

HAZARDOUS MATERIALS MANAGEMENT CODE

Chapter 353 of the Alachua County Code



Board of County Commissioners

Alachua County Environmental
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ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE 00-01

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AMENDING PART III, UNIFIED LAND DEVELOPMENT CODE, TITLE 35, ENVIRONMENT, CHAPTER 353, ARTICLE II, RELATING TO HAZARDOUS MATERIALS MANAGEMENT; REVISING SECTION 353.20, TITLE; REVISING SECTION 353.22, PURPOSE AND OBJECTIVES; REVISING SECTION 353.23, DEFINITIONS; REVISING SECTION 353.24, APPLICABILITY; REVISING SECTION 353.25, ADMINISTRATION AND ROLE OF DEPARTMENT; DELETING SECTION 353.26, GENERAL REQUIREMENTS FOR STORAGE FACILITIES; REVISING SECTION 353.27, MATERIALS REGULATED; REVISING SECTION 353.28, PROHIBITIONS; REVISING SECTION 353.29, DISCHARGE REPORTING; REVISING SECTION 353.30, SITE REMEDIATION; REVISING SECTION 353.31, HAZARDOUS MATERIALS TRANSPORTATION; REVISING SECTION 353.32, STORAGE FACILITY CLASSES; REVISING SECTION 353.33, STORAGE FACILITY SITING PROHIBITIONS; REVISING SECTION 353.34, STORAGE FACILITY STANDARDS; REVISING SECTION 353.35, HAZARDOUS MATERIALS MANAGEMENT PLAN; REVISING SECTION 353.36, ENVIRONMENTAL QUALITY MONITORING; REVISING SECTION 353.37, CLOSURE REQUIREMENTS; REVISING SECTION 353.38, APPROVAL OF ALTERNATE PROCEDURES AND REQUIREMENTS; ADDING SECTION 353.38, HAZARDOUS MATERIALS STORAGE LICENSE; REVISING SECTION 353.39, ESTABLISHMENT OF FEES; REVISING SECTION 353.40, PENALTIES AND ENFORCEMENT; DELETING SECTION 353.42, DESIGNATION OF HEARING OFFICIAL; DELETING SECTION 353.43, HEARING PROCEDURES; REVISING SECTION 353.44, SEVERABILITY; REVISING SECTION 353.45, LIBERAL CONSTRUCTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR LIBERAL CONSTRUCTION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.01, Florida Statutes, authorizes the Board of County Commissioners of Alachua County, Florida, to provide standards which will ensure its citizens' health, safety and welfare; and

WHEREAS, the Board of County Commissioners of Alachua County, Florida, recognizes that the health, safety, and welfare of its citizens will be better served by revising the existing Hazardous Materials Management Code; and,

WHEREAS, Section 828.27, Florida Statutes, authorizes the Board of County Commissioners of Alachua County, Florida to enact and enforce ordinances relating to hazardous materials management;

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA;

Section 1. Chapter 353, Article II, of the Alachua County Code is hereby amended to read:

Sec. 353.20. Title of chapter.

This code shall be known and cited as the "Alachua County Hazardous Materials Management Code."

Sec. 353.21. Findings.

The Board of County Commissioners of Alachua County, Florida, finds and declares that:

- (a) The protection of public health and safety are dependent upon the preservation of the soils, air, groundwater, and surface waters of the county. The protection and preservation of these resources are, therefore, matters of the highest urgency and priority and can only be achieved effectively by maintaining the existing high quality of the environment.
- (b) Discharges (including chronic discharges of small quantities) that may occur involving the storage, handling, and transportation of hazardous materials may have adversely significant impacts to the environment of the county, to the health, safety and welfare of the citizens of the county, and to other interests deriving livelihood in the county.
- (c) Such discharges have occurred in the past, may be occurring now, and may occur in the future.
- (d) There are existing federal and state regulations which govern some, but not all, aspects of hazardous materials management; these regulations are not adequate for environmental conditions in Alachua County.
- (e) Local regulations are needed which augment existing federal and state regulations to minimize the potential for discharges.
- (f) Groundwater contamination incidents that have occurred in the county indicate the inadequacy of reliance on state and federal actions to obtain site cleanups. There exists a need for Alachua County to be formally involved in site cleanup negotiations to speed up the process.

