sewage disposal systems subject to California Regional Water Quality Control Board waste discharge requirements; county permit required; fee.**

Sewage disposal systems that are subject to the requirements and approval of the California Regional Water Quality Control Board are also subject to the approval of the director. The proposed system must be designed to accommodate the waste discharge consistent with the requirements of the appropriate California Regional Water Quality Control Board. The director will require engineered sewerage plans to be submitted by a registered civil engineer or a registered environmental health specialist with experience in on-site sewage system design before issuing a permit. A registered civil engineer or a registered environmental health specialist will:

- (a) Be required to inspect the construction of the sewage disposal system and, upon completion, to submit a letter of certification to the director verifying the proper installation and operation of the sewage disposal system; and
- (b) Be responsible for sampling for a minimum period of one year consistent with the California Regional Water Quality Control Board waste discharge requirements.

The applicant must contract with a private sanitary engineering firm to ensure the proper maintenance of the sewage disposal system for the first five years of operation.

The applicant must obtain a permit and pay a fee in an amount as established by resolution of the board of supervisors.

**Sec. B11-67. Private sewage disposal system.**

- (a) At any residence, place of business, or other building where there is installed a water flush toilet sewage disposal system which is not connected to an approved sanitary sewer, there must be installed a private on-site sewage disposal system consisting of a septic tank and subsurface leaching system for the disposal of the tank effluent. The septic tank and subsurface leaching system must be so constructed as to meet the requirements of construction and maintenance prescribed by this chapter and the rules and regulations of the director.
- (b) Sewage disposal systems must be installed in accordance with the plans approved by the director. Any changes in the installation plans must be reviewed and approved by the director or appropriate California Regional Quality Control Board prior to installation.
- (c) No person may construct, add to, repair or alter any existing sewage disposal system without first submitting plans to the director for approval and obtaining a permit pursuant to the requirements of this chapter.
- (d) The septic tank effluent must discharge into an approved subsurface leaching system.
- (e) Two leaching systems (dual leaching), each one hundred percent of the total size required by the director, must be installed and interconnected with an approved flow diversion device. A riser must extend from this device to or above the ground surface. This device must be rotated once each year so that each leaching system is dosed with septic tank effluent on alternate years.
- (f) In addition to the dual leaching system, the director reserves the authority to require that an additional area of the property suitable for one hundred percent expansion of the subsurface leaching system, be designated and reserved.
- (g) Sewage disposal systems must be located to be easily accessible for maintenance and repairs.

- (h) At the discretion of the director, an inspection riser may be required at the end of each drainline.
- (i) The director will require soil percolation tests and at least one soil boring or excavation per site. Additional exploratory tests or other information may be required to verify adequate depth of permeable soil and/or separation between trench bottom and groundwater. Where the director has adequate evidence to demonstrate suitable permeable soil and groundwater separation, testing requirements may be waived.
- (j) Soil percolation tests will be required on every parcel unless the director determines, on a case-by-case basis, that a percolation test is not necessary. The director will determine the percolation test method and the number and location of the percolation test borings.
- (k) When a geological report is required by the county geologist, it must be made available to the director.
- (l) A private sewage disposal system may not be approved or permitted when any of the following conditions exist:
  - (1) Less than ten feet of permeable soil exists beneath the bottom of the proposed leaching field trenches. Permeable soil is defined as having a percolation rate of 120 minutes per inch or faster or having a clay content of less than 60 percent;
  - (2) Any portion of the drainfield area has been covered with fill exceeding twelve inches in depth.
  - (3) The minimum distance between trench bottom and groundwater does not conform to the following:

Percolation Rate (Minutes/Inch)	Distance
Less than 1	Disapproved
1--5	20'
6--120	8'*
More than 120	Disapproved

\* If the percolation rate is 31 to 120 minutes per inch and a wet weather groundwater investigation has been conducted pursuant to rules and regulations approved by the director, the minimum separation between trench bottom and groundwater may be reduced to five feet.

- (4) Soils or rock formations contain continuous channels, cracks or fractures.
- (5) The area is subject to ponding or flooding. The definition of "area subject to flooding" is the Santa Clara Valley Water District's ten-year floodplain designation or areas observed to be subject to flooding from field observations.
- (6) Slopes exceed twenty percent, except as otherwise provided in section B11-83.
- (7) The following setback distance requirements cannot be provided for the sewage disposal system:

Minimum Distances (in feet) Measured From:	Disposal Field	Septic Tank
All wells and springs	100	100
Watercourses* (top of bank)	100	100
Reservoirs (highwater mark)	200	200

Cuts or steep embankments (top of cut)	4 X h**	10 feet
Steep slopes*** (break of slope)	4 X h**	10 feet
Drainageway/swale (break of slope)	50	50
Foundation	10	5
Property line	10	10
Septic tanks	6	N/A
Swimming pool	10	10
Road easement, pavement, or driveway	5	5

\* Watercourse - A running stream fed from permanent or natural sources, including rivers, creeks, runs, and rivulets. There must be a stream, usually flowing in a particular direction (though it need not flow continuously) in a definite channel, having a bed or banks and usually discharging into some stream or body of water.

\*\* h equals the height of cut or embankment in feet. This setback distance requirement must not be less than twenty five feet nor more than one hundred feet.

\*\*\* As defined by the Regional Water Quality Control Board having jurisdiction, but not exceeding sixty-seven percent.

- (m) No private sewage disposal system may be approved on any parcel of land where the percolation rate exceeds one hundred twenty min/inch or is less than one min/inch.
- (n) No part of any private sewage disposal system may cross any property line.
- (o) Upon notice from the director that work on the sewage disposal system is being conducted in violation of this chapter, or in an unsafe or dangerous manner, the work must be immediately stopped. The stop-work order must be in writing and must be issued to the owner of the property involved, or to the owner's agent, or to the person doing the work. It must state the conditions under which work may be resumed.

**Sec. B11-68. Plans.**

Plans must include a contoured plot plan to a minimum scale of one inch to twenty feet. The plans must comply with and contain all information required by Santa Clara County Department of Environmental Health, Septic Tank Sewage Disposal System, Bulletin "A," and any additional information the director may require. Any change in the plans after the issuance of a permit may invalidate the permit unless the changes are first approved by the director

**Sec. B11-69. Fees.**

Permit fees for sewage disposal systems subject to this chapter and all related fees will be an amount as established by resolution of the board of supervisors.

**Sec. B11-70. State contractor's license required for installation or repair; registration fee.**

No person may install, construct, alter, enlarge, reconstruct, replace, improve, recondition or repair a private sewage disposal system pursuant to this chapter unless the person has done the following:

- (a) Secured a general engineering contractor's license (class A) as defined in section 7056 of the Business and Professions Code, or a Class C-42 sanitation system contractor's license or Class C-36 plumbing contractor's license from the Contractors State License Board of the State of California; and
- (b) Registered with the director and paid a registration fee upon furnishing satisfactory proof to the director as to the possession of a state contractor's license. The registration fee paid to the director will be prescribed by resolution of the board of supervisors. Proof of a current valid license must be supplied to the director by June 30 and biennially thereafter.

The property owner may construct or repair an on-site sewage disposal system on his/her own property, which system serves or will serve the building on the property that is neither being offered for sale nor intended to be so offered, provided: 1) persons hired by the owner to do the subject work must comply with section B11-70(a) and (b); or 2) persons hired by the owner must be hired as employees of the owner and the owner must provide workman's compensation insurance, as required by law; and 3) a septic system permit is obtained.

**Sec. B11-71. Refusal to issue building permit.**

No building permit may be issued for any building requiring a sewage disposal system that is not to be connected to an approved sanitary sewer unless the applicant has received written approval of the director.

**Sec. B11-72. Refusal to issue certification of occupancy.**

- (a) No certification of occupancy may be issued for any building that is not connected to an approved sanitary sewer without written approval of the director for the on-site sewage disposal system.
- (b) No person may occupy or otherwise use any premises or building that has not been connected to an approved sanitary sewer unless the director has approved the method of sewage disposal.

**Sec. B11-73. Reserved.**

**Sec. B11-74. Cumulative impact.**

Where sewage disposal systems are installed or considered, groundwater mounding and watershed protection are factors to be considered. The director may require additional geological studies or other information demonstrating to the satisfaction of the director, that use of a subsurface leaching system will not do any of the following: permit sewage effluent to surface degrade water quality, create a nuisance, jeopardize other properties, affect soil stability, or present a threat to the public health or safety. The applicant must submit a technical report addressing each of these concerns. The report must be prepared by a state registered civil engineer with a soils and geological background or a state certified engineering geologist. The technical report must include but will not be limited to soil percolation rates, contours, soil depth, seasonal groundwater elevation(s), location of all existing or proposed ground cuts, rock formations, soil stability, drainage, a cumulative impact assessment, and other data as determined by the director and the California Regional Water Quality Control Board having jurisdiction.

**Sec. B11-75. Sewer wells; cesspools; seepage pits.**

All sewer wells, cesspools, seepage pits, and similar excavations are hereby declared a public nuisance and are prohibited.

**Sec. B11-76. Holding tanks.**

All holding tanks are hereby declared a public nuisance and are prohibited.

- (a) Exception to this prohibition may be granted by the director:
  - (1) If it is necessary to use a holding tank to abate a nuisance or health hazard.
  - (2) If used in conjunction with a public sanitary sewer where there is an agreement between the public agency and the property owner for maintenance of the holding tank.
  - (3) In a nonresidential land use, vital to the public health, safety or welfare, wherein a conventional septic tank and drainfield cannot be approved and a holding tank is

determined by the director to provide the safest and most acceptable method of sewage disposal.

- (b) Where exceptions are granted, the director must also approve the tank pumper and maintenance schedule.

**Sec. B11-77. Permit and sewage disposal plans; new construction; rebuilding; remodeling.**

No person may construct, build, rebuild or remodel any residence, place of business, or other building or place where persons reside, congregate or are employed which is not to be connected to an approved sanitary sewer without first submitting plans of the sewage disposal system to the director for approval and 1) obtaining approval of the proposed construction, building, rebuilding or remodeling to be served by an existing sewage disposal system, or 2) obtaining a sewage disposal construction permit pursuant to this chapter. The approval or permit cannot be transferred and expires one year after the date of issuance; except that the director, upon a showing of good cause, may extend the approval or permit for any time not to exceed one additional year. Failure to obtain an approval or permit from the director is a violation of this chapter.

The director may revoke a permit or approval issued pursuant to this chapter in case of any false statement, or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

- (a) Septic tanks must be a minimum of fifteen hundred gallons with two compartments. For above-average sewage volumes, the director may require a larger tank size to achieve sufficient holding time for the anticipated sewage load. The first compartment must be two-thirds the total tank volume. The compartments must be separated by a baffle or equivalent arrangement. The tank dimensions must be large enough to provide maximum settling and treatment.
- (b) Septic tanks must be watertight and constructed of reinforced concrete, heavyweight reinforced concrete blocks, or other materials as approved by the director. All interior surfaces must be coated with bitumastic or similar compound to minimize corrosion.
- (c) Access to each septic tank compartment must be provided by a manhole at least twenty inches in diameter and having a durable handle to facilitate removal.
- (d) A riser must extend from each manhole cover to or above the surface of the ground. The riser must be of a size larger than the manhole cover, be both gas- and water-tight, and be constructed of durable material.
- (e) All connections from building to septic tank must conform to construction standards as required by the local building official.

**Sec. B11-78. Solid pipe, joints and connections.**

Pipe for sewage disposal systems must conform to the standards of the most recent edition of the Uniform Plumbing Code, which is adopted by reference into the county's building ordinances. Pipe diameter must be four inches. All solid pipe joints and connections must be glued, cemented or made with an elastomeric seal so as to be watertight.

**Sec. B11-79. Distribution pipe.**

Perforated pipe for distribution systems must conform to the most recent edition of the Uniform Plumbing Code, which is adopted by reference into the county's building ordinances. The pipe diameter must be four inches.

**Sec. B11-80. Subsurface leaching systems requirements.**

A subsurface leaching system must consist of trenches two feet in width, a minimum of three feet and a maximum of eight feet in depth, containing four-inch perforated sewage conductor pipe and filled with washed rock three-quarter to two and one-half inches in size. In addition, subsurface leaching systems are subject to the following requirements:

- (a) Trenches must be placed in undisturbed earth and in an accessible area.
- (b) The bottom of a trench must be level (0-2 inches maximum slope/100 lineal feet).
- (c) Trenches must not be excavated when the soil is so wet that smearing or compaction occurs.
- (d) In clay soils when glazing occurs, the trench surfaces must be scarified to the depth of the glazing and the loose material removed.
- (e) Rock material in the trench must be washed and free of fines, and must be covered with untreated building paper prior to backfilling with natural earth.
- (f) The minimum design volume must be four hundred fifty gallons per day for up to a three-bedroom dwelling; for each additional bedroom or potential bedroom, one hundred fifty gallons per day must be added.
- (g) Commercial sewage disposal systems must be sized based on peak flows.
- (h) Trench length for each leaching system must be determined by the following:
  - (1) # gallons of effluent/loading rate (gallons/square foot) = sq. ft. of trench
  - (2) sq. ft of trench/4 square feet/lineal foot of trench system = lineal feet of trench per each half of dual system

**Maximum Effluent Loading Rates of Soil Absorption Systems**

Percolation Rate (minutes/inch*)	Max. Loading Rate (gallons/square foot/day)
Less than 1	System prohibited
1—10	0.56
11—20	0.45
21—30	0.30
31—40	0.26
41—60	0.23
61—120	0.20**
greater than 120	system prohibited

\* Average stabilized percolation rate

\*\* Sufficient area must be designated for 100 percent future expansion of the required dual leachfield system.

Regardless of the above, each half of the dual leaching system must be a minimum of two hundred lineal feet. When sufficient information is available, the director may designate the length of drainfield required in lieu of a percolation test.

Each linear foot of trench equates to four square feet of effective infiltrative surface based on full credit for each sidewall below the perforated drainpipe and one-half of the bottom area.

- (i) Adjacent trenches on slopes must be connected with a watertight overflow line in a manner that allows each trench to be filled with sewage effluent to the depth of the rock before the sewage flows to the next lower trench.
- (j) Trenches must be constructed in accordance with the following requirements:

Length of trench	Determined by percolation rate
Width of trench, in inches*	24
Depth of trench, in feet, minimum*	3
Depth of trench, in feet, maximum	8
Minimum cover over rock, in inches*	12
Spacing of trenches, center to center, in feet, minimum	10
Rock under pipe, in inches, minimum*	18
Rock over pipe, in inches*	2
Size of rock, in inches*	3/4 – 2 1/2

\* Other materials may be substituted for drainrock in the leaching system trenches if it is determined by the director that the material will serve the same function as drainrock as follows: 1) support the trench sidewalls and maintain the integrity of the infiltrative surface, and 2) provide adequate storage for septic tank effluent surges. Trench width and minimum depth may be modified to accommodate materials approved as drainrock substitutes, however the length, maximum depth and spacing between trenches may not be modified. Materials approved as drainrock substitutes must provide equivalent effective infiltrative surface consistent with section B11-80(h) of this Code but in no case may the total length of trenches be less than that required for standard trenches as defined in this section.

**Sec. B11-81. Construction inspections.**

A stamped copy of the building plans for the approved sewage disposal system must be kept available at the jobsite during system installation and until the system passes final inspection by the director. Inspections of each new installation must be made to ensure compliance with all the requirements of this Code. Requests for inspection must be made at least one business day in advance of the commencement of work. In the event the director determines there has been an improper installation, a stop-work order may be posted on the jobsite. Before any further work is done on a posted system, clearance from the director must be obtained.

**Sec. B11-82. Posting of maintenance guidelines.**

Upon final approval of the system, the director will provide a card that must be posted on the premises showing the date that the system was finalized, system maintenance guidelines, and the telephone number of the department.

**Sec. B11-83. Slope variances.**

- (a) No subsurface leaching system may be constructed on slopes exceeding twenty percent. Variances to this slope requirement may be granted by the director where the applicant can demonstrate, through a technical report and a complete engineering installation plan prepared by a state-registered civil engineer, a state-certified engineering geologist, or a state-registered environmental health specialist that use of a subsurface leaching system will not permit sewage effluent to surface, or will degrade water quality, create a nuisance, affect soil stability, or present a threat to the public health or safety. The technical report must include but not be limited to soil percolation rates, contours, soil depth, seasonal groundwater elevation(s), location of all existing or proposed ground cuts, rock formations, soil stability, drainage, and other data as determined by the director and the California Regional Water Quality Control Board having jurisdiction.

- (b) In addition to the provisions of subsection (a) of this section, in all areas within the jurisdiction of the California Regional Water Quality Control Board, Region 3 (those areas that ultimately drain to the Pajaro River and Monterey Bay), no subsurface leaching system may be constructed on slopes exceeding thirty percent. Variances to this slope requirement may be granted by the California Regional Water Quality Control Board, Region 3, where the applicant can demonstrate through a technical report and complete engineering installation plan, as required in subsection (a) of this section, that use of a subsurface leaching system will not permit sewage effluent to surface, degrade water quality, create a nuisance, affect soil stability, or present a threat to the public health or safety, and that the granting of a variance is necessary. The engineering plan and report must be approved by the director prior to referral to the California Regional Water Quality Control Board for review.

**Sec. B11-84. Life extending construction.**

- (a) Major Expansion and/or Major Intensification of Use. Where construction associated with an existing structure will result in a major expansion of the structure (greater than five hundred cumulative square feet of all additions since March 2, 1982) or where the construction will result in a major intensification of the use of the property, the on-site sewage disposal system must meet the minimum prevailing sewage disposal requirements of this Code.
- (b) Minor Expansion. Where construction associated with an existing structure will result in a minor expansion of the structure (five hundred cumulative square feet or less of all additions) the director will:
- (1) Conduct an on-site inspection to determine adequacy and safe functioning of the existing sewage disposal system.
  - (2) Require exposure and pumping of the existing septic tank except where the applicant can document that the tank has been pumped within the last three years; a receipt for service from a licensed septic tank pumping firm may be considered sufficient documentation.
  - (3) Determine the location of existing leachlines and identification of area where future leachline expansion may occur; the septic tank file will then be updated.
  - (4) Require improvement and/or expansion of the existing sewage disposal system when, in the judgment of the director, the system is determined to be inadequate to accept current and/or projected waste flows. The determinations are to be made based on size and functioning of the current system, coupled with slope, soil, hydrological, and related factors. Where inspection results in a determination that the sewage disposal system is failing, can reasonably be expected to fail or to contaminate surface waters or groundwaters, the director will require the replacement or improvement of the sewage disposal system pursuant to section B11-65 of this Code.

Where improvement and/or expansion of the sewage disposal system is required, but required repairs cannot be made, the director will disallow the application.

- (c) Remodeling or Repair. Where the existing sewage disposal system does not meet requirements of this chapter, but is functioning safely and cannot be improved, construction will be limited to the remodeling or repair (as defined in the Uniform Building Code) of the existing structure provided:
- (1) The construction will not constitute any expansion or intensification of the use of the property or structure.
  - (2) Construction will not result in conversion of uninhabitable area(s), such as a garage, deck, porch, patio, or similar area(s), to habitable area(s).

For purposes of implementing this section, the term "intensification of use" means a change that may place an additional demand on the sewage disposal system of a property. The magnitude of the intensification (major or minor) will be determined by the director.

The restrictions in this section also apply in the event of accidental or natural damage to a structure.

For purposes of implementing this section, the terms "remodeling" and "repair" are as defined in the Uniform Building Code which is adopted by reference into the county's building ordinance.

#### **Sec. B11-85. Abatement.**

To the extent possible, failing sewage disposal systems must be brought into compliance with this Code. In case of any failure, malfunction or breakdown of any private sewage disposal system, if not corrected within a time designated by the director, the director may order or cause corrections to be made and bill the property owner for the costs and may place a lien on the property for the abatement costs. The director may also order vacation of the premises if no safe manner of abatement is possible.

#### **Sec. B11-86. Abandoned private sewage disposal systems.**

Every private sewage disposal system that has been abandoned or has been discontinued from further use or to which no waste or waste discharge pipe from a plumbing fixture is connected must:

- (a) Have the sewage removed from, and disposed of, in an approved manner.
- (b) Have the tank top and bottom crushed, backfilled and compacted with material approved by the director or be removed and disposed of in an approved manner.

#### **Sec. B11-87. Notice of Violation.**

The director may provide a notice of intent to record a notice of violation to the owner of property upon which a failing or substandard sewage disposal system exists. Notice will be provided to the property owner by mail at the address shown on the latest assessment roll or at any other address of the owner known to the director. The notice will also be posted on the property. The notice will state that within 15 days of the date of the notice, the property owner may request a meeting with the director to present evidence that a violation does not exist.

If within 15 days of the date of the notice the property owner does not request a meeting and the violation has not been corrected, or if, after considering the evidence presented by the property owner at the meeting, the director determines that a code violation in fact exists, the director may record a notice of violation in the office of the county recorder. Upon recording the notice, the director will notify the owner of the action. The notice is to inform all parties that no improvements, including building additions, can be approved while the failing or substandard sewage disposal system continues in operation.

At the request of any affected property owner and upon full payment of any fees established by resolution for recovery of associated enforcement costs and payment of any fee for the recordation of the notice of violation, the director will issue a notice of expungement of violation upon proof to the director that the noticed violation has been remedied. The notice of expungement may be recorded by the property owner at his or her expense.

#### **Sec. B11-88. Appeal from denial, revocation or suspension.**

Any appeal to the decision of the director pursuant to this chapter must be made in writing to the regional water quality control board having jurisdiction within fifteen days after the decision is received by the applicant. A copy of the appeal must also be filed with the director. The appeal must specifically describe the grounds upon which it is taken. The decision issued by the regional water quality control board will be

final.

### **ARTICLE 3. PRIVATE SEWAGE DISPOSAL WITHIN LEXINGTON BASIN**

#### **Sec. B11-90. Intent and findings.**

The intent of the provisions of this article is to implement, in part or in whole, the recommendations contained in the Project Report for the Lexington Basin in Santa Clara County, dated September 1980, by James M. Montgomery, Consulting Engineers, Inc. The objective of the report was to evaluate the cumulative impacts of using on-site wastewater facilities in the Lexington Basin watershed in Santa Clara County. Based on the report's conclusions, the board of supervisors makes the following findings:

- (a) That the continued use of the present septic systems and regulations in the Lexington Basin will result in significant water quality degradation of the local streams and will imperil the public health, safety and welfare.
- (b) That alternatives to conventional septic systems are necessary in certain areas of the basin in order to protect the public health, safety and welfare.
- (c) That development of vacant parcels in the basin proceed only according to certain guidelines, including minimum parcel sizes, maximum parcel slopes, and maximum waste water application rates in order to protect public health, safety and welfare.
- (d) That further development of existing vacant parcels or new subdivision activity in Lake Canyon shown as subarea "Central Facilities--Collection System and Community Leach Field" on Figure 9-1 (revised October 16, 1980) of the above report will result in significant water quality degradation of local streams and will imperil the public health, safety and welfare.

The area to which the provisions of this article apply are designated on a map attached to the above report and designated "Apparent Best Alternative Figure 9-1" (revised October 16, 1980). A copy of the map is hereby adopted by reference and made a part hereof, and must be filed with the clerk of the board of supervisors, and referred to hereinafter as Figure 9-1.

#### **Sec. B11-91. General installation requirements.**

- (a) Sewage disposal systems must be installed in accordance with the plans approved by the department. Any changes in the installation plan must be reviewed and approved by the department prior to installation.
- (b) No person may alter, modify, construct, reconstruct or repair any existing sewage disposal system without prior approval of the department in accordance with the provisions of this article. For purposes of repair of failing or malfunctioning systems, Standard Design Criteria A herein will be used. In approving the repairs, the department will have the power to allow a variance from Standard Design Criteria A to prevent unnecessary hardship when it is established that the work will significantly improve existing health and sanitation conditions.
- (c) Where the subarea line, as shown on Figure 9-1, divides a lot, the determination of which subarea criteria will apply will be made by the department.
- (d) The sewage effluent must discharge into an approved subsurface leaching system.
- (e) No sewage disposal leaching system will be allowed to be constructed on slopes exceeding twenty percent. Variances may be granted by the department where the applicant can demonstrate, through a technical report prepared by a state-registered civil engineer (with soils and a geological background) or geologist that use of a soil absorption system will not surface in

the absorption field or reserve area, create water quality problems, jeopardize contiguous properties, and affect soil stability. Technical reports must include but not be limited to soil percolation rates, contours, soil depth, seasonal groundwater water elevations, location of all existing or proposed ground cuts, rock formations and soil stability.

- (f) In addition to the area required under this article for the installation of the leaching system, additional area upon the property must be available and reserved while also maintaining specified distances from property lines, buildings, wells and cut banks which will allow for one hundred percent expansion of the subsurface leaching system.
- (g) Two leaching systems (dual leaching fields), each one hundred percent of the total size required by the department must be installed and interconnected with an approved flow diversion device.
- (h) Septic systems must be located so as to be easily accessible for maintenance and repairs.
- (i) There must be a minimum of five feet of permeable soil beneath the leaching field.
- (j) Installation of a sewage disposal system will not be permitted in areas where the groundwater table is within five feet of the bottom of the leaching system, or within areas subject to flooding.
- (k) Sewage disposal systems must not be constructed in areas containing any fill material.
- (l) The department may require test holes, soil percolation tests or other exploratory tests as deemed necessary to verify soil suitability. Soil tests must be performed according to the department standards.
- (m) Where groundwater or bedrock is known or suspected to be within five feet of the bottom of the proposed leaching system, the department may require soil borings or excavations to be made. The applicant must demonstrate the depth to water table or impermeable layer through the use of at least one field observation hole or through historical records acceptable to the department. The borings or excavations must be available for inspection by the department.
- (n) No private sewage disposal system will be approved on any lot where the percolation rate exceeds one hundred twenty minutes per inch or is less than five minutes per inch.
- (o) When a geological report is required by the county geologist, it must be made available to the department.

**Sec. B11-92. Septic tank requirements.**

- (a) Septic tanks must be a minimum of fifteen hundred gallons with two compartments. For above-average sewage volumes, the director may require a larger tank size to achieve sufficient holding time for the anticipated sewage load. The first compartment must be two-thirds the total tank volume. The compartments are to be separated by a baffle or equivalent arrangement. The tank dimensions must be large enough to provide maximum settling and treatment.
- (b) Septic tanks must be watertight and constructed of reinforced concrete, heavyweight reinforced concrete blocks, or other materials as approved by the director. All interior surfaces must be coated with bitumastic or similar compound to minimize corrosion.
- (c) Access to each septic tank compartment must be provided by a manhole at least twenty inches in diameter and having a durable handle to facilitate removal.
- (d) A riser must extend from each manhole cover to or above the surface of the ground. The riser must be of a size larger than the manhole cover, be both gas- and watertight, and be constructed

of durable material.

