

ANALYSIS

This ordinance amends Title 12 – Environmental Protection of the Los Angeles County Code to revise fees for hazardous materials, hazardous waste, site mitigation, emergency response cost recovery, and the operators of aboveground tank facilities.

This ordinance also adds Section 12.64.062 – Service Fee for the Submittal of California Environmental Reporting System (CERS) Requirements to add service fees for submittals to CERS.

MARY C. WICKHAM
County Counsel

By


SCOTT KUHN
Principal Deputy County Counsel
Property Division

SK:ll

Requested: 3-22-16

Revised: 4-28-16

ORDINANCE NO. 2016-0029

An ordinance amending Title 12 – Environmental Protection of the Los Angeles County Code to revise fees for hazardous materials, hazardous waste, site mitigation, emergency response cost recovery, and the operators of aboveground tank facilities. In addition, this ordinance adds Section 12.64.062 – Service Fee for the Submittal of California Environmental Reporting System (CERS) Requirements to add service fees for submittals to CERS.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 12.52.070 is hereby amended to read as follows:

12.52.070 Fees to be pPaid by hHazardous wWaste gGenerators.

A. Beginning with the 20106-20147 fiscal year, the annual fee for the issuance of a unified program facility permit for the hazardous waste program element required to be paid to the Forester and Fire Warden by every person, business, or business concern generating or handling a hazardous or extremely hazardous waste shall be as follows:

Fee Group	Number of Employees	Annual Fee
<u>1</u>	<u>0 to 2</u>	<u>\$512.00</u>
<u>4</u> <u>2</u>	<u>3 to 5</u>	<u>590</u> <u>746.00</u>
<u>2</u> <u>3</u>	<u>6 to 19</u>	<u>828</u> <u>1,066.00</u>
<u>3</u> <u>4</u>	<u>20 to 100</u>	<u>1,131</u> <u>1,439.00</u>
<u>4</u> <u>5</u>	<u>101 to 500</u>	<u>1,644</u> <u>2,132.00</u>
<u>5</u> <u>6</u>	<u>501 or more</u>	<u>2,815</u> <u>3,624.00</u>

Exception:

Every person, business, or business concern generating or handling a hazardous waste which is hazardous solely due to the presence of silver and which generates no other hazardous wastes shall be charged a fee equal to one-half the amount of the Fee Group 42 fee. Beginning with the 20106-20147 fiscal year, this fee shall be \$295373.00.

B. Beginning with the 20106-20147 fiscal year, the annual fee required to be paid to the Forester and Fire Warden by every person, business, or business concern that is a hazardous waste generator conducting treatment of hazardous waste under the Act shall be based on the highest tier of permit required in descending order as follows:

Permit Tier	Annual Fee
(1) Permit by Rule (PBR)	\$ <u>1,3081,680</u> .00
(2) Conditional Authorization (CA)	<u>9461,159</u> .00
(3) Conditional Exemption (CE)	<u>439174</u> .00

C. Every hazardous waste generator that has been issued a notice of violation as specified in Section 12.52.015.P of this chapter and has failed to correct the violation(s) or deviation(s) by the correction date as set forth in the notice of violation may be charged a reinspection fee for each reinspection required to verify compliance with the notice of violation. Beginning with fiscal year 20106-20147, the reinspection fee shall be \$304409.00.

D. Beginning with the 20106-20147 fiscal year, the schedule of fees contained in this section may be adjusted annually by the following procedures:

1. Hazardous Waste Generator Fees. Hazardous waste generator fees shall be determined based on the annualized cost to the fForester and fFire wWarden to administer the hazardous waste generator program, where annualized cost is defined as the annual salaries, employee benefits, and overhead for the personnel assigned to administer and implement the hazardous waste generator program calculated from rates contained in the fForester and fFire wWarden's rate package, as approved by the County aAuditor-eController. The annualized cost shall be reallocated among hazardous waste generators based upon the number of hazardous waste generators in each fee group.

2. Tiered Permit Program Fees. Fees for the tiered permit program shall be determined based on the annualized cost to the fForester and fFire wWarden to administer the tiered permit program, where annualized cost is defined as the annual salaries, employee benefits, and overhead for the personnel assigned to administer and implement the tiered permit program calculated from rates contained in the fForester and fFire wWarden's rate package, as approved by the County aAuditor-eController. The annualized cost shall be reallocated among hazardous waste generators conducting treatment of hazardous waste under the tiered permit program based upon the number of facilities falling within each fee group.

3. Reinspection Fees. Reinspection fees shall be determined based on the annualized cost to the fForester and fFire wWarden to conduct reinspections of hazardous waste generators, where annualized cost is defined as the annual salaries, employee benefits, and overhead for the personnel assigned to conduct reinspections

of hazardous waste generators calculated from rates contained in the ~~f~~Forester and ~~f~~Fire wWarden's rate package, as approved by the County ~~a~~Auditor-~~e~~Controller, divided by the annual number of reinspections conducted.

