

Chapter 168. HAZARDOUS MATERIALS AND SUBSTANCES

Article II. Disclosure and Management

§ 168-15. Applicability; findings; intent.

- A. This article shall apply to all hazardous materials which are used, handled, stored, possessed and/or located by businesses within the City of Roseville. It is hereby determined that:
- (1) Numerous business, industry, research and testing enterprises within the City engage in the handling, storage, use, processing and disposal of hazardous materials;
 - (2) The public health, safety and welfare of the citizens may be endangered by the improper handling, storage, use, processing and disposal of such hazardous materials;
 - (3) The surface waters, groundwater and soils within the City of Roseville are particularly susceptible to damage from the improper handling, storage, use, processing and disposal of hazardous materials. Moreover, the expense and difficulty of cleaning up surface water, groundwater and soils that have been damaged by hazardous materials makes it imperative that protective measures be taken to limit the threat of damage from such materials;
 - (4) Article IV, Section 52 of the Constitution of the State of Michigan provides that the conservation and development of the natural resources of the state is of paramount public concern in the interest of the health, safety and general welfare of the people;
 - (5) The health, safety and welfare of the fire, police and other emergency service personnel have been in the past, and may be in the future, endangered because of a lack of complete knowledge of the types and locations of such hazardous materials;
 - (6) Protection for the community is best advanced by business entities disclosing and reporting the type and location of hazardous materials located within the City of Roseville with a spirit of mutual cooperation between the government and business entities, so that public health, safety and welfare will be achieved.
- B. The intent of this article is to encourage compliance with the following rules, including any amendments thereto in the future:
- (1) Natural Resources and Environmental Protection Act, 1994, PA 451, as amended;
Editor's Note: See MCLA 324.101 et seq.
 - (2) Michigan Occupational Safety and Health Act (MIOSH), PA 154 of 1974, as amended;
Editor's Note: See MCLA 408.1001 et seq.
 - (3) 2003 International Fire Code;
 - (4) 2003 Michigan Building Code, incorporating the 2000 International Building Code;
 - (5) Executive Order 1994-17, Establishment of the State Emergency Planning and Community Right-To-Know Commission;
 - (6) Superfund Amendments and Reauthorization Act of 1986; SARA Title III, Section 312, Public Law 99-499, codified at 42 U.S.C. § 11022.

§ 168-16. Title.

This article is hereby designated and shall be referred to as: "Hazardous Materials Disclosure Ordinance."

§ 168-17. Definitions.

The following definitions shall apply in the interpretation of this article:

BUSINESS

An employer, person, self-employed individual, trust, firm, joint stock company, limited-liability company, corporation, partnership or association. For purposes of this article, households that generate, store, handle, dispose, treat or recycle hazardous materials of the kind and in the amounts customary for ordinary households do not constitute a business.

FIRE MARSHAL

The person appointed by the Fire Chief of the City of Roseville or such other person designated to act under the provisions of this article.

HAZARDOUS MATERIALS

Those chemicals, substances or gases which are a physical hazard or health hazard, whether the materials are in usable or waste condition.

§ 168-18. Hazardous materials disclosure Permit required; waiver affidavit; exempt businesses subject to inspection.

No business shall use, handle, store, possess and/or locate a hazardous material within the City of Roseville without a hazardous materials disclosure permit issued pursuant to this article. All businesses shall complete and file at least one of the following applications with the Fire Marshal:

- A. Permit waiver affidavit. Businesses which report that they do not have hazardous substances shall file a waiver affidavit with the Fire Marshal. Businesses who report that they are exempt from this article are subject to random inspections by the Fire Marshal.
 - B. Annual permit. Businesses which report that they have hazardous substances shall file a permit application with the Fire Marshal. The permit shall be valid for one year and renewed annually prior to expiration.
- (1) Application forms promulgated by the Fire Marshal shall include, but not be limited to, the name and amount of all hazardous materials that the business uses, handles, stores, possesses and/or locates on site.
 - (2) In addition to completing the necessary application forms promulgated by the Fire Marshal, businesses which have hazardous substances shall provide a copy, 8 1/2 inches by 11 inches in size, of the site plan and/or floor plan showing where various items are located at the site, such as hazardous materials, utility emergency shutoffs, fire hydrants, sanitary sewer and storm sewer locations and related information.

§ 168-19. Hazardous materials management plan required.

No business shall use, handle, store, possess and/or locate a hazardous material in quantities which meet or exceed the threshold amounts listed in the Department of

Consumer and Industry Services, Michigan Office of Fire Safety Bulletin No. 9 ("Fire Department Hazardous Material Emergency Planning Responsibilities-Attachment B") within the City of Roseville without having first filed a hazardous materials management plan (HMMP) with the Fire Marshal. The approved HMMP shall be followed at all times, including in the event of any spill, discharge, seepage, runoff or leakage of any hazardous materials.

