FMS:lmc
9/13/90

AN ORDINANCE 72267

ESTABLISHING AN APPLICATION/PERMIT FEE FOR FACILITIES THAT USE HAZARDOUS MATERIALS AND A RESPONSE FEE BASED ON MATERIALS AND MAN-HOURS REQUIRED AT THE SCENE OF AN ACCIDENT.

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WHEREAS, the Superfund Amendments and Reauthorization Act (SARA), passed in 1986, requires each state to establish an emergency response commission, emergency planning districts, and local emergency planning committees; and Title III of this act requires all entities that use, store, transport, manufacture, generate, dispose of or sell hazardous materials to file a list of such materials with both the state Department of Health, the recently created local Emergency Planning Committee; and the San Antonio Fire Department (SAFD) has agreed to be the Alamo Area Council of Governments' regional repository of such records; and

WHEREAS, the Texas Hazard Communication Act, effective September 1, 1989, was passed to assure accessibility to information regarding hazardous chemicals by employee, emergency service organizations, and the general public, and requires each employer to provide a copy of the workplace chemical list to the fire chief; and

WHEREAS, twenty seven (27) SAFD personnel, as first responders to hazardous materials (HAZMAT) incidents, are required to take at least eight (8) hours of training per year, with command personnel taking 24 hours and HAZMAT technicians taking 40 hours of training per year; and

WHEREAS, the San Antonio Fire Department (SAFD) serves as the information repository of the SARA Title III Emergency Planning and Community Right-to-know Act, and must develop a hazardous materials response team and maintain records of such materials located in the City; and

WHEREAS, this SARA required activity will have to be near self-sufficient, and a fee structure is necessary to defray the costs of training the twenty five member SAFD emergency responses team to respond to chemical spills and other hazardous materials accidents; and

WHEREAS, an ordinance is needed to require these entities to apply for city permits and pay city permit fees needed to train the SAFD based Hazardous Materials Response Team, and to create a hazardous materials response fee to recoup the cost of such services from the entity which caused the hazard; and

WHEREAS, the projected HAZMAT expenditures for fiscal year 1990/91 is $124,665.00; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. An annual permit fee for calendar year 1991 and every subsequent calendar year is hereby imposed on every person or corporation that owns, operates, or acts as the agent for any business location where one or more hazardous materials are used, stored, transported, manufactured, generated, disposed or sold within the City of San Antonio, in the fee amounts and for the types of businesses or activities and for the quantities of chemical listed in the attached "Table I".

SECTION 2. Where more than one location is used by the same person, corporation or entity, a separate service fee shall be paid for each location within the City of San Antonio.

SECTION 3. The annual permit fees listed in "Table I" shall be applied based upon the maximum quantity of a hazardous material present at any one time during the preceding year.

SECTION 4. The annual permit is required for each location used by the permittee, and a change of ownership of the location where the chemicals are stored, manufactured, generated, disposed of or sold shall not be cause for a new permit, nor shall the change of ownership of the business or entity handling the chemicals be cause for a new permit if notice of such change of ownership is provided to the San Antonio Fire Chief with ninety (90) days.

SECTION 5. A "hazardous materials response fee" shall be paid to the SAFD by the person, corporation, or entity which created the hazard or which owned the materials or chemicals, and said fee shall be determined by the time required at the scene of the hazardous incident at the rate of $400.00 for any time up to four hours duration, and an additional $25.00 per hour for any time over four hours, except that each service station engaged in retail sales of fuel shall pay a flat fee of one-hundred fifty dollars ($150.00) per location. The hourly rate over four hours shall be counted in 15 minute increments at the beginning of each increment.

SECTION 6. The annual permit fees shall be due and payable on January 1 of each year, beginning January 1, 1991, and shall become delinquent on March 1 of the same year. Payment shall be by cash, money order, or check made payable to the City of San Antonio, and payable at the City of San Antonio, Treasury Division, at 506 Dolorosa Street or by addressing the payment to the City at P.O. Box 839966, San Antonio, Texas 78283-3966.

SECTION 7. A 1% late penalty shall attach on the first day of March following the January 1st due date, and on the first day of each month thereafter; and shall be collected and process in the same manner as if they were part of the service fee. Said

penalty may be partially or wholly waived by the City Treasurer only if the delinquent payment is documented as not due to the error, oversight, or intent of the permittee.

SECTION 8. Annual hazardous materials permits shall be issued for each location operated or maintained by the permittee, and the permittee shall post said permit in a conspicuous place at each such location.

SECTION 9. Natural persons who use, store, transport, generate or dispose of hazardous materials in household consumer quantities for personal, non-commercial purposes are specifically excluded from compliance with the provisions of this Ordinance.

PASSED AND APPROVED this 13th day of September 1990.