(e) All connections from building to septic tank must conform to construction standards as required by the local building official.

(f) The minimum setbacks, in feet, for a septic tank are as follows:

Any well, spring or watercourse . . . 100

Drainage swale (as measured from break of slope) . . . 50

High-water mark of a reservoir . . . 200

Cut bank (as measured from top of cut) . . . 10

Property line . . . 10

Foundation . . . 10

**Sec. B11-93. Subsurface leaching system requirements.**

A subsurface leaching system consists of a trench twenty-four inches in width, three feet in depth, containing perforated sewage conductor pipe and filled with rock.

(a) Trenches must be placed in natural earth and in an unobstructed area.

(b) Pipe used in the leaching area must be perforated, have a minimum four-inch diameter, and be of material approved by the department.

(c) Rock material in the trench must be covered with untreated building paper prior to backfilling with earth.

(d) A minimum effective leaching area must be provided according to the following percolation rate schedule:

<i>Percolation Rate (Minutes Per Inch)</i>	<i>Minimum Length of Trench (Feet) Per Side of Dual System</i>
5--25	150
26-- 45	250
46-- 60	350
61--120	400

The above trench lengths are based on four hundred gallons of effluent per day for a four-bedroom home. Additional bedrooms over four will require a twenty percent increase in the above minimum trench lengths for each bedroom.

(e) Two leaching systems (dual leaching), each one hundred percent of the total size required by the department must be installed and interconnected with an approved flow diversion device. This device must be rotated at least once every year.

(f) Adjacent trenches on slopes must be connected with a watertight overflow line in a manner that allows each trench to be filled with sewage to the depth of the rock before the sewage flows to the next lower trench.

- (g) Trenches must be constructed in accordance with the following requirements:

**Minimum Safe Distances From Leaching Trench** (distance in feet)

Septic tank	6
Property line	10
Foundation	10
Waterline	10
High-water mark of reservoir	200
Watercourse, spring, and well	100
Drainage swale (as measured from break of slope)	50
Cut bank (as measured from top of cut), steep slope,* fill bank	4 times the height of cut bank, steep slope and fill bank, but not less than 25 feet nor more than 100 feet

\* Steep slope means a slope of greater than one and one-half feet horizontal to one foot vertical (sixty-seven percent.)

- (h) **Construction details:**

Length of trench	Determined by percolation rate or environmental health services
Width of trench	24 inches
Depth of trench	3 feet
Slope of trench	3 inches per 100 feet maximum
Minimum cover over rock	12 inches
Spacing of trenches	10 feet edge to edge or more based on slope;
Rock under pipe	18 inches minimum
Rock over pipe	2 inches
Size of rock	1/2 inch to 2 1/2 inches

**Sec. B11-94. Additional requirements for private sewage disposal within subareas of Lexington Basin.**

In addition to the requirements specified in sections B11-91 through B11-93 above, sewage disposal systems proposed for the subareas as defined in the Project Report for the Lexington Basin of Santa Clara County, dated September 1980 (revised October 16, 1980), must follow specific design criteria as follows:

Subarea Location Design Criteria A (Standard Design Criteria A):	
Item	Limitation
Maximum percolation rate	60 min/in
Minimum percolation rate	5 min/in
Minimum length of each leaching system (dual system)	150 lineal feet
Maximum average slope of lot	30 percent
Minimum lot size	1 acre
Subarea Location Design Criteria B:	
Item	Limitation
Use Standard Design Criteria A except maximum average slope of lot	50 percent
Minimum lot size	5 acres
Except for lawfully created lots of 1 acre or larger in existence as of December 1, 1980	
Subarea Location Design Criteria C:	
Item	Limitation
Use Standard Design Criteria A except maximum average slope of lot	50 percent
Minimum lot size	20 acres

Except for lawfully created lots of 1 acre or larger in existence as of December 1, 1980	
Subarea Location Design Criteria D:	
Item	Limitation
Use Standard Design Criteria A except minimum lot size	5 acres
Except for lawfully created lots of 1 acre or larger in existence as of December 1, 1980	
In addition to the required dual leaching system, an added amount of drain field equivalent to 100 percent of the initial system must be installed. This additional drain field will satisfy the requirement for the expansion area specified in section B11-36(f).	
Subarea Location Design Criteria E:	
Item	Limitation
Use Standard Design Criteria A except maximum average slope of lot	40 percent
Minimum lot size	5 acres
Except for lawfully created lots of 1 acre or larger in existence as of December 1, 1980	
Subarea Location Design Criteria F:	
Item	
Use Standard Design Criteria A.	

For the purposes of this section, "lawfully created lots" means all whole parcels described in recorded deeds as of June 25, 1969, provided that the parcels were not divided or created in violation of any county ordinance which existed at the time of the creation or division, and parcels created subsequent to June 25, 1969, pursuant to the provisions of the Subdivision Map Act (Government Code section 66410 et seq.). New parcels created by bona fide gift deed will be regarded as "lawfully created lots" for the purposes of this section only if the deed was recorded on or before December 1, 1980.

A lot will be deemed "in existence" as of December 1, 1980, for the purposes of this section if a tentative subdivision map has been approved on or before December 1, 1980, identifying the parcel and a final or parcel map is subsequently filed depicting the same lot.

**Sec. B11-95. Lake Canyon area.**

In the Lake Canyon area, subdivision or development on previously undeveloped parcels utilizing on-site individual sewage disposal systems is prohibited. Notwithstanding the above, the use of a community leach field as a common sewage disposal area for existing houses as well as new construction may be approved subject to suitability of the design and location of the community leach field and acceptance of the plan by the San Francisco Regional Water Quality Control Board.

**CHAPTER V. INSPECTION REPORTS OF SEWAGE DISPOSAL SYSTEMS**

**Sec. B11-100. Application; limited inspection; special flood hazard area requirements.**

- (a) Any person may apply to the department, on forms approved by the director, for an inspection report of the sewage disposal system located on the applicant's property in the county.
- (b) The agency will only inspect the sewage disposal system for obvious deficiencies.
- (c) New sewage systems that are to be located in areas of special flood hazard, as identified in division C12 of this Ordinance Code, must comply with all relevant provisions of division C12 of this Ordinance Code.

**Sec. B11-101. Inspection fee.**

The application must be accompanied by a nonrefundable inspection fee in an amount established by resolution of the board of supervisors.

**Sec. B11-102. County not liable for damage and does not warrant.**

The county, its officers, agents and employees assume no liability to the applicant or anyone else relying on the report issued hereunder for damage to persons or property caused by or arising from the inaccuracy of the report and/or undetection of sewage disposal problems; nor does the county make any warranty or guarantee of any kind to anyone, express or implied, regarding the condition and/or quality of the sewage disposal system.

**CHAPTER VI. CONSTRUCTION OF SMALL PRIVATE WATER SYSTEMS**

**ARTICLE 1. GENERAL**

**Sec. B11-110. Definitions.**

In addition to the definitions in chapter I, the following terms are defined for purposes of this chapter:

- (a) Dwelling unit means a room or suite of two or more rooms, one of which is a kitchen.
- (b) Horizontal well means a well drilled approximately horizontally into a water-bearing stratum as contrasted with a common vertical well, and from which water issues without the aid of a pump.
- (c) Individual private water system means a system, regardless of type of ownership, for the provision of potable water to one dwelling unit. It includes any collection, treatment, storage, or distribution facilities under control of the owner(s) of that system used primarily in connection with the system.
- (d) Service connection means a connection between a water main and a dwelling unit.
- (e) Small private water system means a system, regardless of type of ownership, for the provision of potable water to two, three or four service connections. It includes any collection, treatment, storage, or distribution facilities under control of the owner(s) of the system, which are used primarily in connection with the system.
- (f) Source means a well, spring or horizontal well. It excludes water from a water storage facility.
- (g) Water main means any pipe or conduit that is part of a distribution system with the capacity to supply water to more than one service connection.

**Sec. B11-111. Public water systems.**

- (a) For those public water systems supplying fewer than two hundred service connections, the director will enforce the provisions of Health and Safety Code sections 116325 through 116750, and the regulations promulgated pursuant thereto (22 CCR section 64400 et seq.) relating to water and water systems.
- (b) Public water system means:
  - (1) A system, regardless of type of ownership, for the provision of piped water to the public

for domestic use, if the system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days of the year. A public water system includes:

- a. Any collection, treatment, storage and distribution facilities that are used primarily in connection with the system and which are under control of the water supplier.
  - b. Any collection or pretreatment storage facilities which are used primarily in connection with the system but are not under control of the water supplier.
- (2) Community water system means a public water system that serves at least fifteen service connections used by year-long residents or regularly serves at least twenty-five year-long residents.
- (3) Non-community water system means a public water system that meets one of the following criteria:
- a. Serves at least twenty-five nonresident individuals daily at least sixty days of the year, but not more than twenty-four year-long residents.
  - b. Serves fifteen or more service connections and any number of nonresident individuals at least sixty days of the year, but no year-long residents.
- (b) State small water system means a water system that serves from five to fourteen service connections and does not regularly serve more than an average of twenty-five individuals daily for more than sixty days of the year.

**Sec. B11-112. Well construction clearance.**

The Santa Clara Valley Water District (District) issues all permits for the construction of domestic and agricultural wells. Prior to the issuance of the permit by the District, the applicant must first obtain clearance from the director.

**Sec. B11-113. Application for well construction clearance.**

An application for clearance to construct a domestic or agricultural water well must be filed with the director on a form as the director may prescribe, and be accompanied by a fee as established by resolution of the board of supervisors. No part of this fee will be refundable. This application must provide the information as the director may reasonably require and must be signed by the owner(s) of the property.

Applicants for clearance to construct a domestic or agricultural water well systems must:

- (a) Submit copies of the site plan showing the following information:
  - (1) The proposed well location
  - (2) The proposed sewage disposal system or location of any existing sewage disposal system on the property or within one hundred feet of the property
  - (3) The location of the proposed dwelling units, if applicable. The number of copies will be determined by the director.
- (b) Submit a Santa Clara Valley Water District well construction permit application to construct a water well form that has been properly filled out and signed by both the applicant and the well

driller.

## **ARTICLE 2. INDIVIDUAL OR SMALL PRIVATE WATER SYSTEMS**

### **Sec. B11-115. Individual or small private water system clearance.**

No person may construct a small private water system or an individual private water system without first obtaining clearance from the director. This clearance may be in addition to any other license or permit required by this county or by any other public agency. The clearance is nontransferable, and it expires one year after the date of issuance; except that the director, upon a showing of good cause, may extend the clearance for up to one additional year. Any person who holds a valid clearance for the construction of a small private water system or an individual private water system issued by the director prior to the adoption of this chapter will be deemed to have been issued a clearance in compliance with this section.

### **Sec. B11-116. Application for clearance.**

An application for a clearance to construct a small private water system or an individual private water system must be filed with the director on a form as the director may prescribe, and be accompanied by a fee as established by resolution of the board of supervisors. No part of this fee is refundable. This application must provide the information as the director may reasonably require and must be signed by the owner(s) of the property. Applications for clearance to construct small private water systems must be prepared by a qualified registered engineer.

Applicants for clearance to construct small private water systems must:

- (a) Submit a true copy of any agreement, or proposed agreement, by and between the applicant and any other persons who are, or may become, associated in the use and maintenance of the facilities of the small private water system. The agreement will specify the manner in which the expense and the responsibility for the maintenance and repair of the small private water system will be apportioned.
- (b) Submit a copy of a recorded deed showing that the owner of any parcel to be served by the small private water system will have not less than a one-fourth undivided interest in the water source and distribution facilities and sufficient legal interest to guarantee access thereto and right to use thereof.

### **Sec. B11-117. Issuance of clearance.**

- (a) The director, upon receipt of a complete clearance application, will conduct an investigation to determine if the plans as submitted comply with the provisions of this chapter.
- (b) If, upon completion of the investigation, the director determines that any of the following conditions exist, the director will not approve the clearance application until the applicant makes the changes in the proposed system as the director deems necessary.
  - (1) The quantity of water available from the proposed source is less than the minimum amount required by section B11-119 as set forth below.
  - (2) The system as proposed will produce water that will not comply with the California Domestic Water Quality and Monitoring Regulations described in chapter 15 of Title 22 of the California Code of Regulations.
  - (3) The proposed source of water is a well, other than a horizontal well that does not comply with the construction standards of the Santa Clara Valley Water District.

- (4) The proposed system is not suited to the production and delivery of potable water.
- (c) If the director determines that none of the conditions specified in subdivision (b) above exist, the director must issue a clearance to construct the proposed water system. The director may condition a clearance in a manner as is deemed necessary to secure the purposes of this chapter.

**Sec. B11-118. Standards for water quality.**

- (a) In order to determine that the quality of the water to be supplied will comply with the requirements of this chapter, the director may require that water quality analyses be carried out. These analyses must be carried out in a laboratory, which is certified by the state department of health services, within one year of the application date. Water samples to be tested must be collected from the water source by qualified staff personnel from the certified laboratory in which the analyses are to be completed. The testing will be carried out at the expense of the applicant, and reports of the tests must be submitted to the director.
- (b) The director may require that the laboratory include in its analysis and report total coliform organisms as prescribed by the latest edition of Standard Methods for the Examination of Water and Wastewater, American Public Health Association. The report must also include the concentrations of aluminum, arsenic, barium, cadmium, chromium, fluoride, iron, lead, manganese, mercury, nitrate (as NO<sub>3</sub>), selenium, and silver present in the source water.
- (c) The director may require additional water quality tests where deemed necessary, based on factors including, but not limited to, contaminant sources, local hydrogeology, and site use.

**Sec. B11-119. Quantity of water supply.**

- (a) No clearance will be issued for the construction of an individual private water system or a small private water system unless and until the following water source requirements are established:
  - (1) For each connection to an individual private water system or small private water system where the proposed source of water is a well, a source capacity of two and one-half gallons per minute must be sustained during a twenty-four-hour period of continuous pumping, or until thirty-six hundred gallons per proposed service connection have been achieved during a time period of twenty-four hours or less of continuous pumping.
  - (2) For each connection to an individual private water system or small private water system where the proposed source of water is a spring or horizontal well, a source capacity of two and one-half gallons per minute continuous yield must be demonstrated during the dry season (August through October).
  - (3) Tests carried out to determine source capacity must be performed by either a person holding a C-57 or C-61 state contractors license or a person who is registered by the State of California as an engineer, a registered environmental health specialist, engineering geologist, or certified hydrogeologist.
  - (4) The applicant must notify the director at least twenty-four hours before the beginning of any pump test that is intended to establish source capacity.
- (b) No clearance will be issued for the construction of a small private water system unless the system design includes storage facilities for domestic water of at least one thousand gallons per proposed service connection. This storage requirement does not apply to any water system that has a proven source capacity that exceeds ten gallons per minute for each proposed service connection. This storage requirement does not and is not intended to satisfy the Santa Clara

County Fire Marshal's storage requirements for interim fire protection.

**Sec. B11-120. Reserved.**

**Sec. B11-121. Denial or revocation of clearance; hearing.**

- (a) The director may deny or revoke any permit or clearance issued under this chapter whenever the director determines that the permit or clearance holder fails to meet the requirements of the permit or clearance, local ordinances, or applicable state law and regulations.
- (b) The director will serve notice on the applicant or permit or clearance holder, by United States mail addressed to the business address shown on the application or permit or clearance, of the intention to deny or revoke the permit or clearance on the grounds stated therein. The notice must also state that the applicant or permit or clearance holder has fifteen days within which to request a hearing, or the permit or clearance will be denied or revoked.
- (c) The hearing will be conducted by the director within fifteen calendar days of receipt of the request for a hearing, and the decision of the director will be final.

**ARTICLE 3. STATE SMALL WATER SYSTEMS**

**Sec. B11-130. State small water systems.**

- (a) No person will operate a state small water system unless a permit to operate the system has been issued by the director.
- (b) The application must include:
  - (1) A technical report which must describe the proposed or existing system as follows: service area, distribution system including storage and pumping facilities, the water source including source capacity, water quality, and any water treatment facilities. The report must identify the owner of the system and the party responsible for day to day operation of the system. The report must include a plan for notification of those served by the system when drinking water quality standards are exceeded. The report must describe the operating plan for the system and must specify how the responsible party will respond to failure of major system components.
  - (2) A copy of the by-laws or Articles of Incorporation in compliance with California Corporation Code Section 14312 (a)(13).
- (c) A change in ownership of a state small water system will require the submission of a new application.
- (d) No domestic water system will be issued a permit if water service for each connection or all connections of a proposed water system is available from a public, private, or mutual water system thereby eliminating the necessity of formation of an additional water system. Availability will be determined, on a case by case basis, in consideration of the following: ability of the water system to provide service, economic feasibility, long term viability, and a determination that the water system will have an adequate source and supply of water.
- (e) The state small water system must comply with the standards and requirements as set forth in this chapter and in the most recent addition of Chapter 16, "California Waterworks Standards", of Title 22 of the California Code of Regulations, as may be amended from time to time, and incorporated herein by this reference, regarding design and construction of water systems.

**Sec. B11-131. Permit amendment.**

No person operating a state small water system can add or modify the system source of supply, add or change the method of treatment of the water supply, or change the system's distribution unless an amended permit has been issued by the director.

**Sec. B11-132. State small water system construction review fee.**

All state small water systems applying for a domestic water supply permit pursuant to Section B11-130 must pay a plan check review fee in an amount established by resolution of the board of supervisors.

**Sec. B11-133. Operational requirements.**

Any person who operates a state small water system must provide a permanent, reliable, continuous and adequate supply of pure, wholesome, and potable water.

**Sec. B11-134. Bacteriological quality monitoring.**

- (a) Each water supplier operating a state small water system must collect a minimum of one routine sample from the distribution system at least once every three months. The sample must be analyzed for the presence of total coliform bacteria by a laboratory certified by the California Department of Health Services for bacteriological analyses pursuant to Section 116390 of the Health and Safety Code. The results of the analyses must be reported to the director no later than the tenth day of the month following receipt of the results by the state small water system.
- (b) If any routine sample is total coliform-positive, the water supplier must collect a repeat sample from the same location within forty-eight hours of being notified of the positive result. If the repeat sample is also total coliform-positive, the sample must also be analyzed for the presence of fecal coliform or *Escherichia coli* (*E. coli*). If the repeat sample is total coliform-positive, the water supplier must notify the director within forty-eight hours of being notified of the result and will take corrective actions to eliminate the cause of the positive samples.
- (c) The water supplier must collect additional samples when any of the following conditions apply:
  - (1) Community or system-wide illness suspected of being waterborne;
  - (2) Vandalism and/or unauthorized access to facilities;
  - (3) Physical evidence indicating bacteriological contamination of facilities;
  - (4) Any interruptions in the treatment process;
  - (5) After construction or repair, or maintenance of storage facilities;
  - (6) After construction or repair of wells;
  - (7) After main installation or repair; andSamples collected must represent the water quality in the affected portion of the water system.
- (d) Reports of the laboratory analyses must be reported to the director no later than the tenth day of the month following receipt of the results by the water system.
- (e) The director may require a state small water system to sample the distribution system each month, in lieu of the requirements of subsection (a), if the system has bacteriological

contamination problems indicated by more than one total-coliform positive sample during the most recent twenty-four months of operation. The monthly sample must be analyzed for the presence of total coliform bacteria by a laboratory certified by the California Department of Health Services for bacteriological analyses pursuant to Section 116390 of the Health and Safety Code. The results of the analyses must be reported to the director no later than the tenth day of the month following receipt of the results by the state small water system.

**Sec. B11-135. Chemical quality monitoring and reporting.**

- (a) Each water supplier operating a state small water system must sample each water source before any treatment at least once. The sample must be analyzed for all primary, excluding organic chemicals and secondary (aesthetic) chemicals listed in chapter 15 of Title 22 of the California Code of Regulations as may be amended from time to time, and incorporated herein by this reference. A laboratory certified by the California Department of Health Services to perform the analyses in drinking water, using approved EPA Methods must analyze the sample.
- (b) Each water source, which has been designated as vulnerable by the director, must be sampled by the water supplier at least once prior to any treatment and analyzed for volatile organic chemicals according to EPA Method 502.2. A laboratory certified by the California Department of Health Services to perform EPA Method 502.2 analyses for organic chemicals in drinking water must perform the analysis. The water supplier to each user of the water system must distribute a copy of the results of the analysis within ninety days of receiving the results, and a copy of the distribution notice must be provided to the director.

If the level of any primary chemical exceeds the maximum contaminant level, the water supplier must notify the director within forty-eight hours from the receipt of the analysis and collect one additional sample within fourteen days to confirm the result. If the average of the two samples collected exceeds the maximum contaminant level, the water supplier must report this information to all users and the director within forty-eight hours and will monitor quarterly beginning in the next quarter after the violation has occurred.

- (c) The water supplier must collect an additional sample to be analyzed for primary chemicals as required by the director if the director has reason to suspect that water quality in the water system has changed or has not been monitored within the last five years, to ensure compliance with drinking water standards.
- (d) If the director determines that a state small water system is subject to potential contamination, the director may require the water system to conduct a periodic water analysis in accordance with conditions specified by the director. The water analysis must be performed on a quarterly basis, unless the director finds that reasonable action requires either more or less frequent analysis.

Results of all laboratory analysis must be reported to the director no later than the tenth day of the month following receipt of the results by the water system.

**Sec. B11-136. Drinking water standards maximum contaminant levels.**

- (a) A state small water system must comply with any corrective actions ordered by the director for any primary chemicals contaminant which exceeds the maximum contaminant levels established in chapter 15 of Title 22 of the California Code of Regulations, as may be amended from time to time, incorporated herein by this reference.
- (b) Water exceeding the maximum contaminant levels established in chapter 15 of Title 22 of the California Code of Regulations, as may be amended from time to time, and incorporated herein by this reference, will not be supplied to users of the water system for human consumption or domestic purposes.

- (c) For state small systems, surface water sources and water exposed to potential bacteriological contamination sources, must be treated by filtration and disinfection, and turbidity level of the treated water must not exceed 0.5 turbidity units for an acceptable level of public health protection.

**Sec. B11-137. Service connection limitation**

No state small water system will add additional connections to the system so that the total number of service connections served by the system exceeds fourteen without a permit to operate as a public water system from the California Department of Health Services.

**Sec. B11-138. Water supply requirements**

Before receiving permit approval, a state small water system must demonstrate to the director that sufficient water is available from the water system's sources and distribution storage facilities to supply a minimum of three gallons per minute for at least twenty-four hours for each service connection served by the system.

**CHAPTER VII. NONPUBLIC WATER SYSTEMS INSPECTIONS**

**Sec. B11-140. Definitions.**

In addition to the definitions in chapter I, the following terms are defined for the purposes of this chapter:

- (a) Deficiencies means inadequacies that may be of health significance.
- (b) Nonpublic water system means any water system that serves one or more dwelling units, not having an environmental health permit to operate issued by the director or the state department of health services. The system includes any collection, treatment, storage, or distribution facilities under control of the owner(s) of the system.
- (c) Sell means conveyance of title to real property in exchange for the approximate fair market value of the property. Sell does not include a gift. Sell does not include a transfer between spouses. Sell does not include a transfer resulting in the addition or deletion of one or more co-owners to the title.
- (d) Sanitary survey means the qualitative inspection of a water system and its physical environment to determine the quality of the water source and, to the extent possible, to uncover any condition that could potentially affect the safety or potability of that water. A sanitary survey would include an inspection of the well and storage and pressure tanks. It would also incorporate an investigation of the site location and adjacent properties in order to locate possible sources of chemical, pesticide, or sewage contamination that could pollute the water supply. A survey would also normally include a review of the results of water tests specified by the director.
- (e) Water system inspection report means the documented findings of sanitary surveys and of water quality tests to be included in the survey. The report includes a description of any identified water system deficiencies.

**Sec. B11-141. Disclosure regarding recommendation to identify deficiencies of a nonpublic water system at the time of sale of a dwelling unit.**

Any person intending to sell a dwelling unit, which is connected to a nonpublic water system, must provide the buyer with a real estate transfer disclosure statement which includes the following statement:

THE COUNTY OF SANTA CLARA RECOMMENDS THAT THE PURCHASER OF ANY DWELLING UNIT WHICH IS SERVED BY A NONPUBLIC WATER SYSTEM AND IS LOCATED IN THE UNINCORPORATED AREA OF SANTA CLARA COUNTY, IS MADE AWARE OF THE QUALITY OF THE WATER AND IDENTIFIABLE DEFICIENCIES, IF ANY, WHICH MAY BE OF PUBLIC HEALTH SIGNIFICANCE IN THAT SYSTEM, PRIOR TO CONVEYANCE OF TITLE. SANTA CLARA COUNTY HAS DETERMINED THAT DEFICIENCIES OR THE POTENTIAL FOR DEFICIENCIES MAY BE DISCOVERED BY A SANITARY SURVEY OF THE SITE AND ANALYSIS OF WATER SAMPLING BY COUNTY CERTIFIED PROFESSIONALS. A LIST OF COUNTY CERTIFIED PROFESSIONALS IS MAINTAINED BY THE SANTA CLARA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH AND IS AVAILABLE UPON REQUEST.

**Sec. B11-142. Sanitary surveys of nonpublic water systems.**

No person who renders sanitary survey services, for the purpose of assessing the quality of drinking water supplied by a nonpublic system, may perform these activities without first having applied for and received certification from the director. The director will issue the certification to any person qualified in accordance with the requirements set forth in section B11-143.

**Sec. B11-143. Certification of nonpublic water system inspection professionals.**

Qualified registered engineers, registered environmental health specialists, and other professionals with equivalent academic qualifications may be certified as nonpublic water system inspection professionals. If an applicant for certification, who does not possess an equivalent academic degree, can demonstrate to the satisfaction of the director that he or she can provide an acceptable combination of experience and specialized professional training in the field, the director may issue a certification to the person.

**Sec. B11-144. Certification process.**

Applications for certification must be submitted to the director on a form prescribed by the department. A non-refundable administrative fee, as established by resolution of the board of supervisors, must be included with the application. The certification must be renewed annually on the anniversary date of first application upon payment of the fee. The department will establish and maintain a list of certified professionals that will be made available upon request.