A. In general, major elements of the HMMP include:

- (1) General facility information.
- (2) Emergency notifications.
- (3) Direction and control of responding agencies.
- (4) Facility evacuation information.
- (5) Hazardous material operating procedures and secondary containment.
- (6) Chemical inventory.
- (7) Standard operating procedure for spill cleanup.

B. A pollution incident prevent plan (PIPP) expressly approved by the Waste Management Division (WMD) within the Michigan Department of Environmental Quality (MDEQ), under the authority of Part 31 of the Natural Resources and Environmental Protection Act, 1994, PA 451, as amended (Act 451), *Editor's Note: See MCLA 324.3101 et seq.* shall be deemed to comply with the requirements of this section.

C. The HMMP shall be valid for five years and renewed prior to expiration. However, an updated HMMP shall be filed for review and approval by the City of Roseville whenever there is a change in the use, handling or storage of hazardous materials.

§ 168-20. Materials exempt from regulation.

The following substances are excluded from the hazardous material reporting requirements:

- A. The quantities of alcoholic beverages, medicines, foodstuffs, cosmetics and consumer or industrial products containing not more than 50% by volume of water-miscible liquids, and with the remainder of the solutions not being flammable, in retail or wholesale sales occupancies, are unlimited when packaged in individual containers not exceeding 1 3/10 gallons (five liters).
- B. Applications and release of pesticide and agricultural products and materials intended for use in weed abatement, erosion control, soil amendment or similar applications when applied in accordance with the manufacturer's instructions and label directions.
- C. The off-site transportation of hazardous materials when in accordance with Michigan Department of Transportation regulations.
- D. Building materials not otherwise regulated by the 2003 International Fire Code and amendments thereto.
- E. Refrigeration systems.
- F. Stationary lead-acid batteries used for facility standby power, emergency power or uninterrupted power supply, as regulated by Section 608 of the International Fire Code and any amendments thereto.
- G. The display, storage, sale or use of fireworks and explosives in accordance with Chapter 33 of the 2003 International Fire Code and any amendments thereto.

- H. Corrosives utilized in personal and household products in the manufacturer's original consumer packaging in Group M occupancies.
- I. The storage of distilled spirits and wines in wooden barrels or casks.

§ 168-21. Permit database and map.

The Fire Marshal shall maintain a database which includes the permit status of all businesses subject to this article. The Fire Marshal shall also maintain a map, showing where businesses regulated by this article are located, for public review.

§ 168-22. Inspections.

The Fire Marshal shall inspect all structures and premises utilized by employers as often as may be necessary for the purpose of verifying the accuracy of the information provided under this article and ascertaining whether there exist any violations of this article or any other federal or state statutes, rules or regulations or local ordinances relating to the use, storage, handling or disposal of hazardous materials. In those cases where the Fire Marshal observes or otherwise discovers violations of federal or state statutes, rules or regulations relating to the use storage, handling or disposal of hazardous materials, such violations shall be reported to the appropriate federal or state agency authorized to enforce such statute, rule or regulations. In addition, the Fire Marshal may request the City Attorney, upon proper authorization, to commence the appropriate legal proceedings to ensure compliance with this article.

§ 168-23. Fees.

Businesses subject to this article shall pay a permit fee to the City of Roseville sufficient to cover the implementation of this article, including expenses incurred by the Fire Marshal and his staff. The amount of the permit fee shall be established by resolution of the City Council and shall be amended as necessary by the City Council. Businesses that are delinquent in filing a permit application, paying the permit fee, or both, shall be subject to late fees as established by resolution of the City Council.

§ 168-24. Violations and penalties.

It shall be unlawful for a party or any owner, officer, director or employees of a business to fail to comply with the provisions of this article or to misrepresent, falsify, conceal, destroy or fail to retain information necessary to comply with this article. The dissolution of a business shall not discharge its owners, officers, directors or employees from liability for such conduct. Any person, persons or entity violating any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction therefor, shall be punished by a fine of not more than \$500 and costs of prosecution or by imprisonment for not more than 93 days, or by both fine and costs and imprisonment, at the discretion of the court.

§ 168-25. Repealer.

All ordinances or parts of ordinances in conflict herewith are repealed only to the extent necessary to give this article full force and effect.

§ 168-26. Severability.

If any article, section, subsection, sentence, clause, phrase or portion of this article is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of remaining portions of the ordinance, being the intent of the City that this article shall be fully severable.

§ 168-27. When effective.

Provisions of this article shall become effective 20 days following adoption.