SECTION 2. Section 12.56.020 is hereby amended to read as follows:

12.56.020 Emergency ~~r~~Response ~~e~~Cost ~~r~~Recovery.

A. Those costs of an emergency response incurred by the ~~f~~Forester and ~~f~~Fire wWarden, including costs of any deputy health officer, public officer and related personnel, necessary to protect the public from a threat to health and safety by actions to confine, prevent, or mitigate the release, escape, burning, or threatened release of a hazardous material, are a charge against any person whose intentional or negligent action causes the incident, if one or more of the following occurs:

...

B. Any person whose intentional or negligent action caused the incident, as specified in Section 12.56.020A, shall be assessed an administrative charge for the response and additional emergency response charges, based upon hourly personnel costs, as approved by the County Auditor-Controller, to recover the costs incurred by the Forester and Fire Warden to protect the public from threats to public health and safety and any actions to confine, prevent, or mitigate the release, escape, burning, or threatened release of a hazardous material. Beginning in fiscal year 20106-20147, the administrative charge shall be ~~\$466~~604.00 and the personnel hourly rates shall be ~~\$198.35~~164.00.

C. All payments made pursuant to this chapter shall be collected and accounted for in accordance with the requirements of the eCounty treasurer-tax eCollector and the eCounty auditor-eController.

SECTION 3. Section 12.60.050 is hereby amended to read as follows:

12.60.050 Site mMitigation eOversight fFees.

A. Fees for site mitigation and oversight will be assessed to the responsible party (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), section 106) for a site which requires oversight by the hHealth hHazardous materials division's site mitigation unit, or the person requesting oversight by the hHealth hHazardous materials division's site mitigation unit. These fees shall be based upon the hourly personnel costs incurred by the forester and fire warden to recover the costs of oversight, as approved by the eCounty auditor-eController.

B. The responsible party or person requesting oversight shall be assessed an initial oversight fee to recover the costs of the Forester and Fire Warden to initially review and analyze the site, submitted site assessment reports, site history, and determine site regulatory requirements, site priority, and lead agency status. This fee shall be based upon average hourly personnel costs incurred by the Forester and Fire Warden to conduct this initial review, as approved by the County Auditor-Controller. Beginning in fiscal year 2010~~6~~-2014~~7~~, this fee shall be \$~~1,974~~2,212.00 for each site accepted by the Forester and Fire Warden.

C. The responsible party or the person requesting oversight by the Health Hazardous Materials Division's site mitigation unit shall be required to pay oversight fees, based upon hourly personnel costs incurred by the Forester and Fire Warden to review and oversee site assessment and remediation activities over and above the initial review fee in Section 12.60.050 B, as approved by the County Auditor-Controller. Beginning in fiscal year 2010~~6~~-2011~~7~~, the hourly rate shall be ~~\$158.27~~156.00.

SECTION 4. Section 12.64.040 is hereby amended to read as follows:

12.64.040 Annual Fees to be Paid by Handlers of Hazardous Materials.

Beginning with the 2010~~6~~-2011~~7~~ fiscal year, the annual fee required to be paid to the Forester and Fire Warden by every handler of hazardous materials for the administration and enforcement of the provisions of the Act shall be as follows:

Fee Group	Total Quantity of Hazardous Materials Handled at Any One Time During the Reporting Year	Annual Fee
I	Small Quantity Handler	\$226 <u>270.00</u>
	55—500 gallons or	
	500—5,000 pounds or	
	TQ or greater quantity of a RS if less than 500 pounds	
	And no more than one hazardous material handled	
II	Minor Handler	328 <u>391.00</u>
	55—500 gallons or	
	500—5,000 pounds or	
	200—2,000 cubic feet or	
	TQ or greater quantity of a RS if less than 500 pounds	
	And more than one hazardous material handled	
III	Moderate Handler	420 <u>500.00</u>

Fee Group	Total Quantity of Hazardous Materials Handled at Any One Time During the Reporting Year	Annual Fee
	501—2,750 gallons or	
	5,001—25,000 pounds or	
	2,001—10,000 cubic feet	
IV	Major Handler	581692.00
	2,751—50,000 gallons or	
	25,001—500,000 pounds or	
	10,001—200,000 cubic feet	
V	Major Handler—Large Volume	829985.00
	50,001 gallons and over or	
	500,001 pounds and over or	
	200,001 cubic feet and over	
VI	Major Handler—Complex	1,2761,521.00
	175,001 gallons and over or	
	700,001 pounds and over or	
	250,001 cubic feet and over or	
	A total quantity of two or more hazardous materials when expressed in or converted to pounds that equals 500,000 pounds or greater;	
	AND	
	Which is either a refinery, chemical plant, distillery, bulk plant, or terminal as defined herein.	
VII	Exempt Handler less than 55 gallons and less than 500 pounds and less than 200 cubic feet and, for RS, less than TQ quantity of RS	No Fee