**Sec. B11-145. Suspension or revocation of certification.**

- (a) A certification may be suspended or revoked if, in the opinion of the director, a person holding that certification knowingly provides faulty or incorrect information, or fails to meet the requirements of this ordinance or any applicable state law or regulation.
- (b) The director will serve notice on the certification holder, by United States mail addressed to the business address shown on the application for certification, of his or her intention to revoke or suspend the certification on the grounds stated therein. The notice must also state that the certification holder has fifteen days within which to request a hearing, or the certification will be suspended or revoked.
- (c) The hearing will be conducted by the director within fifteen calendar days of receipt of the request for a hearing, and the decision of the director will be final.

**Sec. B11-146. Requirement for providing reports to the director.**

Every person holding an approved certification must, upon completion of any testing, analysis, sanitary survey, or other site assessment of a nonpublic water system, provide a copy of the water system inspection report to the director on a form prescribed by the department. The report must be provided to the director not later than one month after submission of the original report to the client requesting the

report. The director will enter the water quality and site survey data obtained from the reports onto an electronic file which can provide countywide information on the public health status of private water systems.

**Sec. B11-147. County assumes no liability for damages and provides no warranty as to the report by a certified professional.**

The county, its officers, agents, and employees, assume no liability to the applicant or anyone else relying on the water system inspection report, provided by a certified professional, for damage to persons or property caused by or arising from any inaccuracy in the report.

**Sec. B11-148. Resolution of deficiencies.**

The county assumes no responsibility for resolving any identified water system deficiencies. The correction of those deficiencies will be at the discretion of the persons responsible for the water system.

## **CHAPTER VIII. CONTROL OF NOISE AND VIBRATION**

**Sec. B11-150. Declaration of findings, intent and policy.**

It is determined that certain noise levels and vibrations are detrimental to the public health, welfare and safety, and are contrary to public interest.

It is the intent of this chapter to control unnecessary, excessive and annoying noise and vibration and to prohibit the noise and vibration generated from or by all sources as specified in this chapter. It is also the intent of the county to maintain quiet in those areas that exhibit low noise levels and to implement programs aimed at reducing noise in those areas where noise levels are above acceptable values. Therefore, the board of supervisors does ordain and declare that creating, maintaining, causing or allowing to be created, caused or maintained any noise or vibration in a manner prohibited by or not in conformity with the provisions of this chapter is hereby declared a nuisance.

**Sec. B11-151. Definitions.**

In addition to the definitions in chapter I, the following terms are defined for purposes of this chapter:

- (a) Terminology means all terminology used in this chapter, not defined below, must be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.
- (b) A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.
- (c) Agricultural property means a parcel of real property located in areas zoned exclusively for agricultural purposes.
- (d) Ambient noise level means the composite of noise from all sources near and far. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.
- (e) Commercial area means an area zoned for commercial uses.
- (f) Construction means any site preparation, assembly, erection, substantial repair, alteration, or similar action for or of public or private rights-of-way, structures, utilities, or similar property.

- (g) Cumulative period means an additional period of time composed of individual time segments that may be continuous or interrupted.
- (h) Decibel means a unit for measuring the amplitude of sound, equal to twenty times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure of twenty micropascals.
- (i) Demolition means any dismantling, intentional destruction or removal of structures, utilities, public or private rights-of-way; surfaces, or similar property.
- (j) Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage that demands immediate action.
- (k) Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- (l) Stationary noise source means a stationary device that creates sounds while fixed or motionless, including but not limited to, residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.
- (m) Impulsive sound means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.
- (n) Industrial area means an area zoned for light or heavy industrial uses.
- (o) Intrusive noise means that noise which intrudes over and above the existing ambient noise at a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency and time of occurrence, and tonal or informational content as well as the prevailing ambient noise level.
- (p) Mobile noise source means any noise source other than a stationary noise source.
- (q) Motor vehicle means any and all self-propelled vehicles as defined in the California Motor Vehicle Code, including all on-highway type motor vehicles subject to registration under the code, and all off-highway type motor vehicles subject to identification under the code.
- (r) Motorboat means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion, but will not include a vessel that has a valid marine document issued by the United States Bureau of Customs or any federal agency successor thereto [section 651(d), Harbors and Navigation Code].
- (s) Muffler or sound dissipative device means a device consisting of a series of chambers or baffle plates, or other mechanical design, for the purpose of receiving exhaust gas, compressed air, or other gas flow, and effective in reducing noise.
- (t) Multiple-family dwelling residential means any real property with dwellings of three or more units in any zoning district where the dwellings are a permitted use.
- (u) Noise means any sound that annoys or disturbs human beings or that causes or tends to cause an adverse psychological or physiological effect on human beings.
- (v) Noise disturbance means any sound which:

- (1) Endangers or injures the safety or health of human beings or animals; or
  - (2) Annoys or disturbs a reasonable person of normal sensitivities; or
  - (3) Endangers or injures personal or real property.
- (w) One- and two-family residential means any real property in any zoning district where one- or two-family dwellings are a permitted use.
  - (x) Powered model vehicle means any self-propelled, airborne, waterborne or landborne plane, vessel or vehicle, which is not designed to carry persons, including but not limited to any model airplane, boat, car or rocket.
  - (y) Public space means any real property or structures that are owned or controlled by a governmental entity.
  - (z) Pure tone means any sound that can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this chapter, a pure tone will exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by five dB for center frequencies of five hundred Hz and above and by eight dB for center frequencies between one hundred sixty and four hundred Hz and by fifteen dB for center frequencies less than or equal to one hundred twenty-five Hz.
  - (aa) Sound-amplifying equipment means any device for the amplification of the human voice, music, or any other sound. This excludes standard automobile radios when used and heard only by the occupants of the vehicle in which the radio is installed, and warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.
  - (bb) Sound level meter means an instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of sound levels, which at least satisfies the requirements pertinent for type S2A meters in American National Standards Institute specifications for sound level meters, S1.4-1971, or the most recent revision thereof.
  - (cc) Sound truck means any motor vehicle, or any other vehicle regardless of motive power, whether in motion or stationary, having mounted thereon or attached thereto any sound-amplifying equipment.
  - (dd) Vibration perception threshold means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by direct means as, but not limited to, sensation by touch or visual observation of moving objects. The perception threshold will be presumed to be a motion velocity of one one-hundredth inches per second over the range of one to one hundred Hz.
  - (ee) Weekday means any day, Monday through Friday, which is not a national legal holiday.

**Sec. B11-152. Exterior noise limits.**

- (a) Maximum Permissible Sound Levels by Receiving Land Use.
  - (1) The noise standards for the various receiving land use categories as presented in table B11-152 will apply to all property within any zoning district.
  - (2) No person may operate or cause to be operated any source of sound at any location

within the unincorporated territory of the county or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by the person, which causes the noise level when measured on any other property either incorporated or unincorporated, to exceed:

- a. The noise standard for that land use as specified in table B11-152 for a cumulative period of more than thirty minutes in any hour; or
  - b. The noise standard plus five dB for a cumulative period of more than fifteen minutes in any hour; or
  - c. The noise standard plus ten dB for a cumulative period of more than five minutes in any hour; or
  - d. The noise standard plus fifteen dB for a cumulative period of more than one minute in any hour; or
  - e. The noise standard plus twenty dB or the maximum measured ambient, for any period of time.
- (3) If the measured ambient level exceeds that permissible within any of the first four noise limit categories above, the allowable noise exposure standard will be increased in five dB increments in each category as appropriate to encompass or reflect the ambient noise level. In the event the ambient noise level exceeds the fifth noise limit category, the maximum allowable noise level under the category will be increased to reflect the maximum ambient noise level.
- (4) If the noise measurement occurs on a property adjoining a different land use category, the noise level limit applicable to the lower land use category, plus five dB, will apply.
- (5) If for any reason the alleged offending noise source cannot be shutdown, the ambient noise must be estimated by performing a measurement in the same general area of the source but at a sufficient distance that the noise from the source is at least ten dB below the ambient in order that only the ambient level be measured. If the difference between the ambient and the noise source is five to ten dB, then the level of the ambient itself can be reasonably determined by subtracting a one-decibel correction to account for the contribution of the source.
- (b) Correction for Character of Sound: In the event the alleged offensive noise contains a steady, audible tone such as a whine, screech or hum, or contains music or speech conveying informational content, the standard limits set forth in table B11-152 will be reduced by five dB.

TABLE B11-152  
*Exterior Noise Limits*  
 (Levels not to be exceeded more than 30 minutes in any hour)

<i>Receiving Land Use Category</i>	<i>Time Period</i>	<i>Noise Level (dBA)</i>
One- and Two-Family	10:00 p.m.--7:00 a.m.	45
Residential	7:00 a.m.--10 p.m.	55
Multiple-Family Dwelling	10:00 p.m.--7:00 a.m.	50
Residential Public Space	7:00 a.m.--10:00 p.m.	55
Commercial	10:00 p.m.--7:00 a.m.	60
	7:00 a.m.--10:00 p.m.	65
Light Industrial	Any Time	70
Heavy Industrial	Any Time	75

**Sec. B11-153. Interior noise standards.**

(a) Maximum Permissible Dwelling Interior Sound Levels:

(1) The interior noise standards for multifamily residential dwellings as presented in table B11-153 will apply, unless otherwise specifically indicated, within all dwellings.

TABLE B11-153

<i>Type of Land Use</i>	<i>Time Interval</i>	<i>Allowable Interior Noise Level (dBA)</i>
Multifamily dwelling	10:00 p.m.-- 7:00 a.m.	35
	7:00 a.m.--10:00 p.m.	45

(2) No person will operate or cause to be operated within a dwelling unit any source of sound or allow creation of any noise which causes the noise level when measured inside a neighboring receiving dwelling unit to exceed:

- a. The noise standard as specified in table B11-153 for a cumulative period of more than five minutes in any hour; or
- b. The noise standard plus five dB for a cumulative period of more than one minute in any hour; or
- c. The noise standard plus ten dB or the maximum measured ambient, for any period of time.

(3) If the measured ambient level exceeds that permissible within any of the noise limit categories above, the allowable noise exposure standard will be increased in five-dB increments in each category as appropriate to reflect the ambient noise level.

(b) Correction for Character of Sound: In the event the alleged offensive noise contains a steady, audible tone such as a whine, screech or hum, or contains music or speech conveying information content, the standard limits set forth in table B11-153 will be reduced by five dB.

**Sec. B11-154. Prohibited acts.**

(a) Noise Disturbances Prohibited. No person may willfully or negligently make, continue or cause to be made or continued any sound which:

- (1) Endangers or injures the safety or health of human beings or animals; or
- (2) Annoys or disturbs a person of normal sensitivities; or
- (3) Endangers or injures personal or real properties.

(b) Specific Prohibitions. The following acts, and the causing or permitting thereof, are declared to be in violation of this chapter:

- (1) Radios, television sets, musical instruments and similar devices. Operating, playing or permitting the operation or playing of any radio, television set, phonograph, drum, musical instrument, or similar device which produces or reproduces sound:
  - a. Between the hours of 10:00 p.m. and 7:00 a.m. the following day in a manner as to create a noise disturbance across a residential or commercial real property line or at any time to violate the provisions of section B11-152 or B11-153 except for activities for which a variance has been issued.

- b. In the manner as to exceed the levels set forth for public space in table B11-152, measured at a distance of at least fifty feet (15 meters) from the device operating on a public right-of-way or public space.
- (2) Loudspeakers (amplified sound).
  - a. Using or operating for any commercial purposes any loudspeaker system or similar device between the hours of 10:00 p.m. and 7:00 a.m. the following day, that the sound there from creates a noise disturbance across a residential real property line, or at any time violates the provisions of section B11-153.
  - b. Using or operating for any noncommercial purposes any loudspeaker, public address system or similar device between the hours of 10:00 p.m. and 7:00 a.m. the following day, that the sound there from creates a noise disturbance across a residential real property boundary or at any time violates the provisions of section B11-152.
- (3) Street sales. Offering for sale, selling anything, or advertising by shouting, outcry or use of a noise-making device within any residential or commercial area of the county as to cause a noise disturbance. The provisions of this section will not be construed to prohibit the selling by outcry of merchandise, food and beverage at licensed sporting events, parades, fairs, circuses or other similar licensed public entertainment events.
- (4) Animals and birds. Owning, possessing or harboring any animal or bird which howls, barks, meows, squawks or makes other noises continuously and/or incessantly for a period of ten minutes or intermittently for one-half hour or more which creates a noise disturbance across a residential or commercial real property line. For the purpose of this section, the animal or bird noise will not be deemed a disturbance if a person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or for any other legitimate cause which teased or provoked the animal or bird.
- (5) Loading and unloading. Loading, unloading, opening, closing or handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day in a manner as to cause a noise disturbance across a residential real property line or at any time to violate the provisions of section B11-152.
- (6) Construction/demolition.
  - a. Operating or causing the operation of any tools or equipment used in construction, drilling, repair, alteration or demolition work between weekdays and Saturday hours of 7:00 p.m. and 7:00 a.m., or at any time on Sundays or holidays, that the sound therefrom creates a noise disturbance across a residential or commercial real property line, except for emergency work of public service utilities or by variance. This section will not apply to the use of domestic power tools as specified in subsection 11.
  - b. Where technically and economically feasible, construction activities will be conducted in a manner that the maximum noise levels at affected properties will not exceed those listed in the following schedule:
    - i. Mobile equipment. Maximum noise levels for nonscheduled, intermittent, short-term operation (less than ten days) of mobile equipment:

	<i>Single- and Two-Family Dwelling Residential Area</i>	<i>Multifamily Dwelling Residential Area</i>	<i>Commercial Area</i>
Daily, except Sundays and legal holidays 7:00 a.m.--7:00 p.m.	75 Dba	80 dBA	85 dBA
Daily, 7:00 p.m. to 7:00 a.m. and all day Sunday and legal holidays	50 dBA	55 dBA	60 dBA

- ii. Stationary equipment. Maximum noise levels for repetitively scheduled and relatively long-term operation (periods of 10 days or more) of stationary equipment are as follows:

	<i>Single- and Two-Family Dwelling Residential Area</i>	<i>Multifamily Dwelling Residential Area</i>	<i>Commercial Area</i>
Daily, except Sundays and legal holidays 7:00 a.m.--7:00 p.m.	60 dBA	65 dBA	70 dBA
Daily, 7:00 p.m. to 7:00 a.m. and all day Sunday and legal holidays	50 dBA	55 dBA	60 dBA

- (7) Vibration. Operating or permitting the operation of any device that creates a vibrating or quivering effect that:
- a. Endangers or injures the safety or health of human beings or animals; or
  - b. Annoys or disturbs a person of normal sensitivities; or
  - c. Endangers or injures personal or real properties.
- (8) Powered model vehicles. Operating or permitting the operation of powered model vehicles:
- a. Between the hours of 7:00 p.m. and 7:00 a.m. the following day so as to create a noise disturbance across a residential or commercial real property line or at any time to violate the provisions of section B11-152.
  - b. In a manner as to exceed the levels set forth for public space land use in table B11-152, measured at a distance of not less than one hundred feet (thirty meters) from any point on the path of a vehicle operating on public space or public right-of-way.
- (9) Stationary non-emergency signaling devices. Sounding or permitting the sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place, for more than ten seconds in any hourly period.
- (10) Emergency signaling devices.
- a. The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subsection b.
  - b. Testing.
    - i. Testing of a stationary emergency signaling device must not occur

before 7:00 a.m. or after 7:00 p.m. Any testing will use only the minimum cycle test time. In no case will the test time exceed sixty seconds.

- ii. Testing of the complete emergency signaling system, including the functioning of the signaling device, and the personnel response to the signaling device, will not occur more than once in each calendar month. The testing will not occur before 7:00 a.m. nor after 10:00 p.m. The time limit specified in subsection (i) will not apply to the complete system testing.
  - c. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless the alarm is terminated within fifteen minutes of activation.
- (11) Domestic power tools.
- a. Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar tool between 10:00 p.m. and 7:00 a.m. the following day so as to create a noise disturbance across a residential or commercial real property line.
  - b. Any motor, machinery or pump will be sufficiently enclosed or muffled and maintained so as not to create a noise disturbance in accordance with section B11-152.
- (12) Air-conditioning or air-handling equipment. Operating or permitting the operation of any air-conditioning or air-handling equipment in a manner as to exceed any of the following sound levels without a variance:
- Measurement Location...dB(A)
- Any point on neighboring property line, 5 feet above grade level, no closer than 3 feet from any wall . . . 50
- Center of neighboring patio, 5 feet above grade level, no closer than 3 feet from any wall . . . 45
- Outside the neighboring living area window nearest the equipment location, not more than 3 feet from the window opening, but at least 3 feet from any other surface . . . 45
- (13) Swimming pool motors and equipment. Operating or permitting the operation of any swimming pool motor or swimming pool equipment that the sound therefrom creates a noise disturbance across a residential real property line or at any time violates the provisions of section B11-152.
- (14) Helicopters. Operating or permitting to be operated any helicopter which violates nighttime provisions of section B11-152 or which causes a noise that exceeds eighty dBA during the day in residential or commercial areas without a variance. Military and government-operated helicopters are exempted from provisions of this section.
- (15) Fixed noise source location. Installation or permitting the installation of any fixed noise source in the side yards of any residence without a variance.

**Sec. B11-155. Motor vehicle noise limits.**

- (a) Refuse collection vehicles.
  - (1) No person will collect refuse with a refuse collection vehicle between the hours of 6:00 p.m. and 6:00 a.m. the following day in a residential area or adjacent to residential area.
  - (2) No person authorized to engage in waste disposal service or garbage collection will operate any truck-mounted waste or garbage loading and/or compacting equipment or similar device in any manner so as to create any noise exceeding the following levels, measured at a distance of fifty feet from the equipment in an open area:
    - a. Existing equipment purchased or leased on or after a date six months from the effective date of this chapter: Eighty-one dBA.
    - b. New equipment purchased or leased after October 1, 1982: Seventy-three dBA.
    - c. New equipment purchased or leased after July 1, 1984: Seventy dBA.
- (b) Vehicle, motorboat or aircraft repair and testing. Repairing, rebuilding, modifying or testing any motor vehicle, motor boat or aircraft in a manner as to create a noise disturbance across a residential real property line, or at any time violate the provisions of section B11-152.
- (c) Standing motor vehicles. No person will operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand pounds, or any auxiliary equipment attached to a vehicle, for a period longer than fifteen minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within one hundred fifty feet (forty-six meters) of a residential area between the hours of 10:00 p.m. and 7:00 a.m. the following day.
- (d) Motorized recreational vehicles operating off public right-of-way. No person will operate or cause to be operated any motorized recreational vehicle off a public right-of-way in a manner that the sound levels emitted will violate the provisions of section B11-152. This section will apply to all motorized recreational vehicles, whether or not duly licensed and registered, including but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, amphibious craft, campers, dune buggies and motorboats.

**Sec. B11-156. Special provisions.**

- (a) Emergency exceptions. The provisions of this chapter will not apply to:
  - (1) The emission of sound for the purpose of alerting persons to the existence of an emergency; or
  - (2) The emission of sound in the performance of emergency work.
- (b) Warning devices. Warning devices necessary for the protection of public safety, including but not limited to police, fire and ambulance sirens, and train horns, are exempt from the provisions of this chapter.
- (c) Outdoor activities. The provisions of this chapter will not apply to occasional outdoor gatherings, public dances, shows, and sporting and entertainment events, provided the events are conducted pursuant to a permit or license issued by the county relative to the staging of the events.
- (d) Exemption from exterior noise standards. The provisions of section B11-152 will not apply to activities covered by the following sections:

- (1) B11-154(3) street sales;
  - (2) B11-154(4) animals and birds;
  - (3) B11-154(6) construction/demolition;
  - (4) B11-154(9) stationary non-emergency signaling devices;
  - (5) B11-154(10) emergency signaling devices;
  - (6) B11-154(11) domestic power tools;
  - (7) B11-154(12) air-conditioning or air-handling equipment;
  - (8) B11-155(a.) refuse collection vehicles.
- (e) Agricultural operations. The provisions of this chapter will not apply to mechanical devices, apparatus or equipment associated with agricultural operations conducted on agricultural property.
  - (f) Federal or state preempted activities. Any activity to the extent regulation has been preempted by state or federal law is exempt from the provisions of this chapter.
  - (g) County expressway system. The entirety of the county expressway system, including existing and proposed facilities, is exempt from the provisions of section B11-152.

**Sec. B11-157. Variance permit procedure.**

- (a) Purpose. The director is authorized to grant a variance from any provision of this chapter by a variance permit.
- (b) Application and fees. Any person seeking a variance pursuant to this section must file an application with the department. The application must be accompanied by a fee in an amount established by resolution of the board of supervisors. A separate application must be filed for each noise source; however, several mobile sources under common ownership or several fixed sources on a single property may be combined into one application.
- (c) Standards for issuance of variance. The purpose advanced by variance and disturbance created by the variance must not create a nuisance and will not be detrimental to the public health and safety. Variances will not be granted for a term exceeding one hundred twenty days, except that upon application and hearing as provided for in this chapter a variance may be renewed.
- (d) Time and place of hearing. Upon the filing of a sufficient and proper application and the payment of filing fee, the director will fix a time and place for a public hearing.
- (e) Notice of hearing. The director will ensure that a notice of the hearing is mailed to the owners of all property within three hundred feet of the property affected by the application at their last-known addresses as are shown in the most recent records of the county assessor. The notice must be mailed at least five days before the date of the public hearing. A similar notice must be mailed to the applicant.
- (f) Conditions. In approving a variance permit, the director may include the conditions that are reasonable and necessary under the circumstances to protect the public health, safety and welfare from adverse effects caused by the noise emanating therefrom and may limit the term of the permit.

- (g) Findings and decision. The director, on the basis of the evidence submitted at the hearing, may grant a variance permit with any conditions deemed necessary and reasonable.
- (h) Notice of grant. Upon the grant of an application for a variance permit, the director will prepare and deliver to the applicant a formal statement that states the facts and conditions of the grant. No decision is final regarding an application for a variance permit until the appeal deadline has elapsed.
- (i) Appeals to board of supervisors.
  - (1) Any person dissatisfied with the decision of the director may file an appeal with the board of supervisors within fifteen calendar days after the decision. The director will transmit to the board of supervisors all maps, records, papers and files that constitute the record in the action from which the appeal was taken. At the time of the filing of the appeal, the appellant must pay a filing fee in an amount established by resolution of the board of supervisors.
  - (2) The board of supervisors will, within thirty days of the filing of the appeal, set the time and place for the appeal to be heard by the board of supervisors and will ensure that notice of the hearing is given, five days before the date of the hearing. The board of supervisors will hear the matter de novo and may approve, disapprove or conditionally approve the application. The decision of the board of supervisors is final.
- (j) Revocation of variance.
  - (1) The director may hold a hearing for modifying or revoking any permit or variance that has been granted pursuant to the provisions of this chapter. Public hearings will be held and notice given in accordance with the provisions of this section. Written notice of the hearing will also be served upon any persons making use of or relying upon any permit or variance to be modified or revoked not less than five days prior to the date of the hearing.
  - (2) After a public hearing, the director may revoke or modify a permit on one or more of the following grounds:
    - a. That the approval was obtained by fraud; or
    - b. That any person making use of or relying upon the permit or variance is violating or has violated any conditions of the permit or variance, or that the use of the permit or variance was granted is being or has been exercised contrary to the terms or conditions of the approval; or
    - c. That the use of the approval is detrimental to the public health or safety, or is a nuisance.

**Sec. B11-158. Enforcement.**

- (a) Prima facie violations. Any noise exceeding the noise level limits specified in sections B11-152 and B11-153 or the prohibited actions as specified in section B11-154 of this chapter will be deemed to be prima facie evidence of a violation of this chapter and prima facie evidence of irreparable harm.
- (b) Violations; remedies; injunctions.
  - (1) As a remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this chapter that causes or creates sound levels

or vibrations exceeding the allowable limits as specified in this chapter is hereby declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. Additionally, no provision of this chapter will be construed to impair any common law or statutory cause of action, or legal remedy of any person for injury or damage arising from any violation of this chapter or from other law.

- (2) Any person who knowingly and willfully violates an injunctive order obtained pursuant to the authority of this section will be deemed guilty of a misdemeanor and upon conviction will be sentenced to a term of imprisonment not to exceed five days or a fine not to exceed five hundred dollars, or both.
- (c) Citizen suits. Any person may commence a civil action against any other person who is alleged to be in violation of any provision of this chapter. Any person commencing civil action under this chapter will serve a copy of any complaint upon county counsel.

## **CHAPTER IX. GARBAGE AND REFUSE**

### **Sec. B11-160. Definitions.**

In addition to the definitions in chapter I, the following terms are defined for the purposes of this chapter:

- (a) Accumulation means refuse of any kind, as defined in this chapter, that is not properly contained or stored, or is not removed from the premises as required by this chapter, or is not removed at a frequency that precludes the potential for a nuisance or health hazard as determined by the director.
- (b) Adequate garbage collection service means the frequency of collection and size and number of containers that would allow sanitary containment of all waste between and including collection days and precludes the potential for a nuisance or health hazard as determined by the director.
- (c) Apartment complex means a multiple family dwelling of five units or more.
- (d) Ash means the residue from the combustion of any solid or liquid material.
- (e) Collection station means any location, approved by the director, where refuse producers place containers of refuse, including garbage, rubbish, yardwaste or recyclable waste materials, for subsequent collection by an authorized collector.
- (f) Composting area means any compostable materials handling facility or operation as regulated in the California Code of Regulations (CCR), Title 14 (T14), chapter 3.1. In addition to any site as described in the above chapter, including but not limited to: composting facilities and operations, agricultural composting sites, mushroom farms, chipping and grinding facilities and operations, research operations, a composting area also means sites that compost but are excluded from CCR T14 standards.
- (g) Container means any toter, can, commercial roll-off bin or other type of bin, box, bag, barrel, or tied bundle into which refuse of any kind is placed.
- (h) Curbside means adjacent to the curb of a public or private street or, on streets without curbs, adjacent to the shoulder of the street; or in shopping centers, business parks and similar premises adjacent to the garbage enclosures.