The provisions of this code are intended to provide Alachua County with sufficient legal authority to impose environmental monitoring, remediation, and closure requirements for contaminated sites. An important objective of this code is to allow Alachua County to have standing equal to state and federal agencies in negotiating cleanup agreements. Alachua County shall make reasonable efforts to

coordinate cleanup negotiation and enforcement activities in close conjunction with state and federal agencies to avoid delays in completing site remediation.

- (g) This code is consistent with and furthers the goals and objectives of the conservation element of the Alachua County Comprehensive Plan to protect and enhance those water, land, and air resources vital to the health and welfare of the residents and environment of Alachua County. The goals of objective 2.3 (Groundwater) and 3.5 (Hazardous Materials) of the conservation element are to minimize the risks to groundwater and the environment associated with hazardous materials, reduce the generation of hazardous wastes, and protect and enhance the quality and safety of the environment by requiring that disposal and storage methods for hazardous materials are properly designed, operated, and monitored.

Sec. 353.22. Purpose and objectives.

The purpose and objectives of this chapter are as follows:

- (a) Regulate hazardous materials to prevent discharges to the environment in the county.
- (b) Provide uniform standards for the proper storage, handling, and monitoring of hazardous materials on a countywide basis.
- (c) Provide for early detection, containment, and recovery of discharges and releases.
- (d) Establish a cost recovery mechanism to pay for hazardous materials emergency response actions performed by the Department.
- (e) Provide Alachua County with legal authority to establish environmental monitoring, remediation, and closure requirements for contaminated sites.
- (f) Provide Alachua County with authority to participate with state and federal authorities in negotiating cleanup agreements.
- (g) Promote the use of pollution prevention, waste minimization, resource recovery, and source reduction techniques and practices in Alachua County.
- (h) Establish a mechanism to provide for the compliance and enforcement of the provisions of this code.

Sec. 353.23. Definitions.

For the purpose of this code, certain terms or words shall be interpreted to have the meanings as defined in this section. The word "shall" is mandatory; the words "may" or "should" are permissive.

Aboveground storage tank : Any storage container with a storage capacity equal or greater than 100 gallons.

Agricultural operations: The science and art of production of plants and animals useful to man, including, to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise, and shall include vegetables, fruits, dairy products, livestock, poultry, bees, nuts, and any and all forms of farm products and farm production. This term does not include silvicultural operations, nurseries, or golf courses.

CERCLA: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980. The referenced portion for emergency response is found in 40 CFR 300-302.

Chemical name: The scientific designation of a substance in accordance with the system developed by the Chemical Abstracts Service or the International Union of Pure and Applied Chemistry.

Closure: The cessation of operation of a storage facility, or any portion thereof, and the act of securing such storage facility or portion in accordance with the closure requirements of this code.

Common name: Any identifying designation such as code name, code number, trade name, or brand name used to identify a substance other than by its chemical name.

Confined zone: The region of the county covered by the Hawthorne formation with at least ten feet of clay or clayey sands that form an aquiclude to the Floridan Aquifer as defined by the Florida Geological Survey Open File Report 21, "Geologic Interpretation of the Aquifer Pollution Potential in Alachua County, Florida." (See the map on file in the offices of the county for the location of the confined area.)

Continuously operating, automatic leak detection system: A leak detection system which detects a failure of primary containment at the time of the failure. The continuously operating, automatic leak detection system shall alert the storage tank system operator of the failure through a continuously operating, automatic, visual and/or audible alarm.

County: Alachua County, Florida.

