



# PERMITTING HAZARDOUS ENTERPRISES

Public Safety and Homeland Security – Regulatory and Neighborhood Affairs Joint Committee

Presented by Samuel Peña, Houston Fire Chief

April 30, 2020



# Agenda

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- Ch 28 - Hazardous Enterprise Ordinance Proposed Major Changes
  - Enterprise Definition
  - Land Use Test Area
  - Variance Process
- 2015 IFC Code and Local Amendment Adoption
  - 3<sup>rd</sup> Party Inspection
  - Hazardous chemical storage thresholds
  - HazMat inventory change reporting
- INFOR Public Sector (IPS) Program Update
- HFD HazMat Resource



# Ch 28, Article VII – Hazardous Enterprises

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- Ordinance Scope
  - Set forth the requirements upon the construction, expansion and use of certain premises that constitute a hazardous enterprise business under this ordinance and the Construction Code.
  - The fire authority and the director shall each have the authority to enforce violations of this article.
  - The provisions of the ordinance are cumulative of all other provisions of the Code and other city ordinances, including, without limitation, the Construction Code and the Fire Code, as well as all applicable state and federal laws and regulations. Compliance with this article does not excuse compliance with any other law, and permit holders are additionally required to obtain any other permits, licenses and authorizations required by law.



# Ch 28, Article VII – Hazardous Enterprises

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- Definitions

- **Enterprise.** Means a use or activity on, or of, a tract of land or within a building or structure, in whole or in part, that includes storage of, *and also includes outside storage of, hazardous materials exceeding the Maximum Allowed Quantities (MAQ's)* that constitutes a Group H-1, 2 or 3 occupancy as described in section 307 of *that volume of the construction Code known as* the Building Code. The term also includes any Group H-4 occupancy, *in whole or in part, that includes storage of, and includes exterior storage of hazardous materials exceeding the Maximum Allowed Quantities (MAQ's)* as so described *in the previously identified code section 307* if any highly toxic material is manufactured, processed, generated, stored or used. Otherwise, Group H-4 occupancies are not included. The term also does not include:



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- Definitions cont.
  - **Enterprise.** The term also does not include:
    - (1) Any public water or wastewater treatment facility that is being operated under regulations promulgated by state or federal agencies, including but not limited to the United States Environmental Protection Agency and the Texas Commission on Environmental Quality;
    - (2) Areas or spaces up to 500 square feet each in research labs operated under the authority of a hospital, college, or university, and classified as H-2, H-3 or H-4, with an aggregate maximum area of ten percent on each floor; and
    - (3) Any area or space containing fuel storage for generators, fire pumps, **or underground fuel storage associated with motor fuel-dispensing facilities.**



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- Definitions cont.
  - **Expansion.** Means any addition, or modification in the construction of a building or structure that extends any exterior wall **or roof** of a building or structure and **includes additions to the types of, or increase to the authorized use or storage of quantities of hazardous materials present at the facility.**
  - **Land use test area.** Means an area determined by creating a closed curve with a radius of 1,000 feet from the tract perimeters when testing for an unrestricted permit, or 1,000 feet from the outer walls (existing or proposed) of the building or structure or **from the boundaries of the area within a building or structure** in which hazardous materials will be manufactured, processed, generated, stored, or used when testing for a restricted permit. Each tract, including the applicant's tract, that is situated in whole or in part within the radius so created shall be a part of the land use test area.
  - **Restricted Permits.** Means a permit under which manufacture, processing, generation, storage or use of hazardous materials will take place only **within the covered roof area of** buildings or structures that are so designated on the tract to which the permit pertains



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- Sec. 28-232 - Notice procedure
  - Not later than thirty days before the date the commission is scheduled to consider the application, the director shall give notice of the application, and the date the commission is scheduled to hear the application, by mail to the owner of record, as listed on the current appraisal district records for each lot or tract, as those terms are defined in section 42-1 of this Code, for property located within the applicable land use test area.
  - In addition to the notices required in subsection (a), not later than 20 days before the date the commission is scheduled to consider the application, the director shall send notice by electronic or regular mail to:
    - Each district council member in whose district any portion of the lot or tract for which a restricted permit, unrestricted permit, or variance is located; and
    - Each neighborhood association with defined boundaries registered with the department of neighborhoods in which any portion of the lot or tract for which a restricted permit, unrestricted permit, or variance is requested is located.
    - The director shall provide for notice of the commission meeting to be published not later than 30 days before the date of the commission meeting in a newspaper within the city and in one or more community newspapers that serve the area where the enterprise will be located.
    - The applicant for an enterprise permit shall pay all costs associated with the notice provisions of this section.