Lila Cockrell
M A Y O R

ATTEST: Anna J. Rodriguez
City Clerk

APPROVED AS TO FORM: _____
City Attorney

90-40

HAZARDOUS MATERIALS FEES

Reporting Ranges

WEIGHT IN POUNDS

CODE	FROM	TO	FEE
00	0	99	$0.00
01	100	999	$25.00
02	1,000	9,999	$100.00
03	10,000	99,999	$250.00
04	100,000	999,999	$500.00
05	1,000,000	9,999,999	$1,000.00
06	10,000,000	49,999,999	$1,500.00
07	50,000,000	99,999,999	$2,000.00
08	100,000,000	and over	$2,500.00

TIME CERTAIN
ITEM NO. 7E

CITY OF SAN ANTONIO

Interdepartmental Correspondence Sheet

To: City Council

From: Raul C. Losoya, Fire Chief

Copies: Alexander E. Briseno, City Manager, File

Subject: PROPOSED ORDINANCE ON HAZARDOUS MATERIAL FEES

Date: August 29, 1990

Background

Congress in 1986 passed the Superfund Amendments and Reauthorization Act (SARA) requiring each state to establish an emergency response commission, emergency planning districts, and local emergency planning committees. The act requires facilities that use hazardous materials to file lists of the material with both the emergency response commissions and the local emergency planning committees. Additionally, SARA requires 8 hours of training per year for local government personnel who are first responders to hazardous materials (HAZMAT) incidents; and 24 hours for incident command personnel; and 40 hours for HazMat technicians. The San Antonio Fire Department serves as the depository of the SARA Title III Emergency Planning and Community Right-to-know Act. In an effort to meet the requirements it has become necessary for the San Antonio Fire Department to develop a hazardous materials response team.

Summary and Recommendation

The training requirements as well as the acquisition of the materials and equipment needed to implement and sustain a ready response team have strained the City's resources especially in a time of constraint. In order to make the required SARA activities as self-sufficient as possible, it is proposed that a fee structure be established for storage and handling requirements. These assessments would defray the costs of emergency responses to chemical spills and incidents by the Fire Department. These fees would be levied against owners, operators, or agents of businesses which use, stores, transports, manufactures, generates, or disposes of or sells hazardous materials. Permit fee would be applicable to all individuals and businesses that file under SARA Title III.

This ordinance would serve as the funding mechanism for SARA mandated activities above the current service provided by the San Antonio Fire Department. Projected Haz-Mat expenditures for the next fiscal year are $124,665.

This ordinance would also provide amount of service charge; flat fee rates; method of payment, when due; penalties and interest; violations; and exemptions.

Recommend this ordinance be approved.

Fiscal Implications

There would be an application/permit fee, renewable on an annual basis, based on the quantity of hazardous material stored; fees will range from $25 to $2,500. A response fee would be assessed for materials used and man-hours at the scene, at the range of $100 per hour with a 4 hour minimum and $25 per hour after 4 hours. Service stations engaged in the retail sales of fuel would pay a flat fee of one-hundred fifty dollars ($150) per location.

There are currently 715 applications filed with the San Antonio Fire Department: 355 service stations, and 360 other facilities, which would be assessed a fee based on quantity. At a minimum of $150 flat fee for service stations estimated revenue is $53,250; fees based on quantity would be approximately $53,850 for a total projection of $107,100. As this is a new program, $72,390 has been assumed in the proposed budget to accommodate problems in obtaining initial compliance.

Expected revenue would be dedicated to ensure haz-mat responders receive continued training and necessary equipment to ensure satisfactory response capability.

for Raul C. Losoya
Fire Chief

Approved:

Alexander E. Briseno
City Manager

ORDINANCE ESTABLISHING A HAZARDOUS MATERIAL FEE

An ordinance _____ _____ assessing of a special service charge to defray the costs of emergency responses to chemical spills and incidents by the Fire Department of San Antonio to be levied against owners, operators or agents of businesses which uses, stores, transports, manufactors, generates, or disposes of or sells hazardous materials, to provide procedures for payment, collection, adjustment, or refund of said assessments, and otherwise to provide with respect thereto.

Section 1.THE COUNCIL OF THE CITY OF SAN ANTONIO HEREBY ORDAINS :

Section____Imposition of Service Charge

Because of the danger posed to human life and personal property by the handling of hazardous materials, there is hereby imposed an annual service charge for the year 1990 and for each subsequent year upon every person who uses, stores, transports, manufactures, generates, or disposes of or sells hazardous materials within the City of San Antonio.

Service charge will be for permits to operate specific hazards, depending on type of business, amount of chemicals stored, and type of chemicals.

Section____Establishment of Service Charge

Every person who owns, operates, or acts as an agent for an establishment where one or more hazardous materials are used, stored, transported, manufactured, generated, disposed or sold shall pay an annual service charge.

Where more than one such establishment or facility is kept or conducted by the same person, a separate service charge shall be paid for each separate establishment.

Section_____Amount of Service Charge

The service charge shall be based upon the maximum quantity of a hazardous material used, stored,transported, manufactured, generated, or sold at any one time during the preceding year and as shown in the following table: (see table attached)

a) if there is a change in facility ownership, the original base registration permit would apply.

b) penalties for companies not filing plans as required will be assessed as per section _____.