Department : The Alachua County Environmental Protection Department.

Discharge shall mean and include, but not be limited to, spilling, leaking, seeping, pouring, injecting, emitting, emptying, disposing, or dumping hazardous materials in the County which

results in the violation of any applicable federal, state, or local requirements; or creates a public nuisance.

EPA: The United States Environmental Protection Agency.

Evidence of contamination: The presence of hazardous materials in surface water, groundwater, soil, sediment, or upon the land, in quantities that may result in exceedances of any applicable federal, state, or local regulation or guideline. In case of conflicting regulations or guidelines the most stringent standard will apply.

FDEP: The Florida Department of Environmental Protection.

Free liquids: Fluids which are not gases at standard temperature and pressure.

Groundwater: Water in a saturated zone or stratum beneath the surface of land or water, whether or not it is flowing through known and definite channels.

Handle: To use, generate, process, produce, package, treat, store, or transport a hazardous material in any fashion.

Hazard class: A class of hazardous materials which constitute a category used by the department of transportation according to title 49 CFR, parts 100 to 199. Hazard classes regulated by this code include explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, oxidizers and organic peroxides, poisonous substances, corrosives, and other regulated materials (ORM). The DOT hazard class can usually be obtained from the material safety data sheet for the chemical or from the Department.

Hazardous material: The liquid, solid, and gaseous materials designated in section 353.26, "Materials regulated," of this code.

In-service: A storage container or component thereof which contains hazardous materials, and has hazardous materials periodically added or withdrawn.

Material safety data sheet (MSDS): A data sheet for a hazardous material which describes physical and chemical properties, safety considerations, and health hazards and is prepared pursuant to the regulations of the United States Department of Labor, Occupational Safety and Health Administration (OSHA), or the Florida Right-to-Know Law. The MSDS is available from the manufacturer of the hazardous material.

Mixture: Any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction (from 40 CFR 710.2(q)).

Mobile tank: An aboveground storage tank system that is moved to a different location at least once every 180 days, and

-has a current valid vehicle registration with the Florida Department of Highway Safety and Motor Vehicles and has a current test and inspections markings in accordance with 49 CFR 180.415; or

-is designed and constructed to be moved to other service locations, and its relocation within a storage facility or from site to site is inherent in its use; or

-is not connected to stationary underground or aboveground integral piping.

Operator: A person operating a hazardous material storage facility, whether by lease, contract, or other form of agreement.

Out-of-service: The status of a storage container which has not been in service for more than six months.

Overflow protection: A device or devices capable of preventing and/or containing an overflowing condition of an underground hazardous materials storage tank system.

Owner: A person owning a hazardous material storage facility or component thereof.

Package plant: All items necessary, including land, for the collection, treatment, and disposal of wastewater that are part of a system which is neither certified as a utility by the Public Service Commission nor is a publicly owned treatment works (POTW) as defined by the EPA.

Perforated zone: The area of the county that is primarily confined, but with numerous sinkholes providing hydrologic connections to the Floridan Aquifer as defined by the Florida Geologic Survey Open File Report 21, "Geologic Interpretation of the Aquifer Pollution Potential in Alachua County, Florida" (see the map on file in the offices of the county for the location of the perforated zone).

Person: An individual, firm, partnership, corporation, association, joint venture, governmental entity, or other legal entity, and shall include the plural as well as the singular.

Petroleum product: Fuels (gasoline, diesel fuel, kerosene, and mixtures of these products), lubricating oils, motor oils (new and used), hydraulic fluids, and other similar petroleum based products.

Piping: Pipeline systems used in connection with the storage and/or transfer of hazardous materials. Piping includes, but is not limited to, fill pipes, product lines, vent lines, pumps, and fittings.

Portable storage container: A storage container which is designed to be moved from place to place. For the purpose of this definition such containers include drums, cans, bottles, bags, boxes, and similar containers. This definition does not include skid tanks.