- (i) Delinquent means a failure of the recipient of garbage, yardwaste or recyclable waste materials collection service, or of the person responsible for payment, to pay, when due, all charges owed to the collector for collection service rendered or to be rendered.
- (j) Disposal means to deposit refuse into an approved solid waste landfill, transfer station, composting or recycling facility or operation.
- (k) Food processing waste means that solid and semi-solid putrescible waste resulting from vegetable, fruit, or food packaging, winery and other food processing or manufacturing operations.
- (l) Garbage means putrescible wastes including kitchen and table food wastes; animal, fish, food, fowl, fruit or vegetable wastes or matter resulting from the storage, preparation, cooking, decay, consumption, processing, or handling of food or food stuffs; non-putrescible wastes that are mixed in the same container with or are contaminated by putrescible wastes; home generated medical type wastes, such as used tissues, bandages and gauze, which are produced at residential premises and are used in medical treatment or the administration of medicines; small dead animals not exceeding ten pounds in weight; and any putrescible or easily decomposable waste material.

Garbage does not include hazardous waste, medical waste, ash or yardwaste that is free of fruit or that is not highly putrescible. For the purpose of this chapter, source-separated food or food containers that are held or stored for recycling or composting are considered garbage until they are received at the facility using them as raw materials, and hence recycled, or until otherwise determined by the director.

The determination as to whether material is garbage will be made by the director based on the purposes of the chapter.

- (m) Hazardous waste means any and all toxic, corrosive, reactive, flammable, explosive wastes that meet the definition of hazardous wastes as defined in the Hazardous Waste Control Law (Section 25117 of chapter 6.5, division 20, California Health and Safety Code).
- (n) Limited collector means the person, firm, agency or public body or employee or agent thereof who is or intends to be engaged in the collection and/or transportation of non-putrescible refuse including, but not restricted to paper, cardboard, crockery, rubber tires and other inert materials or food processing waste for use as animal feed, soil amendment or composting throughout the County of Santa Clara except for the incorporated area of the City of San Jose.
- (o) Local Enforcement Agency means the local agency designated pursuant to division 30, part 4, chapter 2 (commencing with Section 43200) of the Public Resources Code for the purpose of carrying out division 30 of the Public Resources Code.
- (p) Manure means accumulated moist animal excrement that does not undergo decomposition of drying as would occur on open grazing land or natural habitat. This definition includes feces and urine which may be mixed with bedding material, spilled feed or soil. Manure does not mean dog or cat excrement.
- (q) Medical waste means waste, including biohazardous waste, non-RCRA pharmaceutical and sharps waste, as defined by California Health and Safety Code, division 104, part 14, or subsequent revision and home-generated sharps and pharmaceuticals accumulated at a consolidation point. Medical waste may originate from, but is not limited to, hospitals, public or private medical clinics, research laboratories, pharmaceutical industries, blood banks, pathology laboratories, clinical laboratories, veterinary facilities, dialysis or other specialty clinics and other medical facilities.

Medical waste does not include any waste which is determined by evidence reasonably satisfactory to the director to have been rendered non-biohazardous. In any dispute regarding whether a specific type of waste is to be considered medical waste, the decision of the director is final.

- (r) Multiple dwelling unit means any dwelling, excluding a hotel, motel, or lodging house, used for temporary or permanent residential purposes containing more than one dwelling unit.
- (s) Nonresidential premises means all premises, except residential premises, whether improved or unimproved, including but not restricted to premises used for industrial, commercial, administrative and professional offices or businesses and public and quasi-public buildings.
- (t) Occupant means the person or persons that hold possession of premises for permanent or temporary use.
- (u) Occupancy, occupied means premises that are occupied when a person or persons take or hold possession of the premises for permanent or temporary use. For the purposes of determining whether a premise is occupied during periods when garbage collection service is made available to such premises, occupancy is presumed, unless evidence is presented that gas, electric, telephone and water utility services were not being provided to the premises during such periods.
- (v) Owner means the holder or holders of legal title to the real property constituting the premises to which refuse collection service is provided.
- (w) Premises means any land, building or structure, or portion thereof, where any refuse may be produced, kept, deposited, placed or accumulated.
- (x) Private street means a street that is not publicly maintained. Private street does not mean a driveway.
- (y) Recyclable waste materials means materials removed or separated from other residential, commercial or industrial garbage or refuse for purposes of reuse or reprocessing.
- (z) Refuse means all putrescible and non-putrescible solid or liquid waste materials, greater than 50% solids by weight substances or objects, including but not restricted to materials, substances or objects commonly referred to as trash, garbage, rubbish, yardwaste, manure, animal droppings, food processing waste, and recyclable waste materials. Refuse does not include:
  - (1) Recyclable waste materials or yardwaste once these are contained within a collection vehicle;
  - (2) Mulch, compost or compost piles which are produced or kept at a residence, providing they are properly maintained and stored and not creating a potential health hazard or nuisance as determined by the director;
  - (3) Hazardous waste;
  - (4) Radioactive waste;
  - (5) Medical waste;
  - (6) Non-residential ash; and
  - (7) Sewage and other highly diluted water carried materials or substances, less than 50% solids content by weight.

- (aa) Refuse collection service means the collection, transportation and disposal of refuse by a collector authorized by the director to collect refuse.
- (bb) Refuse collector means any person who is authorized by the director to operate collection or refuse transfer vehicles and to collect, store, receive, carry, transport, and dispose of any refuse.
- (cc) Refuse container means a container of sufficient capacity and construction for storing refuse accumulated during intervals between collections or disposal.
- (dd) Rubbish means non-putrescible solid wastes including, but not restricted to, paper, cardboard, crockery, rubber tires and other inert materials. Rubbish contaminated by garbage is considered as garbage. Rubbish does not include hazardous wastes, medical waste, or ash.
- (ee) Sanitary containment of refuse means the use of a container that precludes the potential for a nuisance or health hazard as determined by the director.
- (ff) Single-unit dwelling means one or more rooms and a single kitchen, designed for occupancy by one family or person for residential purposes. Each dwelling unit within a condominium project, duplex, townhouse project or apartment, and each additional unit up through four located within a single structure, constitutes a separate single-unit dwelling to which refuse collection service is provided, unless the owner or occupants thereof arrange for refuse collection service to be provided to all dwelling units upon the premises using commercial containers and at commercial rates.
- (gg) Solid waste facility means any solid waste disposal, transfer, processing or composting facility or operation required to obtain a permit pursuant to state statute or this chapter.
- (hh) Source separated recyclable refuse means recyclable refuse that is separated from the non-recyclable refuse stream at the producing premises and is contained and stored or offered for collection in a manner different from non-recyclable refuse.
- (ii) Transportation service means the transportation of refuse from one solid waste facility to another, usually by means of a refuse transfer vehicle.
- (jj) Vehicle yard means the premises under control of a permitted refuse collector or limited collector for the purposes of parking, maintaining, cleaning, or storing vehicles, refuse containers, debris boxes or other equipment.
- (kk) Yardwaste, residential means recyclable plant materials, resulting from the maintenance of any plants growing on a residential property that is to be collected at the premises where produced.
- (ll) Yardwaste, commercial means any plant material produced at non-residential premises, or yardwaste resulting from the maintenance of residential premises, that is removed, by a landscaper, gardener, tree trimmer or property maintenance company, from the premises where waste is produced to another location for collection or disposal.

**Sec. B11-161. Refuse collection and transportation service permit required.**

No person may collect or transport any refuse or provide curbside collection services, with the exception of source separated, properly contained recyclable waste materials or yardwaste, unless possessing a permit to do so from the director to operate as a refuse collector. A permit is required for each collection or transport vehicle. This section is intended to regulate collectors and transporters that are in the business of collecting and transporting refuse for a fee or other remuneration and to prohibit the self-hauling of garbage. This section is not meant to preclude the self-hauling of commercial or residential rubbish or source separated, properly contained recyclable waste materials.

**B11-162. Franchise granting authority.**

The board of supervisors may award an exclusive or non-exclusive franchise or contract to any person the board believes is qualified to perform garbage collection service, rubbish collection service or collection of yardwaste or recyclable waste materials. Such franchise agreements or contracts must require the collector to render service in accordance with the provisions of this chapter and in conformity with such regulations as may be adopted by the director. The issuance of an exclusive franchise or contract does not relieve the collector of the requirement of obtaining and maintaining a permit to operate as a collector. Terms of such franchise agreement must not conflict with any of the provisions of this chapter. Requirements of this chapter control.

**B11-163. Self-hauling of garbage.**

Self-hauling of garbage in the county is prohibited unless possessing a permit to do so. Self-hauling of garbage is only allowed where garbage is created, produced, processed or accumulated at:

- (a) Equipment yards of refuse collectors or limited collectors permitted pursuant to this chapter;
- (b) Solid waste operations and facilities as defined in California Code of Regulations (CCR) Title 14 or Title 27;
- (c) Recycling operations or facilities as defined in division 30, California Public Resources Code or CCR Title 14.

**B11-164. Permit required for limited collector.**

Except as otherwise provided in this chapter, no person may collect or transport any rubbish or food processing waste generated in the county unless possessing a limited collector permit. A permit is required for each collection vehicle. This section is intended to regulate collectors and transporters that are in the business of collection and transporting rubbish or food processing waste for a fee or other remuneration. This section is not meant to preclude the self hauling of commercial or residential produced rubbish or source separated, properly contained recyclable refuse.

**Sec. B11-165. Application for collection permit, or transportation, or limited collector vehicle permit.**

The application for a permit to operate vehicles to collect and/or transport refuse in the county must be made in writing to the director on forms provided by the department.

**Sec. B11-166. Issuance of collection permits; terms; transferability.**

If the director determines that the collection vehicles or vehicle fleet yards to be used by the applicant will be operated in a manner acceptable to the department, and if the director determines that the applicant can comply with the provisions of this chapter and the rules and regulations of the department, the director may issue a revocable permit to conduct refuse collection or transportation services. The permit is issued annually for the calendar year and is not transferable to another person. If, during the permit year, a vehicle must be replaced and is taken entirely out of service and a new vehicle is to be used as a replacement vehicle, then the director may transfer the permit to the new vehicle for a fee as established by resolution of the board of supervisors.

**B11-167. Collection times and noise limits for collector.**

Collectors must conform to the requirements of chapter VIII of this division.

**B11-168. Requirements for operating as a collector.**

All collectors must operate in a manner to protect the public and environmental health as determined by the director. Collectors are responsible for picking up any spillage that may occur during collection and transport.

**Sec. B11-169. Bond requirements.**

The director may require, in connection with the issuance of any refuse collection permit, or of any limited collection permit, that the refuse collector or the limited collector file a surety bond in an amount to be determined by the director to guarantee the faithful compliance with this chapter and with all rules and regulations of the director.

**Sec. B11-170. Renewal of collection or transportation permits.**

Renewal of permits for the succeeding calendar year must be applied for not later than the fifteenth day of December preceding, and acted upon in the same manner as described in Sec. B11-21. Unless a collector has lost the right to collect because a contract or franchise with the board of supervisors has terminated, permits will be renewed provided that the permit holder has during the preceding year operated, and it is evident to the director that the operator will continue to operate in conformance with the provisions of this chapter, state statute, the requirements of any contract or franchise agreement with the County and the rules and regulations of the department.

**Sec. B11-171. Territorial limitation on refuse collectors; boundary changes; reporting.**

- (a) The director, subject to approval by resolution of the board of supervisors, establishes and defines the territory wherein any refuse collector may collect garbage. No refuse collector may at any time collect garbage outside the territorial limits specified in the permit. If the permitted refuse collector does not provide service to all areas of a collection territory, the director, with the approval of the board of supervisors, may issue refuse collection permits for the excluded territory.
- (b) The boundaries of these territories established by the director and approved by the board of supervisors may be re-established and redefined as may be necessary to promote the public health and the proper and orderly administration of this chapter. Subsequent changes of these territory boundaries do not affect the validity of any existing permit. Upon request of the director, each permitted refuse collector must submit to the director a list or data disc of the accounts within the boundary of their permitted territory and the list must be in a format approved by the director and updated quarterly or as requested by the director. Collectors that enter into collection agreements to collect refuse at county owned or operated premises may collect only at these premises unless they hold a permit to collect refuse for a collection territory.

**Sec. B11-172. Establishment of collection rates.**

The board of supervisors reserves the authority and right to establish, by resolution or contract, a schedule of maximum rates to be charged any person for the collecting and hauling of garbage, rubbish, and other refuse within the county, and such schedule, when adopted, becomes a part of this chapter. A copy of the schedule will be kept on file in the office of the clerk of the board of supervisors and in the department.

**Sec. B11-173. Exemptions from collection permits:**

- (a) A collector of dead animals, bones, and meat scraps for tallow plants, and a collector that collects residential curbside recyclable waste materials exclusively is exempt from the refuse or limited collector permit requirement, but must comply with all sanitary requirements for the collection, transportation and disposal of refuse.

- (b) The owner of a farming business collecting refuse entirely from the premises so farmed and disposing of such refuse at a properly permitted solid waste disposal, composting, transfer or recycling facility may be exempted from the refuse collector permit requirement, but must comply with all sanitary requirements for collection and or transportation of such refuse. The owner of the farming business must provide proof of proper disposal as requested by the director.
- (c) A person that hauls wastes generated while conducting the primary business, which is a business other than collecting or hauling refuse may be exempted from the refuse collector permit requirement. This exemption is intended to allow the hauling of wastes from businesses including, but not limited to, landscapers, building and roofing contractors, construction, demolition, janitorial or other site cleaning services. This exemption must be approved by the director on an individual basis.

**Sec. B11-174. Collection permittee must furnish service; collection station.**

- (a) A refuse collector under permit, other than a limited collector, must provide garbage pick-up service where possible, as determined by the director, to all refuse producers within the area served as specified in the permit. Refuse collectors under permit other than limited collectors must make rubbish collection service available in areas served as specified in the permit.
- (b) Refuse producers residing on private streets, within areas served, must be provided reasonable curbside garbage pick-up service by the permitted collector unless the garbage collector is denied access by the owner(s) of the street or the street is not constructed to accommodate a collection vehicle. Where access is denied, or in areas where streets, both public or private, are not constructed to accommodate a collection vehicle, service may be provided at a collection station approved by the director if, in the judgment of the director, use of a collection station is practical without creating a nuisance or hazard.

**Sec. B11-175. Responsibility of permitted collector for refuse collected.**

All refuse upon being removed from the premises where produced, or from an approved collection station, is the responsibility and under the control of the permitted collector until it has been delivered to the disposal, transfer, recycling or composting facility or site.

**Sec. B11-176. Commencement of garbage collection service.**

It is the responsibility of the garbage producer to commence garbage collection service so that the first collection occurs within seven days after occupancy of premises. In the event service is not initiated within such period of time, the director may give written notice to the garbage producer that garbage collection service, as required by this chapter, is mandatory.

**Sec. B11-177. Vehicle inspection and registration.**

All vehicles used for the collection of refuse in the incorporated or unincorporated area of the county, except within the incorporated area of San Jose, must be inspected by and registered with the department. This requirement includes vehicles designated as temporary replacements and vehicles that are operated both in the City of San Jose and other areas of the county. Where a transportation vehicle involves the combination of a tractor and trailer, only the waste carrying trailer vehicle must be registered. Such inspection and registration must occur on an annual basis. The fee for the inspection and registration will be in an amount as established by resolution of the board of supervisors.

**Sec. B11-178. Collector operating and equipment requirements.**

- (a) Operating collectors must provide collection equipment designed to minimize spillage and litter, conduct collection activities in a manner to preclude spillage and litter, must pick up spillage or

litter generated during collection or transportation and must operate vehicles in a safe manner and in conformance with applicable laws and regulations. All collection and transfer vehicles must be kept in good working order to the satisfaction of the director.

- (b) All vehicle yards for collector vehicle fleets and associated equipment for all fleets must have all necessary permits from agencies overseeing the site location and for the storage and generation of solid waste materials, as well as hazardous and medical waste. Yards must be kept in a sanitary condition and free of excessive dust and nuisance odors.

**Sec. B11-179. Operating records and reports.**

All operators of refuse collection, transportation, transfer or disposal services must maintain operating records as the director may require for determining compliance with this chapter, and must, if requested by the director, submit periodic reports that include operating records. The reports may include but need not be limited to:

- (a) Volume and tonnage received;
- (b) Name and address of the premises where refuse is collected;
- (c) The name and address of all refuse or limited collectors using a transfer or disposal facility; and
- (d) The volume and tonnage of refuse collected.

**Sec. B11-180. Frequency of garbage collections.**

All garbage created, produced, deposited, placed or accumulated in or about any dwelling or other premises, of four units or less, where garbage producers reside must be properly disposed and removed from the premises at least once each week. All garbage created, produced or accumulated at any apartment complex or non-residential premises must be properly contained and removed from the premises at least twice each week, or more often if necessary. In areas served by refuse collectors under permit, removal of garbage may be conducted only by the permitted refuse collector.

**Sec. B11-181. Disposal and storage of refuse.**

All refuse collected or generated from the unincorporated area must be delivered to, or disposed at, a properly permitted disposal facility, transfer station, or other facility authorized by the director. No person may produce or store refuse of any kind in a manner that would represent a threat to the public or environmental health as determined by the director.

**Sec B11-182. Interfering with refuse collection service.**

No person may, in any manner, interfere with the performance of refuse, rubbish, recyclable waste material or yardwaste collection services being rendered by an agent or employee of the County or the authorized collector acting within the course and scope of his or her employment.

**B11-183. Unauthorized use of refuse, rubbish or yardwaste collection service.**

No person may deposit, place or accumulate, or allow the deposit, placement or accumulation for pick up by the authorized collector, any commercial yardwaste, or any refuse, rubbish or residential yardwaste produced from another premises unless such deposit, placement or accumulation is in accordance with the services subscribed for at the premises where the collection will take place or unless permission is granted by the director.

**B11-184. Mandatory garbage collection service; producer responsibility.**

In areas served by a permitted collector, the garbage producer of each residential or nonresidential premises, except farms electing to collect garbage produced by their farm pursuant to Sec. B11-173, must subscribe to and pay for at least the minimum collection frequency and level of adequate garbage collection service made available by the permitted refuse collector. The charges for garbage collection service rendered or made available must be paid, for all periods of time during which the premises are occupied, regardless of whether or not the garbage producer has any garbage to be collected on any particular collection date during such occupancy. In the case of rental properties, nothing in this section is intended to prevent an arrangement under which payments for garbage collection service are made by the owner or any agent or other person on behalf of the garbage producer. Producers may collect and haul their own non-putrescible recyclable materials to a recycling or buy-back center.

**B11-185. Garbage producer exemptions from mandatory garbage collection.**

- (a) In remote areas where curbside or collection station garbage service cannot be provided by the permitted collector, the producer may transport their own garbage to an approved solid waste facility with a frequency and mode of transport to preclude any nuisance conditions.
- (b) Where permitted garbage collection service is provided to the curbside or collection station, an exemption from mandatory garbage collection may be granted when any of the following conditions apply and have been verified to the satisfaction of the director:
  - (1) No garbage producer resides on the property; or
  - (2) Garbage is not produced or consolidated at the premises; or
  - (3) Any other situation where, in the discretion of the director, the requirements of this chapter can and are met.
- (c) Any application for an exemption for (b) above must be submitted by the garbage producer on forms supplied by the director. The director's decision on the exemption is final.

**B11-186. Mandatory garbage collection service; collector responsibility.**

Permitted collectors are required to collect from all garbage producers in the collector's designated territory. The collector must provide collection service to all garbage producers that can be reasonably served, except as otherwise exempted pursuant to Sec. B11-185.

**Sec. B11-187 . Regulations prohibiting burning of refuse.**

Burning of refuse is prohibited without the written approval of any and all public agencies having jurisdiction to regulate the control of air pollution in the county. These agencies include, but are not restricted to the Bay Area Air Quality Management District, the appropriate fire district, and the department.

**Sec. B11-188. Unauthorized refuse disposal prohibited.**

It is unlawful for any person to throw away, deposit or bury, or cause to be thrown away, deposited or buried, any refuse, except at an approved disposal or collection area unless authorized by the director. A refuse producer may not use any refuse container owned by or issued to the occupant of any other premises, unless having written permission from the occupant of the premises. This section may be enforced by any peace officer.

**Sec. B11-189. Refuse container requirements.**

- (a) Prior to placement at the curbside for pickup by the collector, all refuse, including garbage, rubbish, yardwaste and recyclable waste materials produced on any premises must be placed and stored in an adequate container as determined by the director. Adequate container(s) must be adequately sized for receiving and holding all refuse and must be constructed so as to be durable, leak-proof, cleanable and have close-fitting lids. The requirement for garbage producers to contain certain recyclable materials such as yardwaste, inert rubbish and certain recyclable waste materials in a refuse container prior to curbside collection may be waived by the director.
- (b) Refuse containers for dwellings must not exceed thirty-two gallons capacity and may not have a filled weight in excess of sixty pounds gross weight, except those containers furnished by the garbage collector, where the capacity and weight may be in accordance with design specifications or accepted industry practice. Larger capacity containers capable of holding higher gross weights may be approved by the director.
- (c) Refuse containers for nonresidential premises or multiple dwelling units must be approved by the director. All refuse containers must be kept in a sanitary condition and kept closed with a tight fitting cover, except when refuse is being placed into or removed from the container. If in the opinion of the director any bin, or any other container supplied by the collector, is in the need of cleaning, the permitted collector must clean the bin within the time frame determined by the director.
- (d) Refuse producers may not fill a refuse container in any manner which causes the refuse to fall out of or overflow from the container, or to preclude proper closure of the lid.
- (e) Refuse containers may not be placed in such a manner as to create a nuisance or hazard as determined by the director. This requirement for proper curbside location also applies to residential yardwaste and recyclable waste materials that are approved by the director for collection without being in a refuse container.
- (f) Refuse placed for curbside collection may not be located adjacent to the property of another garbage producer unless authorized in writing by the occupant of the other premises for approval as a necessary collection station by the collector.
- (g) Containers must be placed for collection not more than twenty-four hours preceding the scheduled collection time. Placement times and collection locations also apply to uncontained wastes such as yardwaste, cardboard and other recyclable wastes. It is the responsibility of the occupant of the premises producing the refuse to remove all containers from the curb, roadside or collection station within twenty-four hours after collection. Following removal, containers must be stored in a less conspicuous area of the premises so not to create a nuisance to the occupants of neighboring premises.
- (h) Bundle or pile sizes and collection locations of cardboard or yardwaste must conform to the requirements of the authorized collector and director.
- (i) All containers described in this section must be kept in a sanitary condition as determined by the director.

**Sec. B11-190. Yardwaste.**

- (a) Residential yardwaste may not be placed in the road right-of-way, street, or at the curbside sooner than 24 hours in advance of the scheduled collection day.
- (b) Residential yardwaste must be placed for collection only in front of the premises where produced.

- (c) Yardwaste accumulated during intervals between yardwaste collections must be stored in a manner so as to not create a nuisance.
- (d) Residential yardwaste must be placed on the street or curbside to facilitate collection. The yardwaste must be placed in front of the property that generated the yardwaste in such a manner to prevent a nuisance or disturbance to neighbors.
- (e) This section may be enforced by any peace officer.

**Sec. B11-191. Location of vehicles limiting collection.**

No person may park a motor vehicle, including a trailer, or boat so as to obstruct or preclude the collection of refuse by the authorized collector. This section may be enforced by any peace officer.

**Sec. B11-192. Nuisance accumulation of refuse prohibited.**

No person having occupancy or control of a lot, property, parcel or premises is entitled to allow any accumulation of refuse of any description to remain on such lot, property, parcel or premises.

**Sec. B11-193. Solid waste facility permit required.**

No person may operate a solid waste facility or operation in the county, except within the incorporated area of the City of San Jose, unless possessing a permit to do so from the Local Enforcement Agency.

**Sec. B11-194. Solid waste facility inspection and enforcement fee.**

- (a) Pursuant to state statutes and regulations, the director, as the Local Enforcement Agency, may inspect all solid waste facilities and operations in the unincorporated as well as the incorporated areas of the county, except those solid waste facilities and operation sites within the incorporated area of San Jose.
- (b) The solid waste enforcement fee for facilities and operations is set by resolution of the board of supervisors.

**Sec. B11-195. Solid waste facility bond requirement.**

The director, in connection to the issuance of a solid waste facility permit, may require the applicant to file a surety bond in an amount determined by the director to guarantee the faithful compliance with this chapter and with all rules and regulations of the Local Enforcement Agency.

**Sec B11-196. Restrictions on disposal of explosive or hazardous materials.**

No person may deposit in any refuse or recycling container any explosive, highly flammable or otherwise hazardous material, including medical waste or substance.

**Sec. B11-197. Composting area inspections and fees.**

- (a) Pursuant to state statutes and regulations, the director, acting as the local enforcement agency, may inspect all composting areas in the unincorporated as well as the incorporated areas of the county, except those composting areas within the incorporated area of San Jose at a frequency as required by state statutes.
- (b) The permit fee for facilities and operations will be in an amount established by resolution of the board of supervisors.

**Sec. B11-198. Reserved.**

**Sec. B11-199. County disposal areas.**

The board of supervisors may acquire land to be used as county-owned composting, wood grinding, refuse transfer or refuse disposal facilities. Operation may be either by county personnel or by a contractor to the county for service. The board of supervisors may lease composting, wood grinding, refuse transfer or refuse disposal facilities to persons for their operation as composting, wood grinding, and transfer or refuse disposal facilities. These facilities must be operated in conformance with the laws and regulations of the state and with the rules and regulations of the Local Enforcement Agency.

**CHAPTER X. LIQUID WASTE PUMPERS.**

**Sec. B11-210. Purpose.**

The purpose of this chapter is to establish standards for permitting and to set requirements for operations of persons or entities pumping, or transporting wastes from septic tanks, seepage pits, cesspools, portable toilets, sewage holding tanks, and other repositories of such wastes, to ensure that environmental and public health hazards, nuisances and pollution do not occur as a result of improper handling, transportation or disposal.

**Sec. B11-211. Authority for enforcement.**

The department is designated as the enforcement authority for the purposes of this chapter pursuant to State of California Health and Safety Code section 117400 et seq. (Septic Tanks, Chemical Toilets, Cesspools, and Seepage Pits); and other applicable state laws.