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- Sec. 28-233 - **Action by the commission: issuance or denial of an enterprise permit.**
  - **The Commission shall conduct the public hearing, consider the application and make a recommendation to the director regarding the issuance of an enterprise permit. The commission may not recommend denial of an application for an enterprise permit unless:**
    - The information provided in the application is materially false or incomplete or the applicant has failed in any material respect to comply with this article;
    - One-third or more of the tracts within the land use test area are being used for residential purposes. In computing the foregoing percentage, any tract being used for multifamily residential purposes shall be counted as being equal to one tract for each eight dwelling units or fraction thereof upon the tract. Any tract other than the applicant's tract that is not improved with one or more buildings or structures shall not be included in the computation;
    - Any portion of the tract upon which a sensitive use is situated falls within the land use test area; or
    - The applicant has had a permit revoked for operations on the tract or any portion thereof during the two-year period preceding the date of filing of the application.





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- **Sec. 28-239 – Variance Procedure and Standards (Pending Legal Review)**
  - Request for variance shall be evaluated by HFD and BCE to ensure the proper design, use or operation satisfactorily complies with the intent of the IFC, IBC and their respective local amendments.
  - Alternative means and methods that are being proposed will be evaluated to determine they are at least equivalent to that prescribed in the IFC, IBC and local amendments in quality, strength, effectiveness, fire resistance, durability and safety.
  - The consent of both the building official and fire marshal shall be required to move a variance request forward to a hearing before the commission. Absent such consent, the director shall notify the applicant that the request for variance has been denied.



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- Sec. 28-225 – Current Penalty
  - Violation of this article is unlawful. Any person violating any provision of this article shall, upon conviction, be fined not less than \$100.00 nor more than \$2,000.00 for each violation. Each day that any violation continues shall constitute and be punishable as a separate offense.



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- **Sec. 28-227 – Fees**

- (a) Payment of all applicable fees as set forth in the city fee schedule is a condition of the acceptance and processing of any application under this article.
- (b) The director may, from time to time, with the assistance of the department of finance, pursuant to Administrative Procedure 4-9, prepare and submit for the mayor's approval and placement on the city council agenda a recommendation for revision of the fees charged in this article. If city council authorizes revisions to the city fee schedule, applicants shall pay such fees for services performed by the department under this chapter. The fees approved under this provision shall be included in the city fee schedule.
- (c) Any person who commences any work on a tract or within a building or structure for use as an enterprise before obtaining an enterprise permit shall pay the fee established pursuant to section 42-54(b) of this Code, in the amount stated in the city fee schedule.
- As of 1/1/2020:
  - Restricted/Unrestricted Permit \$389.31
  - Registration \$97.33

# 2015 IFC Code and Local Amendment Adoption

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- 3<sup>rd</sup> Party Inspection
  - Recommend requirement for periodic inspection of permitted storage vessels and associated handling systems
  - Inspection to ensure proper function based on manufacturer's recommendations and under the code they were installed
- Storage Thresholds
  - Establish similar MAQ thresholds for indoor and outdoor storage of hazardous chemicals
- Require Inventory change reporting
  - C of O is issued based on hazardous inventory submitted by business owner
  - Online reporting requirement for inventory change



# INFOR Public Sector (IPS) RMS

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- IPS is a cloud based application that offers permitting and inspection process automation
- IPS platform Go-Live date February 17, 2020
- IPS Consolidated and replaced legacy systems and improved business efficiency
  - Customer Self-Service Portal
  - Enabled inspector mobile tablet access
  - Allows for remote permit sales and payment
  - Increased Inspector efficiency
  - Inspection/Work tracking and reporting
  - Complaint Process
  - Migrated inspection records from spreadsheet IPS RMS system
- Strategic Upgrades
  - Computer Aided Dispatch (CAD) Interface
  - Archive existing HazMat files
  - Manage additional work processes via IPS



# HazMat Resources

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- Recommend addition of a HFD HazMat Unit in West Houston
  - 1 HazMat Task Force
    - Single Station providing coverage for 640 sq. mi. jurisdiction
    - Regional HazMat Asset
- Cost of one Additional HazMat Unit
  - Initial Cost
    - Apparatus \$1,000,000
    - Equipment \$500,000
    - Training \$100,000
  - Annual Staffing (4 members/shift) \$1,600,000