Section__?___ Service charge for response

A fee will be assessed for a hazardous materials response by the San Antonio Fire Department for materials and man-hours at the scene of a hazardous incident.

$100 per hour	4 hour minimum
$ 25 per hour	after 4 hours

Section ____Service Stations; Flat Fee

Service stations engaged in retail sales of fuel shall pay a flat fee of one-hundred dollars ($150.00) per location.

Section_____Method of Payment; When Due

All annual service charges shall be due on January 1 and shall become delinquent on March 1 of each year and shall be paid by check or postal money order to the City Comptroller, accompanied by such return or reporting forms as the Comptroller may require, who shall, upon receipt of all payments due, issue to each establishment a proper receipt evidencing that full payment has been made.

Section___?_Penalties and Interest

(a) If the service charge due by any person under this Article is not paid on or before the date prescribed for its payment, there shall be collected, with such charges, a penalty fee of twenty-five dollars ($25) of every thirty days from the delinquent date until paid.

(b) all penalties imposed by this Article shall be payable to an recoverable by the City Treasurer in the same manner as if they were part of the service charge imposed.

(c) If the failure to pay any service charge when due is explained to the satisfaction of the Comptroller he may waive payment of the whole or any part of any such penalty and/or interest.

(d) A separate receipt shall be issued for each location operated or maintained ! any person subject to the provisions of this Article, and it shall be the duty of that person to maintain the receipt on the premises in each place of business at all times.

Section ? Violations

It shall be unlawful and a misdemeanor to do anything prohibited or to fail to do anything required by this Article. Any person, member of any firm, officer, manager or agent of any corporation, violating any of the provisions of this Article, shall be fined not more than three-hundred ($300.00) nor less than fifty dollars ($50.00), or imprisoned for not more than five (5) months nor less than sixty (60) days, or both.

Section ? Exemptions

Natural persons who use, store, transport, generate or dispose of hazardous materials in consumer quantities for private, personal, non-commercial purposes are specifically excluded from compliance with the provisions of this Article.

SECTION 2. If any provision or items or this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance which can be given effect without the invalid provisions, items, or applications, an and to this end the provisions of this ordinance are hereby declared severable.

HAZ-MAT Revenue Projections

TABLE I
Reporting Ranges

Weight Range In Pounds

CODE	FROM	TO	FEE
00	0	under 100	$ 0
01	101	999	$ 25
02	1000	9999	$ 100
03	10,000	99,999	$ 250
04	100,000	999,999	$ 500
05	1,000,000	9,999,999	$ 1,000
06	10,000,000	49,999,999	$ 1,500
07	50,000,000	99,999,999	$ 2,000
08	100,000,000	499,999,999	$ 2,500

3

Finance	Budget
Legal	Coordinator

CITY OF SAN ANTONIO

Request For Ordinance/Resolution

For CMO use only

Date Considered

Consent ☐ Individual ☐

Item No.

Ord. No.

Date:	Department:	Contact Person/Phone #
8/31/90	Fire Department	J.M. Contreras / 927-5050
Date Council Consideration Requested:	**Deadline for Action:**	**Dept. Head Signature:**
9/13/90		

SUMMARY OF ORDINANCE

Summary and Recommendation

The SAFD serves as the depository of the SARA Title III Emergency Planning and Community Right-to-know Act. The act requires facilities that use hazardous materials to file lists of the material with both the emergency response commissions and the local emergency planning committees.

The ordinance would allow for a ~~one time~~ application/permit fee, renewable on annual basis, and would be based on the quantity of hazardous material stored. Fees will range from $25 to $2,500. A response fee would be assessed for materials used and man-hours at the scene, at the range of $100 per hour with a 4 hr minimum and $25 per hr after 4 hrs. Service stations engaged in the retail sales of fuel would pay a flat fee of $150 per location.

This ordinance would serve as the funding mechanism for SARA mandated activities above the current service provided by the SAFD.

At a minimum of $150 flat fee for service stations estimated revenue is $53,250. Fees based on quantity would be approximately $53,850 for a Total Minimum Projection of $107,100.

Recommend this ordinance be approved.

Council Memorandum Must Be Attached To Original

Other Depts., Boards, Committees Involved (please specify):

Contract signed by other party

Yes ☐ No ☐

FISCAL DATA (If Applicable)

Fund No. 11 General Fund Amt. Expended n/a

Activity No. 20-01-01 SID No. n/a

Index Code To be Assigned Project No. n/a

Object Code

Budgetary Implications

Funds/Staffing Budgeted Yes ☐ No ☐

Positions Currently Authorized

Impact on future O & M

If positions added, specify class and no.

Comments:

Coordinator — White
Legal — Green
Budget — Canary
Finance — Pink
Originator — Gold

4/1/82 Ref. A.D. 1.71