**Sec. B11-212. Definitions.**

In addition to the definitions in chapter I, the following terms are defined for purposes of this chapter:

- (a) Airline lavatory waste transport vehicle means any vehicle or cart designed to transport airline lavatory wastes from commercial airlines to the approved disposal station.
- (b) Applicant means any individual or group of individuals acting on their own behalf or authorized to represent any individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate or other group or combination acting as a unit in conjunction with any liquid waste handling business or operation.
- (c) Back Up Pumper vehicle means a dedicated vehicle, designed and used to pump and/or transport septage or portable toilet waste as herein defined, only for use in the event the primary vehicle is temporarily disabled.
- (d) Chemical Substances mean any substance placed in the waste receptacle of a portable toilet for the purpose of controlling odors and/ or decomposition.
- (e) Disposal Site Area means a publicly owned wastewater treatment plant, or a privately owned wastewater disposal system treatment plant that is approved as a disposal site by the director and the appropriate regional water quality control board.
- (f) Liquid Wastes mean liquid or semi-liquid wastes contained within septic tanks, portable toilets, seepage pits, cesspools, sewage holding tanks, septage or other repositories of human body wastes, or similar materials, which may contain human pathogens.

- (g) Portable Toilet means an enclosed unit intended for temporary use at a given location. Portable toilets can also be known as, but not limited to, chemical toilets in this chapter.
- (h) Pumping/cleaning means the removal of the contents of any portable toilet, septic tank, or other septage repository.
- (i) Pumper Vehicle means a dedicated vehicle designed and used to pump and/or transport septage or portable toilet waste as herein defined. This definition does not include recreation vehicles.
- (j) Septage means the contents, both liquid and solid, of any septic tank, portable toilets, sewage seepage pit, cesspool, non-hazardous liquid waste vault or pit privy.
- (k) Septic tank and/or chemical toilet cleaner means any person, firm or their representative, not including sewage treatment facilities, who engages or aids in the business or practice of pumping, removing, handling, transporting or disposing of liquid wastes or aids in the disposal of the cleanings thereof.
- (l) South County Service Area means all that unincorporated territory within and, for purposes of access, adjacent to the area of Santa Clara County as designated on a map maintained by the department. South county service area is specifically defined as follows:
  - (1) Beginning at Mount Stakes at the common border of Santa Clara County and Stanislaus County; thence in a straight line westerly to the East Dunne entrance of Henry Coe State Park; thence west on East Dunne Avenue to the high water line on the southwest side of Anderson Reservoir; thence in a northwest direction along the high water line of Anderson Reservoir to the incorporated city limits of San Jose; thence westerly along the incorporated city limits of San Jose to a point that Burnett Avenue would intersect if extended in a northeasterly direction from the point that Burnett Avenue crosses the Coyote River; thence southwesterly on Burnett Avenue to the intersection of Monterey Highway; thence north on Monterey Highway to Tilton Avenue; thence west on Tilton Avenue to Santa Teresa Boulevard; thence north on Santa Teresa Boulevard to Willow Springs Road; thence west on Willow Springs Road to Oak Glen Avenue; thence west on Oak Glen Avenue to Uvas Road; thence south on Uvas Road to Croy Road; thence west on Croy Road to the entrance of Uvas Canyon County Park; thence in a straight line west to the common border of Santa Clara County and Santa Cruz County; thence, starting in a southerly direction, along the common boundary lines of the County of Santa Clara with the Counties of Santa Cruz, San Benito, Merced and Stanislaus back to the point of beginning.

**Sec. B11-213. Partnership.**

If a permit is issued to a partnership and the partnership is changed by the addition or deletion of partners, the director may transfer the permit to the new partnership if the new partnership makes application for the transfer in the same manner as for a new permit and pays to the department a transfer fee in an amount as established by resolution of the board of supervisors.

**Sec. B11-214. Reserved**

**Sec. B11-215. Bond requirement.**

The director may require the applicant to file a surety bond in an amount to be determined by the director to guarantee the faithful compliance with this chapter and with all rules and regulations of the director.

**Sec. B11-216. Application for permit; contents.**

All applications for permit under this chapter must be filed with the director and will be part of the permit. In addition to the requirements of Sec. B11-21, the application must include information as the director may require.

**Sec. B11-217. Transfer generally; lease.**

Permits are nontransferable to any person or entity. A permittee may not lease, sublet or subcontract the activities regulated under the permit to any person. If a pumping vehicle must be replaced during the permit year, and is taken entirely out of service and a new vehicle is to be used as a replacement vehicle, then the director may transfer the permit to the new vehicle for a fee as established by resolution of the board of supervisors.

**Sec. B11-218. Report of change of address.**

A change of ownership, dba, or home or business address for any person issued a permit under this chapter must be reported in writing by certified mail by the permittee within ten days after said changes occur.

**Sec. B11-219. Required registration sticker.**

It is unlawful for any septic tank or chemical toilet cleaner to pump or dispose of septage or chemical toilet waste within Santa Clara County unless proper annual inspection and permitting of the vehicle has occurred. Upon issuance of a permit, a registration sticker supplied by the director will be affixed to the lower right hand corner on the windshield of each vehicle. Registration stickers must be valid only for the unexpired portion of the calendar year. Failure to properly display a current windshield sticker may result in a citation to either the vehicle operator or owner.

**Sec. B11-220. Examination of applicant, equipment and proposed place and manner of cleanings disposal.**

A permit will be issued only after a satisfactory examination by the director covering the equipment to be used, the applicant's knowledge of sanitary principles and of the laws and ordinances affecting human health or nuisances, and the reliability of the applicant in observing sanitary laws, ordinances and directions, and in selecting laborers and employees who may clean out septic tanks, chemical toilets, cesspools and sewage seepage pits without endangering human health or comfort; and only after examination of the place or places and manner of disposal of the cleanings proposed by the applicant.

**Sec. B11-221. Records and reports.**

It is unlawful to pump or dispose of septage or chemical toilet waste without keeping proper records and submitting a monthly report to the director. A report to the director is required each month whether or not pumping and disposal has occurred. All reports must be made on forms provided by the director, or on forms acceptable to the director, and must be submitted monthly to the director not later than the 10th of each succeeding month. A copy of the pumping/disposal report must be delivered to or left with the generator and the disposal site operator and be retained by the cleaner for three years. Reports must be made available for inspection on request of the director. Persons operating airline lavatory waste transport vehicles may, under the discretion of the director, keep records onsite instead of submitting them as described above.

**Sec. B11-222. Conditions of permit; required statements.**

Applicants may be permitted under such terms, conditions, orders and directions as the director may deem necessary for the protection of human health and comfort. The director may require any and all persons who are permitted to clean septic tanks, cesspools, sewage seepage pits or chemical toilets or to dispose of the cleanings there from, to file with the department at any time and at such frequency as

necessary, a statement giving the name and address of the owner or tenant of every premise where a septic tank, cesspool, sewage seepage pit or chemical toilet has been cleaned out by said permittee or his employees or by others on his behalf. The statement must describe in precise terms the amount pumped and the place where the cleanings have been disposed of and by whom. The director may require the statement to be sworn to before a notary.

Permits issued pursuant to this chapter will impose the condition that septic tank and/or chemical toilet cleaners disposing of cleanings generated in whole or in part from within the south county service area may do so only at the south county regional wastewater treatment plant. This section is to remain in effect until all indebtedness incurred on behalf of the residents of the south county service area for their share of the cost of constructing the south county regional wastewater treatment plant has been paid in full. Upon the repayment of this indebtedness the board of supervisors may terminate or amend this permit requirement.

**Sec. B11-223. Disposal of liquid wastes.**

Liquid wastes as described within this chapter, including wash or rinse water used to clean the interior of the liquid waste vehicle tank or any portable toilet, must be disposed of by discharge to a publicly owned sewage treatment plant, to a privately owned sewage disposal systems approved by the director, or as otherwise approved by the director.

**Sec. B11-224. Disposal of liquid wastes from South County Service area.**

No cleanings from the south county service area may be disposed of at any location except the south county regional wastewater treatment plant. Mixed loads must be disposed of only at the south county regional wastewater treatment plant. A mixed load is one consisting of partial loads of waste from outside the south county service area mixed with any waste from within the south county service area.

This section is to remain in effect until all indebtedness incurred on behalf of the residents of the south county service area for their share of the cost of constructing the south county regional wastewater treatment plant is paid in full. Upon the repayment of this indebtedness the board of supervisors may terminate or amend this disposal requirement.

**Sec. B11-225. Identification of vehicle.**

No septic tank or chemical toilet cleaner may pump, store or dispose of cleanings without proper vehicle business identification. The business name, address, and the telephone number and tank capacity in gallons must be displayed on both sides of the vehicle in letters and numbers no less than four inches high by three-eighths of an inch wide. The color of the numbers and letters must contrast with the background color of the vehicle. All markings must be kept legible at all times. Markings other than as described herein must be approved by the director.

A certificate of capacity for the waste tank must be obtained from the Santa Clara County Department of Weights and Measures, the tank manufacturer or from another certification source approved by the director and must be kept with the vehicle.

**Sec. B11-226. Required equipment and standards.**

It is unlawful to operate a septic tank and/or chemical toilet pumper vehicle without the required equipment maintained in good condition. A certificate of tank capacity from a certification source approved by the director may be required. Equipment includes but is not limited to the following:

- (a) Leak-proof and water-tight tanks.
- (b) Appurtenances, fittings, or access openings that are without leaks.

- (c) A reliable gauge, sight tube, bubble gauge, or gauge stick, or other device approved by the director to indicate the volume of waste tank contents.
- (d) Leak-proof discharge valves. All discharge valves must be made operable only at the valve itself and not actuated from the vehicle cab or by remote control.
- (e) Pumps must be leak-proof and spill-proof.
- (f) A dedicated clean up hose must be kept on the vehicle to clean the equipment. Rinsate from equipment cleaning must be collected and handled as septage and removed from the site or returned into the waste tank. The customer's hose must not be used to rinse the equipment.
- (g) Vacuum hoses that are in good repair, properly stored on the vehicle and reasonably clean.
- (h) The pumper vehicle and equipment must be maintained in a clean condition.

**Sec. B11-227. Portable Toilets.**

All liquid wastes haulers that provide portable toilets must comply with the following:

- (a) Portable toilets must be operated and kept in a clean, well-maintained condition.
- (b) Portable toilets must be pumped weekly or more often if necessary.
- (c) Portable toilets must be cleaned and disinfected thoroughly, including the inner walls, receptacle, seats, and lids with every pumping.
- (d) Chemical additives used in portable toilets must be chosen from the list of acceptable additives provided by the California Regional Water Quality Control Board.

**Sec. B11-228. Storage of cleanings.**

No septage or portable toilet waste is to be stored in the pumping vehicle for more than three consecutive days.

**Sec. B11-229. Pumper vehicle storage yards.**

No septage or portable toilet pumper vehicles may be stored or parked overnight at any location other than a site approved by the director.

**Sec. B11-230. Required maintenance of pumper vehicle storage yards.**

All pumper vehicle storage yards must be maintained in good repair, clean and free of offensive odors.

## **CHAPTER XI. GREASE WASTE DISPOSAL**

**Sec. B11-240. Declaration of findings and purpose.**

The board of supervisors expressly finds and declares that it is in the interest of the public health to provide for the safe and sanitary disposal of grease waste and to establish requirements and procedures related to the handling of grease waste.

The purpose of this chapter is to establish standards for permitting and to set requirements for persons or

entities pumping, or transporting grease wastes from grease traps and grease interceptors and other similar repositories of grease wastes, to ensure that environmental and public health hazards, nuisances, and pollution do not occur as a result of improper handling, transportation or disposal.

**Sec. B11-241. Definitions.**

In addition to the definitions in chapter I, the following terms are defined for purposes of this chapter:

- (a) Applicant means any individual or group of individuals acting on their own behalf or authorized to represent any individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate or other group or combination acting as a unit in conjunction with any grease waste handling business or operation.
- (b) Grease waste generator means any person, firm or entity that produces grease waste as defined.
- (c) Grease waste means the waste product that is of animal or vegetable origin captured through the use of grease traps or grease waste interceptor devices.
- (d) Grease waste handling means the collection, transporting, storage, transfer, processing or otherwise handling of grease waste. The term does not apply to the generation or storage of grease waste in a grease trap or interceptor or by a Publicly Owned Treatment Works (POTW).
- (e) Grease waste handling facility means any fixed location pretreatment, treatment or transfer facility operated for the purpose of collection, storage, transfer, processing or otherwise handling grease waste.

**Sec. B11-242. Application for permit; contents.**

All applications for permit under this chapter must be filed with the director and will be part of the permit. In addition to the requirements of Sec. B11-21, the application must include information as the director may require

**Sec. B11-243. Generator requirements; general.**

- (a) No generator will cause or permit grease waste to be removed from the generator's interceptor except by a person holding a valid permit issued pursuant to this chapter.
- (b) Generators must comply with all applicable county and city ordinances and regulations relating to grease interception, handling, maintenance and documentation.

**Sec. B11-244. Disposal requirement.**

All grease waste must be handled and disposed of in a legal manner and at a location approved by the director.

**Sec. B11-245. Bond requirement.**

The director may require the applicant to file a surety bond in an amount to be determined by the director to guarantee the faithful compliance with this chapter and with all rules and regulations of the director.

**Sec. B11-246. Filing reports.**

Persons or firms who are issued a permit to handle grease waste may be required to file periodic reports with the director or with other governmental jurisdictions. The reports may include, but need not be limited to:

- (a) The name and address of the premises where grease wastes are removed from a grease trap or interceptor device by pumper vehicle permit holder, employee or agent;
- (b) The volume of material removed;
- (c) The disposal location, including a copy of the bill of lading if disposed at a Publicly Owned Treatment Works (POTW); and
- (d) For a grease waste handling facility, the name and address of all grease waste handlers using the facility.

**Sec. B11-247. Records; inspection.**

Records as required by this chapter and by the director must be maintained for a minimum period of three years. For purposes of enforcement of the provisions of this chapter, the director may, upon presentation of appropriate credentials and at a reasonable time, do any of the following:

- (a) Enter and inspect any facility, establishment, vehicle or premises;
- (b) Review any records regarding the requirements of this chapter;
- (c) Secure any evidence including samples, photographs, records and documentation;
- (d) Impound any facilities, articles or materials found or suspected of being in violation of this chapter.

**Sec. B11-248. Reserved.**

**Sec. B11-249. Transfer generally; lease.**

Permits issued pursuant to this chapter are nontransferable to any person or entity. A permittee will not lease, sublet or subcontract the activities regulated under the permit to any person. If a pumping vehicle must be replaced during the permit year, and is taken entirely out of service and a new vehicle is to be used as a replacement vehicle, then the director may transfer the permit to the new vehicle for a fee as established by resolution of the board of supervisors

**Sec. B11-250. Report of change of address.**

A change of ownership, business name, or home or business address for any person issued a permit under this chapter must be reported in writing by certified mail by the permittee within ten days of the changes.

**Sec. B11-251. Identification of vehicle or equipment.**

The director may issue, in conjunction with any permit required by this chapter, further identification in the form of a license plate, decal or gummed sticker. The director will advise the permittee in writing as to where this identification is to be affixed or affix the identification upon issuance. Vehicle business identification must be as prescribed by regulations issued by the director.

**Sec. B11-252. Civil penalties.**

In addition to enforcement provisions in chapter I of this division, the following civil penalties may apply.

Any person or persons conducting any activity in violation of the provisions of this chapter or regulations adopted pursuant to this chapter may be liable for a civil penalty not to exceed two thousand five hundred

dollars per day for each violation, which may be assessed and recovered in a civil action brought in the name of the people by the county counsel or the district attorney. In determining the penalty, the court may consider all relevant circumstances, including but not limited to the following:

- (a) The extent of harm or potential harm caused by the violation;
- (b) The nature and persistence of the violation;
- (c) The length of time over which the violation occurred;
- (d) The frequency of past violations;
- (e) The permittee's record of performance;
- (f) Corrective action, if any, taken by the permittee.

In any civil action brought pursuant hereto, in which the county prevails, the court may determine and impose reasonable expenses, including attorneys' fees, incurred by the county in the investigation and prosecution of the action.

**Sec. B11-253. Construction plans; review and operating fees.**

No person may begin construction, reconstruction or alteration of any grease waste handling facility without first submitting plans and specifications to the director for review and written approval. In addition, the director may require any other information as necessary to determine if the facilities comply with all applicable laws and regulations of the state, local ordinances and requirements. Plans, specifications and other information must be submitted, reviewed and approved by the director before any permits are issued.

With the submission of plans, specifications and supporting data, a plan check fee must be paid to the department with respect to grease waste handling facilities as established by resolution of the board of supervisors. The operation of a grease waste handling facility, excluding POTWs, requires a permit issued by the director and payment of fees.

**CHAPTER XII. MEDICAL WASTE MANAGEMENT**

**Sec. B11-260. Declaration of findings and intent.**

It is determined that the secure management of the treatment and disposal of medical waste is necessary to protect the public health, welfare and safety.

The purpose of this chapter is to empower the director to implement provisions of the Medical Waste Management Act (division 104, part 14, California Health and Safety Code) throughout both the incorporated and unincorporated areas of the County of Santa Clara.

**Sec. B11-261. Medical Waste Management Act.**

The Medical Waste Management Act, division 104, part 14, of the California Health and Safety Code (commencing with section 117600), any regulations adopted pursuant thereto, and this chapter, shall be the lawful statute and regulations pertaining to the storage, treatment, transportation and disposal of medical waste in the County of Santa Clara.

**Sec. B11-262. Registration.**

Any person who generates, stores, transports or disposes of medical waste, and is required under the Medical Waste Management Act to register with the director, must pay fees as established by resolution of the board of supervisors. Registration must be made on forms provided by the director. Small quantity generators that are not required to register must obtain a permit pursuant to Sec. B11-263.

**Sec. B11-263. Permits.**

Any person, who generates, stores, transports or disposes of medical waste who is required to be permitted under the Medical Waste Management Act or this chapter, must register and pay prescribed permit fees to the department. Small quantity generators that are not required to register must obtain a permit from the director and pay an annual medical waste generator fee as established by resolution of the board of supervisors.

**Sec. B11-264. Proceedings for revocation of permit/hearing.**

Proceedings for the revocation or suspension of a medical waste permit will be conducted in accordance with sections 118350 through 118360 of the California Health and Safety Code. The hearing will be conducted by the director.

**Sec. B11-265. Medical waste management plan.**

Any person who generates, stores, transports or disposes of medical waste and who is required under the Medical Waste Management Act to submit a medical waste management plan to the director must submit such a plan to the department on forms provided by the director.

Any person who is required to submit a medical waste management plan as a condition for receiving a permit must submit such a plan to the department on forms provided by the director.

**Sec. B11-266. Exemptions and approvals.**

The director may grant exemptions and approvals consistent with the Medical Waste Management Act. The director may collect fees to offset expenses incurred as a result of any exemption granted. Fees will be established by resolution of the board of supervisors.

**Sec. B11-267. Consolidation of household generated medical waste**

Any person who generates needles and syringes (sharps) or non-RCRA pharmaceutical waste from premises that are not regulated under the Medical Waste Management Act, such as a household, may transport that waste to a consolidation point approved by the director. Once consolidated, household generated sharps waste must be stored, transported and treated as medical waste pursuant to the Medical Waste Management Act. Non-RCRA household pharmaceutical waste, once consolidated, must be stored, transported and treated as medical waste. A consolidation point is exempt from permit or registration fees.

**Sec. B11-268. Medical waste generator required to pay permit fees.**

All large quantity generators and all small quantity generators are required to be registered and/or permitted by the department and pay fees as established by resolution of the board of supervisors. The term of the permit or registration will be as defined in the Medical Waste Management Act unless otherwise stated.

**CHAPTER XIII. HAZARDOUS MATERIALS STORAGE**

## **ARTICLE 1. GENERAL PROVISIONS.**

### **Sec. B11-270. Purpose.**

The purpose of this chapter is the protection of health, life, resources and property through prevention and control of unauthorized discharges of hazardous materials.

### **Sec. B11-271. General obligation; safety and care.**

- (a) No person may cause, suffer or permit the storage of hazardous materials:
  - (1) In a manner which violates a provision of this chapter or any other local, federal or state statute, code, rule or regulation relating to hazardous materials; or
  - (2) In a manner which causes an unauthorized discharge of hazardous materials or poses a significant risk of such unauthorized discharge.
- (b) The director will have discretion to exempt an applicant from any specific requirements of this chapter which is not required pursuant to state or federal statute or regulation, or to require the applicant to meet additional or modified requirements, where such action would be appropriate and consistent with achieving the general obligation of this chapter for protecting public health, safety, and welfare.

### **Sec. B11-272. Specific obligation.**

- (a) Any person who stores any material regulated by section B11-280 which is not excluded by section B11-281 must obtain and keep current a hazardous materials storage permit.
- (b) All such hazardous materials must be contained in conformity with article 3 of this chapter.
- (c) The storage of such hazardous materials must be in conformance with the approved hazardous materials business plan or hazardous materials/waste registration form.

### **Sec. B11-273. Definitions.**

In addition to the definitions in chapter I, The following are defined for purposes of this chapter:

- (a) Abandoned, when referring to a storage facility, means out of service and not safeguarded in compliance with this chapter.
- (b) Facility means a building or buildings, appurtenant structures, and surrounding land area used by a single business entity at a single location or site.
- (c) Hazard class means explosives, blasting agents, flammable liquids, combustible liquids, flammable solids, oxidizers, organic peroxides, corrosive materials, flammable gases, nonflammable gases, poisons, poison gases, irritating materials, etiologic agents, radioactive materials, and other regulated materials (ORM). For purposes of this chapter, the U.S. Department of Transportation (DOT) definitions in 49 CFR part 173 as amended will be utilized; however, whenever the definitions in 49 CFR 173 refer to transportation or hazards associated with transportation, they will be deemed to refer to storage or other regulated activity under this chapter.
- (d) Hazardous material means any material which is subject to regulation pursuant to article 2 of this chapter. A mixture will be deemed to be a hazardous material if it either is a waste and contains any material regulated pursuant to article 2 of this chapter, or is a nonwaste and contains one

percent by volume or more of any material regulated pursuant to article 2 of this chapter.

- (e) Hazardous materials business plan means a document which meets the requirements of section 25504 of chapter 6.95 of division 20 of the California Health and Safety Code, as amended, or if applicable, the notification made pursuant to section 25503.5(c)(6)(D) of chapter 6.95 of division 20 of the California Health and Safety Code, as amended.
- (f) Officer means the employee assigned by the director to administer this chapter or any designee of such employee.
- (g) Permit means any hazardous materials storage permit issued pursuant to this chapter, as well as any additional approvals thereto.
- (h) Permit quantity limit means the maximum amount of hazardous material that can be stored in a storage facility. Separate permit quantity limits will be set for each storage facility for which a permit is obtained in accordance with the requirements of this chapter.
- (i) Pipes means pipeline systems which are used in connection with the storage of hazardous materials exclusively within the confines of a facility and which are not intended to transport hazardous materials in interstate or intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.
- (j) Primary containment means the first level of containment, i.e. the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.
- (k) Product-tight means impervious to the hazardous material which is contained, or is to be contained, so as to prevent the seepage of the hazardous material from the primary containment. To be product-tight, the container must be made of a material that is not subject to physical or chemical deterioration by the hazardous material being contained.
- (l) Secondary containment means the level of containment external to and separate from the primary containment.
- (m) Single-walled means construction with walls made of but one thickness of material. Laminated, coated or clad materials will be considered as single-walled.
- (n) Storage facility means any one or combination of tanks, sumps, wet floors, waste-treatment facilities, pipes, vaults or other portable or fixed containers, used or designed to be used for the storage of hazardous materials at a facility.
- (o) STP means standard temperature and pressure.
- (p) Sump means a pit or well in which liquids collect.
- (q) Unauthorized discharge means any release or emission of any hazardous material which does not conform to the provisions of this chapter, unless such release is in accordance with the release regulations of the Bay Area Air Quality Management District and California Air Resources Board, with a National Pollutant Discharge Elimination System Permit, with waste discharge requirements established by the Regional Water Quality Control Board pursuant to the Porter Cologne Water Quality Act, or with local sewer pretreatment requirements for publicly owned treatment works. Controlling agencies may differ for different local jurisdictions.
- (r) Wet floor means a floor which is used to routinely collect, contain or maintain standing liquids or to transmit standing liquids on a more or less continuous basis.

## ARTICLE 2. MATERIALS REGULATED

### Sec. B11-280. Materials regulated.

The materials regulated by this chapter will consist of the following:

- (a) Any material regulated by chapter 6.5 of the California Health and Safety Code or division 4.5 of title 22 of the California Code of Regulations, as amended, whether such material is stored or handled in waste or nonwaste form; or
- (b) Any material which is listed on the list of Environmental Protection Agency (EPA) pollutants, 40 Code of Federal Regulations, section 401.15, as amended; or
- (c) Any material which is classified by the National Fire Protection Association (NFPA) as either a flammable liquid, a class II combustible liquid or a class IIIA combustible liquid; or
- (d) Any material which is listed by the Director of the Department of Industrial Relations in title 8, California Code of Regulations section 339, as amended, excluding all footnotes thereto and subject to the exclusions specified in this subsection. The exclusions will apply only to materials which are not otherwise regulated pursuant to this section. These exclusions will be as follows:
  - (1) Materials recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them if such materials are intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; hormones; enzymes; and aflatoxins;
  - (2) Aluminum salts; asphalt fumes; atrazine; benomyl; bis (dimethylthiocarbamoyl) disulfide; boron oxide; 4-tertbutyl-2-chlorophenyl-methyl methylphosphoramidate; camphor; carbon black; 2-chlor-6 (trichloromethyl) pyridine; clopidol; coal tar pitch volatiles; cotton dust, dibenzoyl peroxide (benzoyl peroxide); dicyclopentadienyl iron; 3, 5-dinitro-o-toluamide; 2, 6-di-tert-butyl-p-cresol; ferbam, fumaric acid; glass, fibrous or dust; graphite; helium; iron oxide; iron salts; magnesium oxide; mica; mineral wool fiber; oil mist; phenothiazine; phenyl ether; phenyl ether-diphenyl (eutectic mixture), vapor; phthalic anhydride; m-phthalodinitrile; poyltetrasluoreo-ethylene decomposition products; rhodium salts; ronnel; rosin core solder; rotenone, commercial; silica; soapstone; talc; tantalum oxide; terphenyls; and 4, 4'-thiobis (6-tert-butyl-m-cresol); or
- (e) Any material which has been determined to be hazardous based upon any appraisal or assessment by or on behalf of the party storing this material in compliance with the requirements of the EPA or the California Department of Health Services, or which should have been, but was not, determined to be hazardous due to the deliberate failure of the party storing the material to comply with the requirements of the EPA and/or the Department of Health Services; or
- (f) Any material which has been determined by the party storing it, through testing or other objective means, to be likely to create a significant potential or actual hazard to public health, safety or welfare. This subsection will not establish a requirement to test for the purposes of this chapter.