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SECTION 5. Section 12.64.050 is hereby amended to read as follows:

12.64.050 Additional Fees—Regulated Substances.

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B. Beginning with the 2010~~6~~-2014~~7~~ fiscal year, the annual fee for the issuance of a unified program facility permit for a stationary source, required to be paid to the Forester and Fire Warden by every person, business, or business concern handling, storing, or using a regulated substance above threshold quantities (RS fee) shall be as follows:

Fee Group	Risk Unit	Annual Fee
I	>0 and <5	\$463 569 .00
II	=>5 and <15	813 998 .00
III	=>15 and <50	1,460 1,793 .00
IV	=>50 and <100	2,793 3,430 .00
V	=>100 and <250	4,721 5,797 .00
VI	=>250 and <500	7,614 9,350 .00
VII	=>500 and <1,000	13,786 16,928 .00
VIII	=>1,000 and <3,000	21,057 25,857 .00
IX	=>3,000 and <10,000	28,100 34,505 .00
X	=>10,000	35,125 43,131 .00

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C. Any third party technical review required by the fForester and fFire wWarden shall be a cost paid by the stationary source.

D. RS fees may be adjusted annually by the Board of Supervisors to recover the annualized cost to the fForester and fFire wWarden to administer the California Accidental Release Prevention program, where the annualized cost is defined as the annual salaries, employee benefits, and overhead for the personnel assigned to administer and implement the California Accidental Release Prevention program

calculated from rates contained in the fForester and fFire wWarden's rate package, as approved by the County aAuditor-eController.

Exemption:

Any person, business, or business concern which conducts, exclusively for charitable purposes, an activity for which a fee is required under this chapter and from which no person benefits through the distribution of profits, payment of excessive charges or compensation, or the more advantageous pursuit of their business or profession shall not be charged any fee. Facts supporting entitlement to such exemption from a fee requirement shall be shown by affidavit filed with the fForester and fFire wWarden.

Any person, business, or business concern which conducts an activity for which a fee is required to be paid by this chapter shall be deemed to qualify for a fee exemption if it complies with section 214 of the California Revenue and Taxation Code.

SECTION 6. Section 12.64.062 is hereby added to read as follows:

12.64.062 Service Fee for the Submittal of California

Environmental Reporting System (CERS) Requirements.

A flat service fee of \$100.00 will be charged to a small or minor handler who requests the Health Hazardous Materials Division or Forester and Fire Warden to assist in preparing and entering required information into the California Environmental Reporting System (CERS). The handler requesting such service shall provide written consent authorizing the Health Hazardous Materials Division or Forester and Fire Warden to create a CERS account for the handler and to submit the facility information,

hazardous materials inventory, training plan, and contingency plan on the handler's behalf.

SECTION 7. Section 12.70.050 is hereby amended to read as follows:

12.70.050 Annual Fees to be Paid by Operators of Aboveground Tank Facility.

Beginning with the 2016-2017 fiscal year, the annual fee required to be paid to the Forester and Fire Warden by the operator of each tank facility for the administration and enforcement of the provisions of the Act shall be as follows:

Fee Group	Total Quantity of Petroleum in Aboveground Storage Tanks at Each Tank Facility During the Reporting Year	Annual Fee for Each Tank Facility
I	Less than 10,000 gallons	\$154,197.00
II	10,000 to 100,000 gallons	\$492,632.00
III	100,001 to 1,000,000 gallons	\$738,948.00
IV	1,000,001 to 10,000,000 gallons	\$9841,264.00
V	10,000,001 to 100,000,000 gallons	\$5,3775,725.00
VI	More than 100,000,000 gallons	\$11,23811,944.00
VII	Exempt Handler Less than 1,320 gallons	No Fee

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[1252070SKCC]

SECTION 8. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



Hilda F. Solis
Chair

ATTEST:

Lori Glasgow
Lori Glasgow
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of May 31, 2016 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

<u>Ayes</u>		<u>Noes</u>	
Supervisors	<u>Hilda Solis</u>	Supervisors	<u>None</u>
	<u>Mark Ridley-Thomas</u>		
	<u>Sheila Kuehl</u>		
	<u>Don Knabe</u>		
	<u>Michael D. Antonovich</u>		

Effective Date: June 30, 2016
Operative Date: _____

Lori Glasgow
Lori Glasgow
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

LORI GLASGOW
Executive Officer
Clerk of the Board of Supervisors
By [Signature]
Deputy



APPROVED AS TO FORM:
MARY C. WICKHAM
County Counsel
By [Signature]
Lester J. Tolnai
Acting Chief Deputy County Counsel