Primary containment: The first level of product-tight containment, i.e., the portion of a storage container which comes into immediate contact on its inner surface with the hazardous material(s) being contained. The term "primary containment" does not include internal liners.

Private water supply: Any source of potable water other than a public water supply.

Product-tight: Impervious to the hazardous material contained so as to prevent the release of the hazardous material from the container. To be product-tight, the container shall be made of a material that is physically and chemically resistant to the hazardous material stored.

Public water supply: A system for the provision of piped water to the public for human consumption which serves at least 15 service connections used by year-round residents or regularly services at least 25 year-round residents.

RCRA: The Federal Resource Conservation and Recovery Act implemented in 40 CFR 260--265.

SARA Title III: The Superfund Amendment and Reauthorization Act section implemented in 40 CFR 300--302, pertaining to emergency response and community right-to-know.

Secondary containment: A level of containment which is external to and substantially separate from the primary containment, which will prevent the contained material from being discharged or released, and which will allow for leak detection capability between the two levels of containment.

Septic tank system: Means an onsite sewage treatment and disposal system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a grease interceptor; a dosing tank; a solids or effluent pump; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. This term does not include package sewage treatment facilities or other treatment works regulated under Florida Statutes, Chapter 403.

SIC code: The identification code assigned by the Standard Industrial Classification Code to specify types of businesses.

Silvicultural operations: Management practices for controlling forest establishment, composition, and growth.

Sinkhole: A depression in the land's surface which has been created by dissolution of underlying limestone or other soluble rocks and the collapse of the overlying surficial material into the underlying solution cavities.

Storage capacity: The total available capacity for storing a given hazardous material. For storage containers, the storage capacity shall be the rated or maximum capacity of the container.

Storage container: Tanks, skid tanks, sumps, aboveground and underground pipes, vaults, drums, cans, bottles, boxes, bags, or other portable or fixed containers used or intended to be used for the storage or handling of hazardous materials at a storage facility. This definition does not include wastewater collection, transmission, and treatment systems; water treatment, storage, and distribution systems; septic tank systems; electric power transmission and distribution systems; or natural gas transmission and distribution systems.

Storage facility: A location on a single parcel of property at which hazardous materials are stored. This term shall be interpreted broadly to refer to individual buildings, warehouses, drum storage pads, tank farms, and similar areas used for storage of hazardous materials and not to separate rooms or storage cabinets within such areas.

Storage system: Any single or interconnected combination of aboveground or underground storage container(s), piping, pump(s), valve(s), secondary containment, and other component(s) which are designed for use in receiving, storing, containing, or dispensing hazardous materials.

Store: To keep a hazardous material at one or more storage facilities on a single parcel of property for more than 72 hours.

Sump: A pit or well in which liquids or sludges collect.

Transport vehicle: A cargo-carrying vehicle such as an automobile, van, tractor, truck, semi-trailer, tank car, or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, rail car, etc.) is a separate transport vehicle.

TSD: A site defined under RCRA for the treatment, storage, and/or disposal of hazardous waste.

Unconfined zone: The area in the western part of Alachua County where the Floridan Aquifer has no confining layer as defined by the Florida Geological Survey Open File Report 21, "Geologic Interpretation of the Aquifer Pollution Potential in Alachua County, Florida" (see the map on file in the offices of the county for the location of the unconfined zone).

Underground storage tank: Any storage container of which ten percent or more of the volume is buried below the ground surface.

Sec. 353.24. Applicability of chapter.

(a) This code shall be applicable to any person who transports, handles, or stores hazardous materials in Alachua County.

(b) Residential storage of hazardous materials for personal, family, or household uses shall be exempt from this code, with the exception of Section 353.27(a), and 353.29 .

(c) Certain nonresidential uses of hazardous materials shall be exempt as described in section 353.26, "Materials regulated."

Sec. 353.25. Administration and role of the Department.