### Sec. B11-281. Exclusions.

This chapter does not apply to the following:

- (a) Certain elemental metals. The following elemental metals included within the purview of section B11-280 will not be considered hazardous materials for purposes of this chapter unless they are stored in a friable, powdered or finely divided state: aluminum, beryllium, cadmium, chromium,

copper, lead, manganese, molybdenum, nickel, rhodium, silver, tellurium, tin and zinc. Furthermore, tantalum, titanium, tungsten and uranium will be excluded from regulation under this chapter.

- (b) Retail products. Hazardous materials when contained solely in consumer products packaged for distribution to, and use by, the general public or commercial products used at the facility solely for janitorial or minor maintenance purposes such as paint thinner or wax strippers.
- (c) Feed. Hazardous materials when contained in a substance intended for use as animal feed.
- (d) Work station. Hazardous materials located at a work station in a quantity reasonably required for use as determined by the director under the circumstances.
- (e) Exemption. The director will exempt any material from the requirements of this chapter where it has been demonstrated to the satisfaction of the director that the material in the quantity and/or solution stored does not present a significant actual or potential hazard to the public health, safety or welfare.

### **ARTICLE 3. CONTAINMENT STANDARDS**

#### **Sec. B11-285. Containment of hazardous materials.**

No person may store any hazardous materials regulated by this chapter until a permit or approval has been issued pursuant to this chapter. No permit or approval will be granted pursuant to this chapter unless the permit applicant demonstrates to the satisfaction of the director, by the submission of appropriate plans and other information, that the design and construction of the storage facility will result in a suitable manner of storage for the hazardous material or materials to be contained therein.

All installation, construction, repair, modification, closure, or removal must be to the satisfaction of the director. The director has the discretion to exempt an applicant from any specific requirement, except with regard to underground storage facilities; or to impose reasonable additional or different requirements in order to better secure the purpose and general obligation of this chapter for protection of public health, safety and welfare.

#### **Sec. B11-286. New storage facilities.**

- (a) Permit Required. No person may construct or install any new storage facility until a permit or approval has been issued pursuant to this chapter.
- (b) Monitoring Capability. All new storage facilities intended for the storage of hazardous materials which are liquids or solids at standard temperature and pressure (STP) must be designed and constructed with a monitoring system capable of detecting that the hazardous material stored in the primary containment has entered the secondary containment. Visual inspection of the primary containment is the preferred method; however, other means of monitoring may be required by the director. Where secondary containment may be subject to the intrusion of water, a means of monitoring and for safely removing such water must be provided.

Whenever monitoring devices are provided, they must, where applicable, be connected to attention-getting visual and/or audible alarms.

- (c) Containment Requirements. Primary and secondary levels of containment are required for all new storage facilities intended for the storage of hazardous materials which are liquids or solids at standard temperature and pressure (STP) unless exempted by the director.
  - (1) All primary containment must be product-tight.

- (2) Secondary containment.
  - a. All secondary containment must be constructed of materials of sufficient thickness, density and composition so as not to be structurally weakened as a result of contact with the discharged hazardous materials and so as to be capable of containing hazardous materials discharged from a primary container for a period of time equal to or longer than the maximum anticipated time sufficient to allow recovery of the discharged hazardous material.
  - b. In the case of an installation with one primary container, the secondary containment must be large enough to contain at least one hundred ten percent of the volume of the primary container.
  - c. In the case of a storage facility with multiple primary containers, the secondary container must be large enough to contain one hundred fifty percent of the volume of the largest primary container placed in it, or ten percent of the aggregate internal volume of all primary containers in the storage facility, whichever is greater.
  - d. If the storage facility is open to rainfall, then the secondary containment must be able to additionally accommodate the volume of a twenty-four-hour rainfall as determined by a one-hundred-year storm history.

(3) Laminated, coated or clad materials are considered single-walled and must not be construed to fulfill the requirements of both primary and secondary containment.

- (d) Overfill Protection. Means of overfill protection may be required for any aboveground tank. This may be an overfill prevention device and/or an attention-getting high-level alarm.
- (e) Separation of Materials. Materials that in combination may cause a fire or explosion, or the production of a flammable, toxic or poisonous gas, or the deterioration of a primary or secondary container must be separated in both the primary and secondary containment so as to avoid potential intermixing.
- (f) Drainage System. If water could enter into the secondary containment by precipitation or infiltration, the facility must provide a means of removing the water by the owner or operator. This removal system must also provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility. This removal system must also prevent uncontrolled removal of this water.
- (g) Spill Protection. A spill container to collect any hazardous material spilled during product delivery operations may be required at any aboveground tank fill point.

**Sec. B11-287. Existing storage facilities.**

Any storage facility in existence as of the effective date of this chapter [January 12, 1984], or any storage facility for which a building permit was issued prior to the effective date of this chapter, which does not meet the standards of section B11-286, may be permitted pursuant to this chapter as long as it is providing suitable storage for hazardous materials. In addition, storage facilities which contain hazardous materials which are liquids or solids at standard temperature and pressure (STP) must be monitored in accordance with a plan approved by the director as set forth herein with a monitoring system capable of detecting unauthorized releases.

- (a) A monitoring plan for each such storage facility containing hazardous materials which are liquids

or solids at STP must be submitted to the department as part of the hazardous materials business plan or hazardous materials/waste registration form.

- (b) Monitoring under such plan must include visual inspection of the primary containment wherever practical; however, if the visual inspection is not practical, an alternative method of monitoring each storage facility on a monthly or more frequent basis may be approved by the director.
- (c) Alternative method(s) of monitoring may include but are not limited to pressure testing, vacuum testing or hydrostatic testing of the piping systems; groundwater monitoring well(s) which are down-gradient and adjacent to the storage facility; vapor analysis within the well(s) where appropriate; and analysis of the soil boring(s) at the time of initial installation of the well(s). The location and number of well(s), depth of well(s) and sampling frequency must be approved by the director.
- (d) The continued use of, and permit approval for, existing storage facilities is subject to review and modification or termination by the director whenever there has been any unauthorized discharge. It will also be reviewed by the director each time the permit is renewed. In determining whether continued storage in such storage facility is suitable, the director will consider the age of the storage facility, the methods of containment, the methods of monitoring, the feasibility of the required retrofit, the concentration of the hazardous materials contained, the severity of potential unauthorized discharge, and the suitability of other long-term preventive measures which meet the intent of this chapter.

**Sec. B11-288. Out-of-service storage facilities.**

- (a) No storage facility may be abandoned.
- (b) Storage facilities which are temporarily out of service, and are intended to be returned to use, must continue to be monitored and inspected.
- (c) Any storage facility which is not being monitored and inspected in accordance with this chapter must be closed or removed in a manner approved by the director in accordance with section B11-325.
- (d) Any person having an interest, including a leasehold interest, in real property and having reason to believe that an abandoned storage facility is located upon such property must make a reasonable effort to locate such storage facility within six months of the effective date of this chapter [January 12, 1984].
- (e) Whenever an abandoned storage facility is located, a plan for the closing or removing or the upgrading and permitting of such storage facility must be filed within ninety days of its discovery. A closure plan must conform to the standards specified in section B11-325.

**Sec. B11-289. Monitoring.**

- (a) **Monitoring Methods.** Monitoring methods must include at least one system for detecting leakage from the primary container. A monitoring system capable of detecting that the hazardous material stored in the primary containment has entered the secondary containment must be provided. Visual inspection of the primary containment is the preferred method; however, other means of monitoring may be required by the director. Where secondary containment may be subject to the intrusion of water, a means of monitoring for such water must be provided. Whenever monitoring devices are provided, they must, where applicable, be connected to attention-getting visual and/or audible alarms.
- (b) **Monitoring, Testing and Inspection.** Every permittee under this chapter must conduct testing,

monitoring (if applicable), and inspections in compliance with the monitoring program component of the hazardous materials business plan or hazardous materials/waste registration form and must maintain records adequate to demonstrate compliance therewith.

- (c) The permittee must conduct monthly inspections, at a minimum, of electronic monitoring system consoles (control panels) to ensure that they are in working order and must maintain records adequate to demonstrate compliance therewith.

**Sec. B11-290. Maintenance, repair or replacement.**

- (a) The permittee must carry out maintenance, ordinary upkeep, and minor repairs in a careful and safe manner. No permit or other approval will be required for such maintenance and upkeep.
- (b) Any substantial modification or repair of a storage facility other than minor repairs or emergency repairs must be in accordance with plans to be submitted to the director and approved in accordance with section B11-325 prior to the initiation of such work.
- (c) The permittee may make emergency repairs to a storage facility in advance of seeking an additional permit approval whenever an immediate repair is required to prevent or contain an unauthorized discharge or to protect the integrity of the containment. However, within five working days after such emergency repairs have been started, the permittee must seek approval pursuant to section B11-325 by submitting drawings or other information adequate to describe the repairs to the director.
- (d) Replacement of any storage facility for hazardous materials, which are liquids or solids at STP, must be in accordance with the new installation standards of section B11-286.
- (e) All monitoring equipment and audible/visual overfill protection alarms used to satisfy the requirements of this article must be installed, calibrated, operated and maintained in accordance with manufacturer's instructions, and tested every twelve months by a qualified technician to confirm operability, proper operating condition, and proper calibration. Written records of such testing must be maintained as required in section B11-313.
- (f) Persons performing secondary containment testing of any underground storage tank system subject to section 2637(a)(4) of title 23 of the California Code of Regulations, as amended, must report test results using the State Water Resources Control Board's "Secondary Containment Testing Report Form" or an alternate format approved by the director.
- (g) The owner or operator of any underground storage tank subject to section 2637(b) of title 23 of the California Code of Regulations, as amended, must coordinate annual certification of underground storage tank monitoring equipment to coincide with the department's annual compliance inspection. Notwithstanding section 2637(b)(5), the UST owner or operator must notify the director at least fourteen calendar days prior to annual certification testing unless the notification requirement is waived by the director.

**Sec. B11-291. Handling.**

- (a) Dispensing and mixing of hazardous materials must not be done in such a manner as to substantially increase the risk of an unauthorized discharge.
- (b) When hazardous materials are moved into or out of a storage facility, they may remain in the travel path only for the time reasonably necessary to transport the hazardous materials; and such movement must be in a manner which will not result in an unauthorized discharge.

**Sec. B11-292. Secured facilities.**

Access to the storage facilities must be secured by means of fences and/or locks. The access to the storage facilities must be kept securely locked when unattended.

**Sec. B11-293. Emergency equipment.**

Emergency equipment must be provided which is reasonable and appropriate for potential emergencies presented by the stored hazardous materials. Such equipment must be regularly tested and adequately maintained.

**Sec. B11-294. Posting of emergency procedures.**

Simplified emergency procedures must be posted conspicuously in locations where hazardous materials are stored.

**ARTICLE 4. HAZARDOUS MATERIALS DISCLOSURE**

**Sec. B11-300. Hazardous materials disclosure.**

Each person subject to the requirements of this chapter must file a written plan, for approval by the director, disclosing all hazardous materials regulated by this chapter which are stored or handled at that person's facility.

**Sec. B11-301. Hazardous materials business plan.**

A hazardous materials business plan (HMBP) must be submitted by any facility subject to the requirements of chapter 6.95 of division 20 of the California Health and Safety Code, as amended. The HMBP must be submitted unless the facility qualifies as a minimal storage site under section B11-302, below. The HMBP must include the following:

- (a) Facility description.
  - (1) General facility description. The HMBP must contain a map drawn at a legible scale and in a format and detail determined by the director. It must show the location of all buildings and structures, chemical loading areas, parking lots, internal roads, and storm and sewer drains, and specify the uses of adjacent properties.
  - (2) Facility storage map.
    - a. The HMBP must contain a facility storage map at a legible scale for licensing and enforcement purposes. The information in this section is provided for purposes of ensuring the suitable and secure storage of hazardous materials and for the protection of emergency response personnel. The director must take reasonable precautions to ensure the confidentiality of the information provided pursuant to this subsection.

The storage map must indicate the location of each hazardous materials storage facility, including all interior, exterior and underground storage facilities, and access to such storage facilities. In addition, the map must indicate the location of emergency equipment related to each storage facility and the general purpose of the other areas within each facility.

For each storage facility, the map must contain information as prescribed below; except that where the hazardous material being stored is a trade secret, it may be identified in a coded manner (together with its key) and not in a manner which would reveal trade secret information:

- (i) A floor plan to scale;
    - (ii) For tanks, the capacity limit of each tank, and the hazardous material contained in each tank by chemical name or common/trade name.
  - b. The storage map must be updated whenever an additional approval is required for the facility or whenever the hazardous materials inventory is required to be amended.
- (b) Hazardous materials inventory. The HMBP must include the following inventory information regarding hazardous materials stored or handled in quantities below HMBP reporting thresholds:
  - (1) For nonwaste materials, aggregate reporting by primary DOT (Department of Transportation) hazard class, maximum quantity onsite, largest container size, and storage location(s);
  - (2) For materials regulated under chapter XIV of this division, reporting by primary DOT hazard class, chemical or common name, maximum quantity onsite, largest container size, and storage location(s); and
  - (3) For each hazardous waste, reporting by primary DOT hazard class, waste name, treatment/disposal method(s) (i.e., recycled onsite, treated onsite, or shipped offsite for recycling/treatment/disposal), maximum quantity onsite, annual quantity generated, and accumulation/storage location(s).
- (c) Monitoring program. The HMBP must contain a description of the location, type, and manufacturer specifications (if applicable), of monitoring methods to be used in each storage facility storing hazardous materials which are liquids or solids at STP. It must also specify the frequency of inspections of storage facilities which will be conducted by the permittee.
- (d) Record keeping forms. The HMBP must contain an inspection check sheet or log designed to be used in conjunction with routine inspections. The check sheet or log must provide for the recording of the date of inspection; description of any recordable unauthorized discharge; the date, time and description of any corrective action taken; and the name of the inspector.
- (e) Variation in information.
  - (1) Additional information may be required for the HMBP where such information is reasonably necessary to meet the intent of this chapter.
  - (2) Whenever the permittee has submitted a plan which includes substantially the same information as is required for any-component(s) of the HMBP to any other public agency regulating hazardous materials, such plan may be submitted to the department in lieu of such component(s). The director may give deference to any approval of such plan by the other public agency.

**Sec. B11-302. Hazardous materials/waste registration form; minimal storage site.**

- (a) A facility may qualify as a minimal storage site if the quantity of each hazardous material stored in one or more storage facilities in an aggregate quantity for the facility is less than five hundred pounds for solids, fifty-five gallons for liquids, or two hundred cubic feet at STP for compressed gases, and the facility is not otherwise subject to the HMBP reporting requirements of chapter 6.95 of division 20 of the California Health and Safety Code, as amended.
- (b) The applicant for a permit for a facility which qualifies as a minimal storage site may opt to file the

hazardous materials/waste registration form in lieu of a HMBP. Such registration form must include the following components:

- (1) General application information;
- (2) A simple line drawing of the facility showing the location of all interior and exterior storage facilities;
- (3) The following hazardous materials inventory information regarding hazardous materials stored or handled at the facility:
  - a. For nonwaste materials, aggregate reporting by primary DOT (Department of Transportation) hazard class, maximum quantity onsite, largest container size, and storage location(s); and
  - b. For materials regulated under chapter XIV of this division, reporting by primary DOT hazard class, chemical or common name, maximum quantity onsite, and largest container size, and storage location(s); and
  - c. For each hazardous waste, reporting by primary DOT hazard class, waste name, treatment/disposal method(s) (i.e., recycled onsite, treated onsite, or shipped offsite for recycling/ treatment/disposal), maximum quantity onsite, annual quantity generated, and accumulation/storage location(s).
- (4) A written monitoring program demonstrating that the hazardous materials will be stored in a suitable manner and will be appropriately contained, separated and monitored;
- (5) A signature by the facility owner/operator, with title and date, and a statement that the information submitted is true and correct to the best of their knowledge.

## **ARTICLE 5. RESPONSIBILITIES**

### **Sec. B11-305. Reporting unauthorized discharge.**

- (a) Liquids and Solids at STP. As soon as any person in charge of a storage facility or responsible for emergency response for a facility has knowledge of any confirmed or unconfirmed unauthorized discharge of a hazardous material which is liquid or solid at STP, such person must take all necessary steps to ensure the discovery and containment and cleanup of such discharge and must notify the director of the occurrence as required by this subsection.
  - (1) Confirmed unauthorized discharge.
    - a. Recordable unauthorized discharge. Any recordable unauthorized discharge must be contained and safely disposed of in an appropriate manner by the permittee, and such occurrence and the response thereto must be recorded in the facility's monitoring records. A recordable unauthorized discharge is any unauthorized discharge of a hazardous material which meets all of the following criteria:
      - (i) The discharge is from a primary containment to a secondary containment or to a rigid aboveground surface covering capable of containing the discharge until cleanup of the hazardous material is completed; and
      - (ii) The permittee is able to adequately clean up the discharge before it escapes from such secondary containment or such aboveground

surface; but if the cleanup requires more than eight hours, it becomes a reportable discharge in accordance with section B11-305(a)(1)b, below; and

- (iii) There is no increase in the hazard of fire or explosion, nor is there any production of a flammable or poisonous gas, nor is there any deterioration of such secondary containment or such rigid above-ground surface.

An otherwise recordable unauthorized discharge does not need to be recorded if the discharge is not the result of the deterioration or failure of the primary container and the quantity discharged is less than one ounce by weight, and can be cleaned up within fifteen minutes.

- b. Reportable unauthorized discharge. Any unauthorized discharge which is not determined to be recordable under subsection B11-305(a)(1)a, above, must be reported to the director immediately. The reporting party must provide information to the director relating to the ability of the permittee to contain and dispose of the hazardous material, the estimated time it will take to complete containment and disposal, and the degree of hazard created. The director may verify that the hazardous material is being contained and appropriately disposed. The director, at any time upon a determination that the permittee is not adequately containing and disposing of such hazardous material, has the power and authority to undertake and direct an emergency response in order to protect the public health and/or safety.

(2) Unconfirmed unauthorized discharge.

- a. Indication of loss in inventory records. Whenever a material balance or other inventory record, employed as a monitoring technique indicates a loss of hazardous material, and no unauthorized discharge has been confirmed by other means, the permittee will have five working days to determine whether or not there has been an unauthorized discharge. If before the end of such period it is determined that there has been no unauthorized discharge, an entry explaining the occurrence must be made in the facility's monitoring records. Where the permittee has not been able, within such period, to determine that there has been no unauthorized discharge, an unauthorized discharge is deemed confirmed and the permittee must proceed in accordance with subsection B11-305(a)(1)b, above.

- b. Test results. Whenever any test results suggest a possible unauthorized discharge, and no unauthorized discharge has been confirmed by other means, the permittee will have five working days to retest. If second test results obtained within that period establish that there has been no unauthorized discharge, the results of both tests must be recorded in the facility's monitoring records. If it has not been established within such period that there has been no unauthorized discharge, an unauthorized discharge is deemed confirmed and the permittee must proceed in accordance with subsection B11-305(a)(1)b, above.

- (b) Gases at STP. Any person in charge of a storage facility or responsible for emergency response for a storage facility, who has knowledge of any unauthorized discharge of a hazardous material which is a gas at STP, must immediately report such discharge to the director if such discharge presents a threat of imminent danger to public health and safety.

**Sec. B11-306. Cleanup responsibility.**

Any person responsible for storing the hazardous material must institute and complete all actions necessary to remedy the effects of any unauthorized discharge, whether sudden or gradual. The director must undertake actions to remedy the effects of such unauthorized discharge only if he or she determines that it is reasonably necessary under the circumstances to do so. The responsible party will be liable to reimburse the county for all costs incurred by the county in remedying the effects of such unauthorized discharge, including the costs of fighting fires to the extent allowed by law. This responsibility is not conditioned upon evidence of willfulness or negligence of the party storing the hazardous material(s) in causing or allowing such discharge. Any responsible party who undertakes action to remedy the effects of unauthorized discharge(s) will not be barred by this chapter from seeking to recover appropriate costs and expenditures from other responsible parties except as provided by section B11-307.

**Sec. B11-307. Indemnification.**

The permittee must indemnify, hold harmless and defend the county against any claim, cause of action, disability, loss, liability, damage, cost or expense, howsoever arising, which occurs by reason of an unauthorized discharge in connection with the permittee's operations under this permit, except as arises from the county's sole willful act or sole active negligence.

**ARTICLE 6. INSPECTIONS AND RECORDS**

**Sec. B11-310. Inspections by the department.**

The department may conduct inspections, at the director's discretion, for the purpose of ascertaining compliance with this chapter and causing to be corrected any conditions which would constitute any violation of this chapter or of any other statute, code, rule or regulation affecting the storage of hazardous materials.

Permittees are not required to disclose the identity of hazardous materials protected as trade secrets pursuant to section 25511 of California Health and Safety Code to anyone other than the official designated for that purpose pursuant to section 25511(d) of California Health and Safety Code, except in the case of an emergency response or an unauthorized discharge related to the storage facility in which the trade secret material is contained. The permittee may put temporary coverings over the labels of trade secret materials during the course of department inspections conducted by other than the department official so designated.

**Sec. B11-311. Inspections by permittee.**

The permittee must conduct regular inspections of its own facilities to assure compliance with this chapter and must maintain logs or file reports in accordance with its hazardous materials management plan. The inspector conducting such inspections must be qualified to conduct such inspections.

**Sec. B11-312. Special inspections.**

In addition to the inspections specified above, the director may require the periodic employment of special inspectors to conduct an audit or assessment of the permittee's facility to make a hazardous material safety evaluation and to determine compliance with the provisions of this chapter.

- (a) The special inspector must be a qualified person or firm who must demonstrate expertise to the satisfaction of the director.
- (b) The special inspection report must include an evaluation of the facilities and recommendations consistent with the provisions of this chapter where appropriate. A copy of the report must be filed with the director at the same time that it is submitted to the permittee.
- (c) The permittee must, within thirty days of said report, file with the director a plan to implement all

recommendations, or must demonstrate to the satisfaction of the director why such recommendations should not be implemented.

**Sec. B11-313. Maintenance of records.**

All records required by this chapter must be maintained by the permittee for a period of not less than three years. Said records must be made available to the director during normal working hours and upon reasonable notice.

**ARTICLE 7. PERMITS**

**Sec. B11-320. Permits.**

- (a) Hazardous materials storage permit. Any person who stores any hazardous material must obtain and keep current a hazardous materials storage permit issued pursuant to this chapter.
- (b) Additional approvals. A permit must be obtained prior to connecting, installing, constructing, substantially modifying, replacing, closing, or removing a hazardous materials storage or handling facility, tank system, or piping system; performing repairs as required in section B11-290; or for any change or addition in hazardous materials stored which is not in accordance with a prior approval by the director.
- (c) Notwithstanding the above, the permittee will have thirty days to apply for an additional approval for the storing of a new or different hazardous material with the same hazard class as stated on the existing permit approvals where such storage does not increase the hazard of fire or explosion or the hazard of the production of flammable or poisonous gas. Storage of new or different hazardous materials, not meeting all of these criteria, will require the prior additional approval.
- (d) Storage permits required in this chapter will be consolidated as a Unified Program Facility Permit as required by section 15100, Title 27, California Code of Regulations.

**Sec. B11-321. Application for permit.**

Application for a new, amended or renewed hazardous materials storage permit or an additional approval must be made to the designated officer on the form(s) approved by the director. In addition to the information required by such form(s), the applicant must submit a new or amended hazardous materials business plan or hazardous materials/waste registration form as required by section B11-300 and construction plans, if any, in conformity with section B11-285.

**Sec. B11-322. Approval of permit.**

A permit will not be approved until the issuing officer is satisfied that the storage conforms to the provisions of this chapter.

**Sec. B11-323. Temporary storage permit.**

A temporary hazardous materials storage permit may be issued where storage does not exceed six months and occurs no more frequently than every six months. The containment standards of article 3, the hazardous materials management plan of article 4 and the inspection and records requirements of article 7 may be modified as appropriate under these circumstances for the storage of hazardous materials on a nonregular temporary basis.

**Sec. B11-324. Issuance of permit.**

Upon the approval of a permit by the officer and upon the payment of any applicable fee(s) as established by resolution of the board of supervisors, the officer will issue the permit to the applicant.

**Sec. B11-325. Additional approvals.**

When a request for additional approval is for closure of a storage facility or tank system, the permittee must apply for approval to close such facility or tank system not less than thirty days prior to the termination of storage of hazardous materials at the facility or in the tank system. Such closure must be in accordance with a closure plan which describes procedures for terminating the storage of hazardous materials in a manner that:

- (a) Minimizes the need for further maintenance; and
- (b) Controls to the extent that a threat to public health or safety or to the environment from residual hazardous materials is minimized or eliminated; and
- (c) Demonstrates that hazardous materials that were stored in the storage facility or tank system will be removed, disposed of, neutralized or reused in an appropriate manner. This thirty-day period may be waived by the director if there are special circumstances requiring such waiver.

**Sec. B11-326. Term.**

A hazardous materials storage permit may be issued for a term of five years, excepting temporary permits which, notwithstanding section B11-27, may be issued for no longer than six months.

**Sec. B11-327. Renewal.**

Every application for the renewal of a hazardous materials storage permit must be made at least thirty days prior to the expiration date of such permit. If a timely application for renewal has been submitted, the permit will remain in effect until the director has made his or her determination pursuant to section B11-328 and any administrative appeal pursuant to chapter II has been exhausted.

**Sec. B11-328. Determination.**

The director must make a determination with regard to any application for a permit, an additional approval, or a renewal, within ninety days from the date the application has been completed or compliance with the appropriate provisions of the California Environmental Quality Act (CEQA) has been completed, whichever occurs later. This time limit may be further extended by mutual agreement between the director and the applicant.

**ARTICLE 8. REMEDIAL ACTION**

**Sec. B11-335. Grounds for remedial action.**

A permittee may be subject to remedial action for any of the following causes, arising from the acts or omissions of the permittee, either before or after a permit is issued:

- (a) Fraud, willful misrepresentation, or any willful inaccurate or false statement in applying for a new or renewed permit;
- (b) Fraud, willful misrepresentation, or any willful inaccurate or false statement in any report required by this chapter;
- (c) Failure to abate, correct or rectify any noncompliance within the time specified in the notice of noncompliance;

- (d) Failure to correct conditions constituting an unreasonable risk of an unauthorized discharge of hazardous materials within a reasonable time after notice from a governmental entity other than the department;
- (e) Failure to abide by the remedial action imposed by the director.

**Sec. B11-336. Notice of noncompliance.**

Unless the director finds that an immediate suspension under section B11-337 is necessary to protect the public health or safety from imminent danger, the officer will issue a notice of noncompliance:

- (1) For failure to comply with the provisions of this chapter, any permit conditions or any provisions of the hazardous materials management plan; or
- (2) Before instituting remedial action pursuant to section B11-335(d).

Such notice must be sent by certified mail to the permittee. If the noncompliance is not abated, corrected or rectified within the time specified, remedial action may be taken.

**Sec. B11-337. Suspension prior to hearing.**

Whenever the director finds that suspension of a permit prior to a hearing for remedial action is necessary to protect the public health or safety from imminent danger, the director may immediately suspend any permit pending the hearing for remedial action. The director will immediately notify the permittee of such suspension by having a written notice of the suspension personally served on the permittee. The permittee will have the opportunity for a preliminary hearing with regard to such prehearing suspension within three working days of receiving written notice of such suspension.

**Sec. B11-338. Remedial action.**

If the director after the hearing finds that cause exists for remedial action, the director will impose one or more of the following:

- (a) A warning;
- (b) An order to correct the particular noncompliance specified in the notice issued pursuant to section B11-336;
- (c) Suspension of the permit for the facility or for a storage facility for a specified period not to exceed six months;
- (d) Modification or addition of conditions of the permit;
- (e) Revocation of the permit with no reapplication permitted for a specified period not to exceed five years.

If the grounds for remedial action are based on section B11-335(c) or (d) and if such grounds are limited to one storage facility, the remedial action taken will be limited to that storage facility.

**Sec. B11-339. Transmittal of decision.**

Within ten days of the hearing, the director must render a written opinion, stating the findings upon which the decision is based and the action taken, if any. The decision of the director will be the final administrative determination and is subject to judicial review.

**Sec. B11-340. Authority after suspension, revocation or expiration.**

The suspension, revocation or expiration of a permit issued under this chapter will not prevent any proceedings to investigate such permit, any remedial action against such permittee, or any proceeding against such permittee.

**Sec. B11-341. Return of permit.**

In the event a permit issued under the provisions of this chapter is suspended or revoked, the permittee must forward it to the issuing officer not later than the end of the third business day after notification of such suspension or revocation.

**ARTICLE 9. ENFORCEMENT**

**Sec. B11-345. Civil penalties.**

In addition to the enforcement provisions in chapter I of this division, the following civil penalties may apply.

Any person who intentionally or negligently violates any provision of this chapter, except that an unauthorized discharge which is recordable and recorded in compliance with section B11-305 will not be a violation of this chapter for purposes of this section, or fails to comply with any order issued thereunder, will be liable for a civil penalty not to exceed five thousand dollars (\$5,000.00) per day for each violation, which will be assessed and recovered in a civil action brought by the county counsel or the district attorney. In determining the penalty, the court will consider all relevant circumstances, including but not limited to the following:

- (a) The extent of harm or potential harm caused by the violation;
- (b) The nature and persistence of the violation;
- (c) The length of time over which the violation occurred;
- (d) The frequency of past violations;
- (e) The permittee's record of maintenance;
- (f) Corrective action, if any, taken by the permittee.

In any civil action brought pursuant hereto, in which the county prevails, the court will determine and impose reasonable expenses, including attorneys' fees, incurred by the county in the investigation and prosecution of the action.

**Sec. B11-346. Civil action for retaliation.**

A civil action may be instituted against any employer by any employee who has been discharged, demoted, suspended or in any other manner discriminated against in terms or conditions of employment or threatened with any such retaliation, because such employee has, in good faith, made any oral or written report or complaint related to the enforcement of this chapter to any company official, public official or union official, or has testified in any proceeding in any way related thereto. In addition to any actual damages which may be awarded, damages will include costs and attorneys' fees. The court may award punitive damages in a proper case.

**Sec. B11-347. Penalty deposits.**

Any administrative, civil and/or criminal penalties collected pursuant to this chapter will be deposited into the hazardous materials program account.

## **ARTICLE 10. MISCELLANEOUS**

### **Sec. B11-350. Disclaimer of liability.**

- (a) The degree of protection required by this chapter is considered reasonable for regulatory purposes. The standards set forth herein are minimal standards, and this chapter does not imply that compliance will ensure that there will be no unauthorized discharge of hazardous material. This chapter does not create liability on the part of the county, any officer or employee thereof, for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. All persons handling, storing, using, processing and disposing of hazardous materials within the county should be and are advised to determine to their own satisfaction the level of protection in addition to that required by this chapter necessary or desirable to ensure that there is no unauthorized discharge of hazardous materials.
- (b) This chapter is not intended to create any different standard or obligation for the storage of carcinogens than is imposed for the storage of other hazardous materials. Hazardous materials are identified as carcinogens herein for public record purposes only, and the identification of a material as a carcinogen will not require a different or stricter application of the provisions of this chapter nor notice to any person under any circumstances other than those expressly specified in this chapter; nor will such identification create any other duty or obligation upon the county different from or additional to those duties or obligations applicable to the storage of other hazardous materials.

### **Sec. B11-351. Conflict with other laws.**

Notwithstanding any other provision of this chapter:

- (a) A storage facility regulated by any state or federal agency will be exempted from any conflicting provision of this chapter.
- (b) If the storage facility is required to have a permit from the California Department of Health Services under Health and Safety Code section 25100 et seq., it will be exempted from any provision of this chapter which is covered by the regulations adopted under the above-cited statute.
- (c) Whenever any provision of this chapter conflicts with the Uniform Fire Code as adopted by the county, the stricter will prevail.
- (d) Whenever any provision of this chapter conflicts with any provision set forth in the California Health and Safety Code or any regulation adopted pursuant thereto, the stricter will prevail.

## **CHAPTER XIV. TOXIC GAS STORAGE**

### **ARTICLE 1. GENERAL PROVISIONS**

#### **Section B11-360. Scope.**

- (a) This chapter governs the storage, dispensing, use and handling of regulated materials.
- (b) The provisions of this chapter apply to all regulated materials, including Class I, Class II, Class III

and minimum threshold quantities of regulated materials.

- (c) This chapter applies to all new and existing facilities where regulated materials subject to this chapter are present.
- (d) It is intended that this chapter supplement and be used in conjunction with the currently adopted revisions of the Fire Code and the Uniform Building Code.
- (e) In the event of conflicting or overlapping regulatory provisions within the county ordinance code, the Fire Code and this chapter, the most stringent requirement will be applied.
- (f) In the event of conflicting or overlapping regulatory provisions with a federal law or state law or regulation, unless the application of this chapter is expressly preempted by an act of congress or enactment of the legislature, the more stringent requirement will apply.
- (g) This chapter does not apply to the registration and application of pesticides which is preempted by an act of congress. Handling and storage of pesticide cylinders, however, must comply with all requirements of this chapter.

**Section B11-361. General obligation.**

No person may cause, suffer or permit the storage, handling, use or dispensing of materials regulated by this chapter:

- (a) In a manner which is contrary to a provision of this chapter or any other federal or state or local statute, code, ordinance, rule, regulation or standard of performance relating to materials subject to this chapter; or
- (b) In a manner which causes an unauthorized discharge or which imposes a significant risk of such unauthorized discharge.

**Section B11-362. Definitions.**

For words and phrases not defined in this chapter, the definitions set forth in the most recently adopted version of the Fire Code will control. In addition to the definitions in chapter I, The following are defined for purposes of this chapter:

- (a) Class I Material means a material that has a median lethal concentration (LC<sub>50</sub>) in air of two hundred parts per million or less by volume of gas or vapor, or two milligrams per liter or less of mist, fume or dust, when administered by continuous inhalation for an hour, or less if death occurs within one hour, to albino rats weighing between two hundred and three hundred grams each.
- (b) Class II Material means a material that has a LC<sub>50</sub> in air more than two hundred parts per million but not more than three thousand parts per million by volume of gas or vapor, or more than two milligrams per liter but not more than thirty milligrams per liter of mist, fume or dust, when administered by continuous inhalation for an hour, or less if death occurs within one hour, to albino rats weighing between two hundred and three hundred grams each.
- (c) Class III Material means a material that has a LC<sub>50</sub> in air more than three thousand parts per million but not more than five thousand parts per million by volume of gas or vapor, or more than thirty milligrams per liter but not more than fifty milligrams per liter of mist, fume or dust, when administered by continuous inhalation for an hour, or less if death occurs within one hour, to albino rats weighing between two hundred and three hundred grams each.

- (d) Controls means a way to regulate materials to prevent unauthorized discharges.
- (e) Control Area means a building or portion of a building within which the exempted amounts of hazardous materials are allowed to be stored, dispensed, used or handled.
- (f) Excess Flow Control means a fail-safe system designed to shut off flow due to rupture in pressurized piping systems.
- (g) Exterior Storage means a storage area enclosed by no more than two contiguous walls.
- (h) Facility means any building, structure, installation, equipment, pipe, container, site, area, appurtenant structure or surrounding land area where regulated materials are stored, used, dispensed, handled, placed or otherwise have come to be located.
- (i) Fire Code means the Uniform Fire Code as most recently adopted or modified by the county.
- (j) IDLH (Immediately Dangerous to Life and Health) means a concentration of airborne contaminants, normally expressed in parts per million (ppm) or milligrams per cubic meter, which represents the maximum level from which one could escape within thirty minutes without any escape-impairing symptoms or irreversible health effects. This level is established by the National Institute of Occupational Safety and Health (NIOSH). If adequate data does not exist for precise establishment of IDLH data, an independent certified industrial hygienist, industrial toxicologist or appropriate regulatory agency will make such determination.
- (k) Inert Construction Materials means materials which, under reasonably foreseeable conditions, will not degrade or react upon contact with the regulated material to be contained.
- (l) Lethal Concentration (LC<sub>50</sub>) means the median lethal concentration level at which fifty percent of appropriate test animals die when exposed by inhalation for a scientifically appropriate specified time period. For the purposes of this chapter, LC<sub>50</sub> values for a particular regulated material will be those established by the Department of Transportation (DOT). If DOT has not established an LC<sub>50</sub> value for a particular regulated material, the LC<sub>50</sub> value established by the Compressed Gas Association (CGA) will be used. If neither DOT nor CGA has established an LC<sub>50</sub> value for a particular regulated material, the department may use LC<sub>50</sub> values from other available scientific sources.
- (m) Maximum Threshold Quantity (Max. TQ) means the maximum quantity of a Class II or Class III regulated material which may be stored in a single vessel before a stricter category of regulation is required by this chapter. Max. TQ is determined by the following equation:  
  

$$\text{Max. TQ (pounds)} = \text{LC}_{50} \text{ (ppm)} \times 2$$

For the purpose of calculating the Max. TQ, storage tank, cylinder and piping systems which can be isolated in a manner approved by the director may be designated as a separate storage vessel.
- (n) Minimum Threshold Quantity (Min. TQ) means the aggregate quantity of regulated materials in a control area which, due to the minimal aggregate quantities present, need only comply with specific control requirements established in section B11-384 and not with the specific requirements for Class I, II or III regulated materials. Min. TQ for mixtures will be based on the aggregate weight of the regulated components.

For other all regulated materials: Min. TQ = two pounds or less.

Minimum threshold quantity controls are set forth in section B11-384.

- (o) Permissible Exposure Limit (PEL) means the maximum permitted eight-hour time-weighted average concentration of an airborne contaminant. The maximum permitted time-weighted average exposures to be utilized are those published in 29 CFR section 1910.1000.
- (p) Portable Tank means any packaging over sixty U.S. gallons (227.1 L) capacity and designed primarily to be loaded into or on or temporarily attached to a transport vehicle or ship and equipped with skids, mounting or accessories to facilitate handling of the tank by mechanical means. It does not include any cylinder having less than a one thousand pound (453.5 kg) water capacity.
- (q) Reduced Flow Valve means a valve equipped with a restricted flow orifice and inserted into a compressed gas cylinder, portable tank or stationary tank that is designed to reduce the maximum flow from the valve under full flow conditions. The maximum flow rate from the valve is determined with the valve allowed to flow to atmosphere with no other piping or fittings attached.
- (r) Responsible Persons means permittees under this chapter, owners, managers and persons responsible for the day-to-day operation of any facility subject to this chapter.
- (s) Stationary Tank means a packaging designed primarily for stationary installations not intended for loading, unloading or attachment to a transport vehicle as part of its normal operation in the process of use. It does not include cylinders having less than one thousand pound (453.5 kg) water capacity.
- (t) Toxic Material means a material which produces a lethal dose or a lethal concentration within any of the following categories:
  - (1) A chemical or substance that has a median lethal dose (LD<sub>50</sub>) of more than fifty milligrams per kilogram but not more than five hundred milligrams per kilogram but not more five hundred milligrams per kilogram of body weight when administered orally to albino rats weighing between two hundred and three hundred grams each.
  - (2) A chemical or substance that has a median lethal dose (LD<sub>50</sub>) of more than two hundred milligrams per kilogram but not more than one thousand milligrams per kilogram of body weight when administered by continuous contact for twenty four hours, or less if death occurs within twenty four hours, with the bare skin of albino rabbits weighing between two and three kilograms each.
  - (3) A chemical or substance that has a median lethal concentration (LC<sub>50</sub>) in air more than two hundred parts per million but not more than two thousand parts per million by volume of gas or vapor, or more than two milligrams per liter but not more than twenty milligrams per liter of mist, fume or dust, when administered by continuous inhalation for one hour, or less if death occurs within one hour, to albino rats weighing between two hundred and three hundred grams each.
- (u) Unauthorized Discharge means a release or emission of materials in a manner which does not conform to the provisions of this code or applicable public health and safety regulations.

## **ARTICLE 2. MATERIALS REGULATED**

### **Section B11-365. Materials regulated.**

The materials regulated by this chapter, including but not limited to gases, are those materials which meet the following criteria:

- (a) The materials fall under the definition of Class I, Class II or Class III materials; and

- (b) The materials meet either of the following criteria:
  - (1) They are shipped in compressed gas cylinders and the material is or becomes or acts as a gas upon release at standard temperature and pressure (68° Fahrenheit and 760 mm Hg); or
  - (2) The material is used or handled as a gas whether or not the material meets the definition of a compressed gas set forth in the Fire Code.

Materials which meet the foregoing criteria are subject to the provisions of this chapter unless exempted by the director based upon scientific evidence provided by a toxicologist or other professional acceptable to the director.

**Section B11-366. Exclusions and exemptions.**

- (a) Exclusion. To the extent that the application of this chapter to the registration and use of pesticides is preempted by an express provision of an act of Congress or a statute adopted by the state legislature, this chapter does not apply.
- (b) Exemption. Except as provided in subsection (c) of this section, below, material which would otherwise be regulated is exempt from regulation under this chapter if the aggregate quantity of the material in a control area or exterior storage does not exceed the Min. TQ and the quantity of the material in a single vessel does not exceed the amounts specified as follows:
  - (1) One pound; or
  - (2) The concentration of the material is below the Permissible Exposure Limit (PEL).
- (c) Notwithstanding the exemption in subsection (b) of this section, above, no amount of Class I regulated material is exempt from the requirements for flow-limiting devices and fire extinguishing systems found in subsections B11-380(k) and (l).

**ARTICLE 3. HAZARD CLASSIFICATION**

**Section B11-370. General.**

Regulated materials will be classified as Class I, Class II, Class III or Min. TQ materials as defined in B11-362.

- (a) The specified provisions required by this chapter are in addition to those requirements specified in the Fire Code. Requirements for controls for the use or indoor storage of regulated materials will be cumulative as the hazard class of regulated material increases in accordance with the following table:

<b>HAZARD CLASSIFICATIONS AND CONTROLS</b>	
<b>Hazard Classification</b>	<b>Hazard Controls</b>
Class I	Includes Division II, Class I, Class II, Class III, minimum threshold quantity and exempt amount controls
Class II	Includes Division II, Class II, Class III, minimum threshold quantity and exempt amount controls

Class III	Includes Division II, Class III, minimum threshold quantity and exempt amount controls
Minimum Threshold Quantity	Includes Division II, minimum threshold quantity and exempt amount controls
Exempt Amounts	Other applicable statutes, codes and ordinances

- (b) All control equipment for materials regulated by this chapter must meet appropriate nationally recognized standards, if any, approved by the director.
- (c) Halogenated, non-carbon based gases may hydrolyze to their base mineral acid upon contact with moisture. Therefore, the monitoring and compatibility requirements of this chapter will apply to their decomposition products.

**Section B11-371. Calculations for determining the class of mixtures.**

- (a) The LC<sub>50</sub> value for mixtures containing regulated materials must be calculated using the following formula:

$$LC_{50} \text{ of Gas Mixture (ppm)} = \frac{1}{(\text{molar fraction of toxic component}) / (\text{ppm } LC_{50} \text{ of toxic component})}$$

- (b) If more than one toxic component is present, the LC<sub>50</sub> value will be calculated using the following formula:

$$LC_{50} \text{ of Gas Mixture (ppm)} = \frac{1}{n \sum_{i=1}^n [(f_i) / (LC_{50i})]}$$

where f<sub>i</sub> is the mole fraction of the i<sup>th</sup> toxic component of the gas mixture and LC<sub>50i</sub> is the LC<sub>50</sub> of the i<sup>th</sup> toxic component of the gas mixture.

**ARTICLE 4. CONTROLS**

**Section B11-380. General controls.**

- (a) Seismic Protection. Persons responsible for a facility with one or more stationary tanks and piping systems used for regulated materials must cause such tanks and piping systems to be seismically braced in accordance with the provisions of the currently adopted version of the Uniform Building Code.
- (b) Security. Facilities where materials subject to this chapter are stored, handled, dispensed or used must be secured against unauthorized entry.
- (c) Breathing Apparatus.
  - (1) In order to provide for immediate initial on-scene response in the event of an unauthorized discharge and to provide on-scene assistance to firefighters and other emergency response personnel, persons responsible for any facility where Class I or corrosive regulated materials are present must provide a minimum of two self-contained breathing apparatus. When self-contained breathing apparatus would be inadequate protection due to the nature of the gases present, other appropriate protective equipment must be provided for on-site emergency response personnel.

- (2) The self-contained breathing apparatus or other protective equipment must be suitable for use with the material present and must be readily available to on-site emergency response personnel in a location that provides safety for those expected to don the apparatus.
  - (3) A location that provides safety is one which is not likely to be immediately affected by the release of a regulated material
- (d) Incompatible Materials. Responsible persons must provide for regulated materials to be separated from other incompatible hazardous materials listed in Table 5108-A of the Fire Code. Separation must be maintained by one hour fire-resistive construction or by the use of separate gas cabinets. Construction materials must be compatible with the toxic gases they serve. Compatibility of construction materials must be based on nationally recognized standards such as the National Association of Corrosion Engineers (NACE).
- (e) Leak Testing. Responsible persons must ensure that the containers of regulated materials are tested for leaks immediately upon delivery and again immediately prior to departure of such containers from facilities. Testing methods must be approved by the director in accordance with appropriately nationally recognized industry standards and practices, if any. Appropriate remedial action must be immediately undertaken when leaks are detected.
- (f) Protective Plugs and Caps. Responsible persons must ensure that the protective plugs and caps of regulated materials are in place at all times unless and until the material is properly placed into use.
- (g) Emergency Response Plan.
- (1) If the preparation of an emergency response plan for the facility is not required by any other law, a responsible person must prepare, or cause to be prepared, and filed with the department, a written emergency response plan.
  - (2) If the preparation of an emergency response plan is required by any other law, a responsible person must file a copy of the plan with the local fire agency.
- (h) Emergency Response Teams.
- (1) If not required to do so by another law, a person responsible for a facility subject to this chapter must designate, or cause to be designated, an on-site emergency response team, which must be composed of an adequate number of trained, responsible persons, and which will serve as liaison to the fire department.
  - (2) Emergency response team members must ascertain all on-site locations where regulated materials are stored, handled and used, and must become familiar with the emergency response plan and the chemical nature of such regulated material, and must act as facility liaison to the fire department and must be prepared to respond in an emergency.
- (i) Emergency Drills.
- (1) Responsible persons must ensure that emergency drills of each on-site emergency response team to be conducted not less frequently than once every three (3) months.
  - (2) Records of drills conducted must be maintained at the facility for three (3) years and must be made available for inspection upon request by the local fire agency or the department.

- (j) Annual Maintenance.
  - (1) Responsible persons must ensure that all safety control systems at a facility to be tested not less frequently than annually and maintained in good working condition.
  - (2) Maintenance and testing must be performed by persons qualified to perform the maintenance and tests.
  - (3) Maintenance records and test certifications must be available to the department upon inspection or request.
- (k) Flow-Limiting Orifices and Devices for Class I Materials. All containers of materials other than lecture bottles classified as Class I regulated materials and having a vapor pressure exceeding 29 psia, must be equipped with a flow-restricting orifice, when available. If a flow-restricting orifice is not available, the container must be used with a flow-limiting device. All flow-limiting devices must be part of the valve assembly and visible to the eye when possible; otherwise, they must be installed as close as possible to the cylinder source.
- (l) Fire Extinguishing Systems.
  - (1) Except as hereinafter provided, responsible persons must cause all interior and exterior use areas and all indoor storage areas and storage buildings to be protected from fire by automatic sprinkler systems.
  - (2) The design of the sprinkler system must be not less than that required under the current edition of NFPA for ordinary hazard group II, with a minimum design area of three thousand square feet. Where the materials or storage arrangement require a higher level of sprinkler system protection in accordance with nationally recognized standards, the higher level of sprinkler system protection must be provided.
  - (3) If the chemical properties of the regulated materials are such that the materials will be incompatible with the use of a sprinkler system, the local fire agency may require alternative forms of fire protection.

**Section B11-381. Class I controls.**

Persons responsible for any facility where Class I materials are present must comply with all of the requirements of this section and sections B11-382 through B11-385.

- (a) Piping.
  - (1) Piping for Class I materials must be designed and fabricated from materials compatible with the material to be contained. Piping must be of strength and durability sufficient to withstand the pressure, structural and seismic stress and exposure to which it may be subjected, as required by the currently adopted version of the Uniform Building Code.
  - (2) Secondary containment must be provided for piping for Class I materials. The secondary containment must be capable of directing a sudden release into an approved discharge treatment system and must be monitored continually with a continuous gas monitoring system approved by the director. Secondary containment includes, but is not limited to, double walled piping. Secondary containment for piping under sub-atmospheric conditions may not be required if the piping is equipped with an alarm and cylinder fail-safe-to-close valve activated by a loss of vacuum.
- (b) Automatic Shutoff. An automatic shutoff valve, which is of fail-safe-to- close design, must be

provided. Each of the following must activate automatic shutoff:

- (1) Gas detection at PEL in occupiable areas; at ½ IDLH (or 0.05 LC<sub>50</sub> if no established IDLH) in unoccupiable areas;
  - (2) Manual activation of emergency shutoff valves, from remote locations;
  - (3) Failure of emergency power;
  - (4) Seismic activity;
  - (5) Failure of primary containment;
  - (6) Activation of manual fire alarm;
  - (7) Failure of required exhaust flow ventilation rate.
- (c) Emergency Control Station. Signals from emergency equipment must be transmitted to an emergency control station, which is continually staffed by trained personnel. Continual staffing must not be required during periods when regulated materials have been purged from all process piping and equipment and are no longer being used or dispensed.

**Section B11-382. Class II controls.**

Materials which are classified as Class II materials must be provided with the controls specified in this section and sections B11-383 through B11-385.

- (a) Connections.
- (1) Piping and tubing for Class II materials must be installed in accordance with appropriate nationally recognized standards, if any, approved by the director and must have welded connections compatible with the regulated material throughout unless an exhausted enclosure is provided.
  - (2) Material which is not compatible with ferrous piping may be installed in nonferrous piping approved by the director.
  - (3) Where connections other than welding connections meet appropriate nationally recognized industry standards, if any, a person responsible for a facility may seek an exception from the director, by filing a request for exception with the director. A request for exception and a fee as set by the schedule of fees as adopted by the department must be filed with the director for approval. The request must document the standards and reason for the exception.
- (b) Local Gas Shutoff.
- (1) Manual activation controls must be provided at locations near the point of use and near the source, as approved by the director.
  - (2) The director may require additional controls at other places, including but not limited to the entry to the building, the area in the building where regulated materials are stored or used and emergency control stations.
  - (3) Manually activated shutoff valves must be of fail-safe-to-close design.

- (c) Emergency Power. Emergency power must be provided for:
  - (1) Exhaust ventilation, including the power supply for treatment systems;
  - (2) Gas detection systems;
  - (3) Emergency alarm systems;
  - (4) Temperature control systems which comply with the Fire Code.
- (d) Excess Flow Control.
  - (1) Portable tanks and cylinders containing Class II material must be provided with excess flow control.
  - (2) Excess flow control must be permanently marked to indicate the maximum design flow rate.
- (e) Gas Detection. A continuous gas detection system must be provided to detect the presence of a gas at or below the permissible exposure limit in occupiable areas and at or below 1/2 IDLH (or 0.05 LC<sub>50</sub> if no established IDLH) in unoccupiable areas. The detection system must initiate a local alarm and transmit a signal to a continually staffed remote location (to provide an immediate response to an alarm). The alarm must be both visual and audible and must be designed to provide warning both inside and outside of the interior storage, use or handling area. The audible alarm must be distinct from all other on-site alarms.
- (f) Exhaust Ventilation Monitoring. A continuous monitoring system must be provided to assure that the required exhaust ventilation rate is maintained. The monitoring system must initiate a local alarm. The alarm must be both visual and audible and designed to provide warning both inside and outside of the interior storage, use or handling area.
- (g) Seismic Shutoff Valves. A seismically activated valve meeting standards approved by the director must be provided for an automatic shutoff of regulated materials.
- (h) Class II Corrosives. Inert construction materials must be used for the primary containment of Class II regulated materials which are corrosive. Alternatively, secondary containment must be provided for Class II materials which are corrosive.
- (i) Emergency Alarms. When materials regulated by this chapter are transported through exit corridors or exit enclosures, there must be an emergency telephone system or a local manual alarm station or a signaling device approved by the director at not more than one hundred fifty foot intervals and at each exit doorway throughout the transport route. The signals must be relayed to an approved central, proprietary or remote station service or a constantly attended on-site location and must also initiate a local audible alarm.

**Section B11-383. Class III controls.**

Materials which are classified as Class III materials must be provided with the controls specified in this section and sections B11-384 and B11-385.

- (a) Piping, Valves and Fittings.
  - (1) Piping, valves, fittings and related components must be designed and fabricated from materials compatible with the material to be contained. They must have strength and durability sufficient to withstand the pressure, structural, seismic and any other stress and

exposure to which they may be subjected.

- (2) Expansion chambers must be provided between valves whenever appropriate in accordance with nationally recognized standards approved by the director. Chambers must be sized to provide protection for piping, valves and instrumentation and to accommodate the expansion of regulated materials.

(b) Signage.

- (1) Stationary above-ground tanks must be placarded with hazard identification signs as specified in the Fire Code, Standard 79-3, for the specific material contained.
- (2) Signs prohibiting smoking must be posted in indoor storage, use and handling areas and within twenty-five feet of outdoor storage, use and handling areas, except within buildings designated as "No Smoking" buildings.
- (c) Signs must not be obscured or removed.
- (d) Signs must be in English and other such languages as may be appropriate, as determined by the director.
- (e) Signs must be durable.
- (f) The size, color and lettering must be in conformance with nationally recognized standards determined by the director to be applicable to the regulated material.
- (g) Inert Gas Purge System. Gas systems for regulated materials must be provided with individually dedicated inert gas purge systems (e.g., nitrogen, helium, argon and neon). A dedicated inert gas purge system may be used to purge more than one gas, provided the gases are compatible. Purge gas systems must be located in an approved gas cabinet unless the system operates by vacuum demand.

**Section B11-384. Minimum threshold quantity controls.**

Materials which do not exceed the minimum threshold quantity, must be provided with controls specified in this section and section B11-385.

(a) Exhaust ventilation.

- (1) Storage of cylinders must be within ventilated gas cabinets, exhausted enclosures or within a ventilated separate gas storage room as defined in the Fire Code.
- (2) Storage of portable and stationary tanks must be within a separate ventilated room without other occupancy or use.
- (3) If gas cabinets are provided, the room or area in which they are located must have independent exhaust ventilation when properly exhausted cabinets are not utilized.
- (4) Exhaust systems for gas cabinets, exhausted enclosures and separate gas storage rooms must be designed to handle the accidental release of gas. Such exhaust systems must be capable of diluting, adsorbing, neutralizing, burning or otherwise processing the entire contents of the single tank or cylinder of gas which presents the highest potential hazard.
- (5) Systems utilized for such processing must be designed as a treatment system, as

described in subsection (c) of this section, below. If a total containment system is utilized, the system must be designed to handle the maximum anticipated pressure of release to the system when the system reaches equilibrium.

- (b) Gas Cabinets. When gas cabinets are provided, they must be:
  - (1) Operated at negative pressure in relation to their surrounding area;
  - (2) Provided with self-closing limited access ports or fire-rated windows to give access to equipment controls. The average velocity of ventilation at the face of access ports or windows must be not less than two hundred feet per minute (FPM) with a minimum of one hundred fifty FPM at any point of the access port or window;
  - (3) Connected to a treatment system;
  - (4) Provided with self-closing doors;
  - (5) Constructed of steel with a thickness of not less than twelve gauge.
- (c) Treatment Systems.
  - (1) Treatment systems must be utilized to process all exhaust ventilation to be discharged from gas cabinets, exhausted enclosures or separate storage rooms. Treatment systems must be designed to reduce the maximum allowable discharge concentration of the gas to one-half (1/2) IDLH (or 0.05 LC<sub>50</sub> if no established IDLH) at the point of discharge to the atmosphere as specified below.
  - (2) When more than one gas may be emitted to the treatment system, the treatment system must be designed to handle the worst-case release based on the release rate, the quantity and the IDLH (or 0.1 LC<sub>50</sub> if no established IDLH) for all the gases stored or used.
  - (3) In the event that a revised IDLH is published, the director will establish a new timetable for existing facilities to upgrade their treatment systems to meet the revised IDLH value.
- (d) Treatment Systems Sizing. Treatment systems must be sized to process the worst-case release of each gas based on the maximum flow rate of release from the cylinder or tank utilized which presents the highest potential hazard. The entire contents of tanks and cylinders must be considered.
- (e) Stationary Tanks.
  - (1) Stationary tanks must be labeled with the maximum rate of release for the gas contained based on any valves or fittings that are inserted directly into the tank.
  - (2) If multiple valves or fittings are provided, the maximum flow rate of release for the valve or fitting with the highest flow rate must be indicated.
  - (3) If liquefied gases are in contact with any valve or fitting, the liquid flow rate must be utilized for purposes of computation of the maximum flow rate of release. All flow rates indicated on the label must be converted to cubic feet per minute of gas at normal temperature and pressure.
- (f) Portable Tanks and Cylinders.

- (1) For portable tanks and cylinders, the maximum flow rate of release must be calculated based on the actual release data or calculations using actual valve manufacturer's specifications. When this data is not available, the maximum flow rate of release will be calculated based on the total release from the cylinder or tank within the time specified in the table below:

Container	Nonliquefied (Minutes)	Liquefied (Minutes)
Cylinders	5	30
Portable Tanks	40	240

- (2) When portable tanks or cylinders are equipped with approved reduced flow orifices in the cylinder valve, the worst-case release may be determined by the maximum achievable flow through the orifice as determined by the valve manufacturer or the gas supplier. Reduced flow and excess flow valves must be permanently marked to indicate the maximum design flow rate. Such markings must indicate the flow rate for air under standard conditions. Lettering must be ¼ inch high, minimum, and be in contrast to the color it is printed upon.
- (3) When cylinders are manifolded together, the maximum release rate must be the sum of the release rates for all of the manifolded cylinders.
- (g) Piping and Controls. All primary piping for regulated materials must pass a helium leak test of  $1 \times 10^{-9}$  cubic centimeters/second where practical, or other nationally recognized standard. Tests must be conducted by a qualified third party not involved with the construction of the piping and control systems.

**Section B11-385. Exterior storage.**

- (a) General. Persons responsible for a facility where there is exterior storage of any regulated material must comply with the provisions of this section and the currently adopted version of the Uniform Building Code.
- (b) Distance Limitation to Exposures. Exterior storage of regulated materials must not be within seventy-five feet of a building, structure, property line, street, alley, public way or exit to a public way unless the storage is shielded by a structure which has a minimum fire-resistive rating of two hours and which interrupts the line of sight between the storage and the exposure. The shielding structure must be at least five feet from any exposure.
- (c) Openings in Buildings Subject to Exposure. When an exterior storage area is located within seventy-five feet of a building, no openings into the building, other than piping, must not be above the height of the top of the shielding structure referred to in subsection (b) of this section, above, or within fifty feet horizontally from the exterior storage area, whether or not protected by a shielding structure.
- (d) Air Intakes. No exterior storage area for regulated materials can be within seventy-five feet of any air intake.
- (e) Canopies. Portable tanks and cylinders stored outside of buildings must be stored under a canopy constructed of noncombustible materials. Such exterior storage will not be considered indoor storage. An automatic fire sprinkler system, or alternative systems as determined by the fire chief or his designee for materials incompatible with water, must be provided for canopies installed for the storage of regulated materials.
- (f) Stationary Tank Controls. Controls on stationary tanks must be in accordance with the following:

- (1) Pressure relief devices must be vented to a treatment system designed in accordance with the provisions of section B11-384(c).
  - (2) Where filling or dispensing connections are provided, they must be provided with a means of local exhaust. Such exhaust must be designed to capture fumes and vapors. The exhaust must be directed to a treatment system designed in accordance with the provisions of section B11-384(c).
  - (3) Stationary tanks must be provided with a means of excess flow control on all tank inlet or outlet connections. Inlet connections that are designed to preclude backflow and pressure relief devices are exempt from this requirement.
- (g) Gas Cabinets for Leaking Cylinders.
- (1) At least one gas cabinet or exhausted enclosure must be provided for the handling of leaking cylinders. The cabinet or enclosure must be within or adjacent to the exterior storage area and connected to a treatment system as specified in section B11-384(c).
  - (2) A gas cabinet or exhausted enclosure need not be provided for leaking cylinders if all cylinders are stored within gas cabinets or exhausted enclosures and the exhaust is directed to a treatment system designed in accordance with the provisions section B11-384(c).
  - (3) Encapsulating equipment or other equipment designed to contain high-pressure cylinders and their contents as approved by the fire chief or his designee must be acceptable in meeting the intent of this section in lieu of gas cabinets or exhausted enclosures.
- (h) Local Exhaust for Leaking Portable Tanks.
- (1) A means of local exhaust must be provided to capture regulated material leaking from portable tanks. The local exhaust may consist of portable ducts or collection systems designed to be applied to the site of a leak in a valve or fitting on the tank. The local exhaust system must be connected to a treatment system as specified in section B11-384(c).
  - (2) A local exhaust system must be provided within or immediately adjacent to every storage area and within separate gas storage rooms used for portable tanks.

**Section B11-386. Tank cars and piping.**

- (a) The provisions of this chapter do not apply to tank cars which meet all requirements of the U.S. Department of Transportation, while such tank cars are used for the transportation and unloading of regulated material, as such terms are used in the Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq. "Unloading" does not include the use of tank cars to store regulated materials.
- (b) The provisions of this chapter apply to piping and control systems, automatic shutoff valves, emergency control stations, gas detection systems, treatment systems and alarm systems used with piping which connects tank cars to facilities for the unloading and delivery of regulated material, and to tank cars used to store regulated materials.

**ARTICLE 5. PERMITS**

**Section B11-390. Permits and system upgrades.**

- (a) General: No person may store, dispense, use or handle any regulated material in excess of an exempt amount at a facility unless a compliance plan and a plan review fee have been submitted to the department and an operating permit for the facility has been issued pursuant to this chapter. The specific requirements for obtaining an operating permit will be established by the director. A fee may be charged in connection with the filing of a compliance plan and the issuance of the operating permit as provided for by resolution of the board of supervisors.
- (b) The extent of system upgrades will be determined by the following conditions:
  - (1) If a permit is required for a piping modification, then upgrading of the entire system for that gas will be required.
  - (2) If a permit is not required for piping modification, such as for connecting an existing piping system to a new piece of equipment, then upgrading of the entire system will not be required.

**Section B11-391. Closure.**

- (a) It is unlawful for any person to abandon, remove or close a facility or other area regulated by this chapter until a closure plan has been submitted to and approved by the director.
- (b) A closure plan and a closure plan review fee as set by the schedule of fees as adopted by the Board of Supervisors must be submitted by a responsible person to the department at least thirty days prior to facility closure. The property owner of the property upon which the regulated materials are stored will be responsible for the closure in the event that the regulated materials are abandoned or when the permittee has not complied with all provisions of this section. The closure plan must demonstrate to the satisfaction of the director that regulated materials which are or have been stored, dispensed, handled or used in the facility will be transported, disposed of or reused in a manner consistent with public health and safety. The director may waive all or part of the thirty day period upon a finding of good cause.

**ARTICLE 6. RESPONSIBILITIES**

**Sec. B11-395. Reporting unauthorized discharge.**

A person responsible for a facility must, as soon as he or she has knowledge of an unauthorized discharge from or at such facility, immediately notify the local fire agency and the director of such discharge.

**Sec. B11-396. Indemnification.**

The permittee must indemnify, hold harmless and defend the county against any claim, cause of action, disability, loss, liability, damage, cost or expense, howsoever arising, which occurs by reason of an unauthorized discharge in connection with the permittee's operations under this permit, except as arises from the county's sole willful act or sole active negligence.

**ARTICLE 7. ENFORCEMENT**

**Section B11-400. Civil Penalties.**

- (a) Any person conducting any activity in violation of the provisions of this chapter or regulations adopted pursuant to this chapter will be liable for a civil penalty not less than five hundred dollars and not to exceed five thousand dollars per day for each violation, which will be assessed and recovered in a civil action by the district attorney or the county counsel. In determining the

penalty, the court will consider all relevant circumstances, including but not limited to the following:

- (1) The extent of harm or potential harm caused by the violation;
  - (2) The nature and persistence of the violation;
  - (3) The length of time over which the violation occurred;
  - (4) The frequency of past violations;
  - (5) The permittee's record of maintenance;
  - (6) Corrective action, if any, taken by the permittee.
- (b) In any civil action brought pursuant hereto, in which the county prevails, the court will determine and impose reasonable expenses, including attorneys' fees, incurred by the county in the investigation and prosecution of the action.

**Sec. B11-401. Penalty deposits.**

Any administrative, civil and/or criminal penalties collected pursuant to this chapter will be deposited into the hazardous materials program account.

**ARTICLE 8. MISCELLANEOUS**

**Sec. B11-405. Disclaimer of liability.**

The degree of protection required by this chapter is considered reasonable for regulatory purposes. The standards set forth herein are minimal standards, and this chapter does not imply that compliance will ensure that there will be no unauthorized discharge of hazardous material. This chapter does not create liability on the part of the county, any officer or employee thereof, for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. All persons handling, storing, using, processing and disposing of hazardous materials within the county should be and are advised to determine to their own satisfaction the level of protection in addition to that required by this chapter necessary or desirable to ensure that there is no unauthorized discharge of hazardous materials.

**CHAPTER XV. UNIFIED PROGRAM**

**ARTICLE 1. GENERAL PROVISIONS**

**Sec. B11-410. Declaration of findings and intent.**

- (a) It is determined that hazardous materials and hazardous waste in the community may be deleterious to the environment and the health of individuals who visit, reside or work in the County of Santa Clara if they are exposed to such substances as a result of fires, spills, industrial accidents, releases, emissions or other incidents.
- (b) Persons who safely handle, use, store and dispose of hazardous materials and waste benefit the community by protecting the environment and the health and welfare of residents, workers and visitors. It is the intent of the county's board of supervisors that the administration and enforcement of the unified program requirements will facilitate safe management practices with respect to hazardous materials and waste.

- (c) The purpose of this chapter is the protection of health, life, resources and property. It is the intent of the county's board of supervisors that the administration and enforcement of the unified program will reduce the likelihood of fires, spills, industrial accidents, releases, emissions or other incidents that could detrimentally affect the lives of residents, visitors and workers and the environment by establishing an inspection procedure, disclosure requirements, and permitting procedures for persons who handle, store, use, and dispose of hazardous materials and waste throughout both the incorporated and unincorporated areas of the County of Santa Clara, excluding the jurisdictions of other Unified Program Agencies.

**Sec. B11-411. Authority.**

- (a) Pursuant to approval by the State of California Environmental Protection Agency (Cal EPA) of the County of Santa Clara Department of Environmental Health's application to serve as the unified program agency (UPA) throughout both the incorporated and unincorporated areas of the County of Santa Clara, excluding the jurisdictions of other unified program agencies, the county assumes authority and responsibility for the unified hazardous waste and hazardous materials management regulatory program (unified program) established by Health and Safety Code, division 20, chapter 6.11, section 25404 et seq. This program consolidates the administration and enforcement of six hazardous materials management programs and ensures the coordination and consistency of any regulations adopted pursuant to such program requirements. The six programs are:
  - (1) Hazardous Materials Release Response Plans and Inventories (Hazardous Materials Business Plans);
  - (2) Hazardous Waste Generator and Onsite Hazardous Waste Treatment (Tiered Permit) programs;
  - (3) Underground Storage Tank program;
  - (4) Aboveground Storage Act requirements for Spill Prevention Control and Countermeasure (SPCC) Plans;
  - (5) Uniform Fire Code Hazardous Materials Management Plans and Hazardous Materials Inventory Statements;
  - (6) California Accidental Release Prevention (CalARP) program.
- (b) The County has exclusive, local jurisdiction to administer and enforce the requirements of the unified program throughout both the incorporated and unincorporated areas of the County of Santa Clara, excluding the jurisdictions of other unified program agencies.
- (c) This chapter will be implemented and enforced in compliance with the state's unified program requirements, the provisions set forth in subsection (a) of this section, any other applicable laws and regulations, as they may be amended from time to time, and chapters XIII and XIV pertaining to hazardous materials management, including the storage, dispensing, use and handling of toxic gases.
- (d) This chapter will be implemented and enforced in accordance with any other requirements which are applicable to the unified program, but are not specifically incorporated by reference in this chapter, any new federal, state or local laws and/or regulations that may be enacted from time to time and any amendments to any such requirements.
- (e) The County of Santa Clara Department of Environmental Health is designated as the administering agency responsible for the administration and enforcement of the unified program

and this chapter. The director has the authority to take any and all actions that may be necessary for public safety to administer and enforce the unified program requirements and this chapter. All employees designated by the director are authorized to make inspections and take any actions on behalf of the director as may be required to administer and enforce the requirements of the unified program and this chapter.

- (f) The director or his/her designee will be the administrator of the unified program and this chapter.
- (g) The director may, for purposes consistent with this chapter, undertake actions, including but not limited to public educational programs regarding hazardous materials and waste, the requirements of this chapter, and promotion of pollution prevention, and recycling of waste products.

**Sec. B11-412. Program list and code sections.**

The following provisions of the California Health and Safety Code and applicable regulations, as they may be amended from time to time, which establish the requirements of the six hazardous materials and waste management programs that are consolidated by the unified program hereby are incorporated by reference as if fully set forth herein:

- (a) Health and Safety Code, division 20, chapter 6.5, section 25100 et seq. Hazardous waste generator requirements, including enforcement and implementation of the onsite hazardous waste treatment and tiered permitting program;
- (b) Health and Safety Code, division 20, chapter 6.67, sections 25270.2, 25270.4, and 25270.5(c). Aboveground petroleum storage tanks (spill prevention control and countermeasure plan);
- (c) Health and Safety Code, division 20, chapter 6.7, section 25280 et seq. Underground storage of hazardous substances;
- (d) Health and Safety Code, division 20, chapter 6.95, article 1, section 25501 et seq. Hazardous materials release response plans and inventories, commonly referred to as Hazardous Materials Business Plans and Hazardous Materials Area Plans.
- (e) Health and Safety Code, division 20, chapter 6.95, article 2, section 25531 et seq. Requirements concerning acutely hazardous materials, commonly referred to as the California accidental release prevention program (CalARP); and
- (f) Section 80103 of the Uniform Fire Code, subdivisions (b) and (c) as adopted by the State Fire Marshal pursuant to Health and Safety Code, section 13143.9, California Fire Code requirements concerning hazardous material management plans and inventories.

**Sec. B11-413. Definitions.**

In addition to the definitions in chapter I, The following are defined for purposes of this chapter:

- (a) County UPA means the County of Santa Clara Department of Environmental Health.
- (c) Hazardous Waste means hazardous waste as defined in the Hazardous Waste Control Law (section 25117 of chapter 6.5, division 20, California Health and Safety Code).
- (c) Participating Agency or PA means a local agency that has a formal agreement with the UPA to implement and enforce a program element as part of the Unified Program.
- (d) Program Element means a program listed in California Health and Safety Code, section 25404(c),

or it may be a program other than those mandated in Health and Safety Code, section 25404(c) which is voluntarily consolidated into a Unified Program, to be carried out in conjunction with a program listed in section 25404(c).

- (e) Risk Management Plan means a plan that summarizes the results of hazard assessments and analyses and the implementation of the risk management program requirements as prescribed under Part 68 (commencing with section 68.1) of subchapter C of chapter I of Title 40 of the Code of Federal Regulations.
- (f) Unified Program means the consolidation of the following six environmental programs into one program under the authority of a unified program agency:
  - (1) Hazardous Materials Release Response Plans and Inventories (Hazardous Materials Business Plans),
  - (2) Hazardous Waste Generator and Onsite Hazardous Waste Treatment (Tiered Permit) programs,
  - (3) Underground Storage Tank program,
  - (4) Aboveground Storage Act requirements for Spill Prevention Control and Countermeasure (SPCC) Plans,
  - (5) Uniform Fire Code Hazardous Materials Management Plans and Hazardous Materials Inventory Statements,
  - (6) California Accidental Release Prevention (CalARP) program.
- (g) Unified Program Agency or UPA means a local agency that has been certified by the California Environmental Protection Agency to implement the Unified Program within the local agency's jurisdiction.
- (h) Unified Program Facility Permit means a permit as defined in Section 25404(a)(5) of the California Health and Safety Code.

## **ARTICLE 2. PERMITS**

### **Sec. B11-420. Unified program facility permit.**

Permits required in this chapter will be consolidated as a Unified Program Facility Permit as required by Section 15100, Title 27, California Code of Regulations.

### **Sec. B11-421. CalARP facility permit.**

- (a) Any person who owns/operates a facility for which the County UPA determines that a Risk Management Plan (RMP) must be prepared and submitted to the county for review is required under this chapter to obtain a permit from, and to pay prescribed permit fees to, the County UPA or its designee.
- (b) No person may engage in the activity of handling onsite any regulated material which requires an RMP as referred to in subsection (a) of this section, unless the person has a valid permit issued by the director pursuant to the provisions of this division for each facility storing such regulated material(s).
- (c) Application for a new, amended or renewed permit or an additional approval must be made to the

County UPA on the form(s) approved by the director.

**Sec. B11-422. Hazardous waste generator permit.**

- (a) Any person who generates hazardous waste is required under this chapter to obtain a permit from, and to pay prescribed permit fees to, the County UPA or the appropriate Participating Agency.
- (b) No person may engage in the activity of generating hazardous waste unless the person has a valid permit issued by the director pursuant to the provisions of this division for each facility.
- (c) Application for a new, amended or renewed permit or an additional approval must be made to the County UPA on the form(s) approved by the director.

**Sec. B11-423. Hazardous waste onsite treatment permit.**

- (a) Any person who generates and treats their own hazardous waste onsite, pursuant to section 25200.3 of the California Health and Safety Code, is required under this chapter to obtain a permit from, and to pay prescribed permit fees to, the County UPA or the appropriate Participating Agency.
- (b) No person may perform onsite treatment of hazardous waste generated onsite unless the person has a valid permit issued by the director pursuant to the provisions of this division for each facility.
- (c) Application for a new, amended or renewed permit or an additional approval must be made to the County UPA or appropriate Participating Agency, if applicable, on the form(s) required by state regulation and approved by the director.

**Sec. B11-424. Underground storage tank permit.**

- (a) The owner or operator of any underground storage tank (UST) system which contains a hazardous substance and is regulated pursuant to California Health and Safety Code, division 20, chapter 6.7, is required under Health and Safety Code, sections 25284(a) and 25287, and this chapter to obtain a permit from, and to pay prescribed permit fees to, the County UPA or the appropriate Participating Agency.
- (b) Application for a new, amended or renewed permit or an additional approval must be made to the County UPA or appropriate Participating Agency, if applicable, on the form(s) required by state regulation and approved by the director.

**ARTICLE 3. ENFORCEMENT**

**Sec. B11-430. General.**

In addition to the enforcement provisions in chapter I of this division, the following penalties may apply.

Any person who violates the requirements of this chapter may be liable for criminal penalties to the full extent provided by state law, and this chapter. Such liability may include, but will not be limited to, liability for administrative civil penalties as provided in California Health and Safety Code, sections 25187 and 25514.5. The remedies provided for under this section are in addition to any the County or any person might have under other applicable laws.

**Section B11-431. Civil Penalties.**

Any person or persons conducting any activity in violation of the provisions of this chapter or regulations adopted pursuant to this chapter will be liable for a civil penalty not less than five hundred dollars and not to exceed five thousand dollars per day for each violation, which will be assessed and recovered in a civil action brought by the district attorney or the county counsel. In determining the penalty, the court may consider all relevant circumstances, including but not limited to the following:

- (a) The extent of harm or potential harm caused by the violation;
- (b) The nature and persistence of the violation;
- (c) The length of time over which the violation occurred;
- (d) The frequency of past violations;
- (e) The permittee's record of maintenance;
- (f) Corrective action, if any, taken by the permittee.

In any civil action brought pursuant hereto, in which the county prevails, the court will determine and impose reasonable expenses, including attorneys' fees, incurred by the county in the investigation and prosecution of the action.

**Sec. B11-432. Penalty deposits.**

Any administrative, civil and/or criminal penalties collected pursuant to this chapter will be deposited into the hazardous materials program account.

**ARTICLE 4. MISCELLANEOUS**

**Sec. B11-440. Disclaimer of liability.**

The degree of protection required by this chapter is considered reasonable for regulatory purposes. The standards set forth herein are minimal standards, and this chapter does not imply that compliance will ensure that there will be no unauthorized discharge of hazardous material. This chapter does not create liability on the part of the county, any officer or employee thereof, for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. All persons handling, storing, using, processing and disposing of hazardous materials within the county should be and are advised to determine to their own satisfaction the level of protection in addition to that required by this chapter necessary or desirable to ensure that there is no unauthorized discharge of hazardous materials.

**Sec. B11-441. Relation to existing laws.**

The disclosure of hazardous materials information in accordance with the provisions of this chapter will not in any way affect any other liability or responsibility of a handler of hazardous materials or waste with regard to safeguarding the health and safety of any employee, or any other person or the environment.

**Sec. B11-442. Indemnification.**

The permittee must indemnify, hold harmless and defend the county against any claim, cause of action, disability, loss, liability, damage, cost or expense, howsoever arising, which occurs by reason of an unauthorized discharge in connection with the permittee's operations under this permit, except as arises from the county's sole willful act or sole active negligence.

**SECTION 3:** Chapter I of Division A18 of the Santa Clara County Code is amended by adding a new Section to be numbered and entitled and to read as follows:

**Sec. A18-14. Meetings during epidemics.**

- (a) Whenever an epidemic or any contagious or infectious disease is prevalent in the county, the health officer is authorized and empowered to forbid the holding of any meeting or gathering, either public or private, and to order closed any place where meetings are held as needed to prevent the spread of disease.
  
- (b) No person when so forbidden by the health officer , may hold any of the meetings or gatherings hereinabove mentioned, attend or take part in the same, or open any place where the meetings or gatherings are held.

**SECTION 4.** Chapter VI of Division **A33** of the Santa Clara County Code is amended by adding a new Section to be number and entitled and to read as follows:

**Sec. A33-103. Expanded powers and duties**

Pursuant to Health and Safety Code section 101280, whenever, in any statute, regulation, resolution, or order, a power is granted to, or a duty is imposed upon the county health officer or county health department pertaining to environmental health and sanitation services, the powers and duties are to be administered by the director of environmental health.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California, on \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
BLANCA ALVARADO, Chairperson  
Board of Supervisors

ATTEST:

\_\_\_\_\_  
PHYLLIS A. PEREZ  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
KATHY KRETCHMER  
Deputy County Counsel