The Alachua County Environmental Protection Department Director is hereby designated as the county officer responsible for the administration and enforcement of this code. The Department and its designated employees shall have the applicable powers and duties as designated in chapter 73 of the Alachua County Code of Ordinances. The Department shall have the authority to establish and approve environmental monitoring, remediation, and closure requirements for contaminated sites. Phases of site remediation that have received formal approval from the Florida Department of Environmental Protection (FDEP) or the United States Environmental Protection Agency (EPA) prior to June 24, 1991 shall not require additional approval by the Department.

In order to promote pollution prevention practices and reduce paper usage the Department may request that owners or operators of regulated facilities submit information in electronic format. The requested electronic information may include, but is not limited to, registration forms, release notifications, contamination assessment reports, pollution prevention plans and any documents associated with the processing of a hazardous materials storage license.

Sec. 353.26. Materials regulated.

(a) *Inclusions.* The materials regulated by this code shall include the following (these referenced lists are available at the Department):

- (1) Petroleum products as defined in section 353.23, "Definitions." Aboveground petroleum product storage tank systems are subject to the provisions of the Alachua County Hazardous Materials Management Code.
- (2) Wastes listed or characterized as hazardous wastes by the Administrator of the United States Environmental Protection Agency pursuant to the Solid Waste Disposal Act, as amended. This list is provided in title 40 (Protection of the Environment) of the Code of Federal Regulations, part 261, Identification and Listing of Hazardous Waste.
- (3) Pesticides registered by the Administrator of the United States Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).
- (4) Substances for which a material safety data sheet is required by the United States Department of Labor, Occupational Safety and Health Administration, pursuant to

title 29 of the Code of Federal Regulations, part 1910.1200; however, only insofar as they pose a hazard to human health or the environment.

- (5) Any material not included above which may present similar or more severe risks to human health or the environment. Such determination must be based upon competent testing or other objective evidence provided by the Department.

(b) *Exclusions.*

- (1) Radioactive materials regulated subject to Florida Statue 404.166.
- (2) The following materials are not subject to the provisions of this code, except for the requirements of sections 353.28 and 353.29, only as long as these materials are stored, managed, and handled in a manner that does not result in a discharge:
 - a. Petroleum products subject to Florida Statue 376.317, petroleum products, motor oil and antifreeze used in operable powered mobile equipment, American Society of Testing and Materials grade number 5 and number 6 residual oils, bunker C residual oils, intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher, and asphalt oils.
 - b. Oils and fluids within electric utility transformers, switches, and other electric power transmission and distribution equipment.
 - c. Agricultural operations storing less than 500 gallons of liquid or 4,000 pounds of solid hazardous materials for agricultural purposes for periods of less than 90 days.
- (3) The following materials are not subject to the provisions of this code, except for the requirements of section 353.29 and 353.33(h)(1)(b), only as long as these materials are stored, managed, and handled in a manner that does not result in a discharge:
 - a. Prepackaged consumer products for sale and sold to individuals for personal, family, or household purposes.
 - b. Commercial products limited to use at the site solely for office, agricultural, or janitorial purposes when stored in total quantities of less than 500 pounds for solids and 110 gallons for liquids.
- (4) The following materials are not subject to the provisions of this code, except for the requirements of section 353.29, only as long as these materials are stored, managed, and handled in a manner that does not result in a discharge:
 - a. Hazardous materials stored at residences and used for personal, family, or household purposes.

- b. Fertilizers and treated seed.
- c. Substances or mixtures which may pose a hazard but which are labeled pursuant to the Federal Food, Drug, and Cosmetic Act.

Sec. 353.27. Prohibitions.

(a) *Discharge and releases.* No person shall discharge or cause or permit the discharge of a hazardous material to the soils, air, groundwater, or surface waters in the county. No person shall cause or permit the discharge or release of a hazardous material to a septic tank or other type of on-site sewage disposal system. No person shall cause or permit the discharge or release of a hazardous material to a sewage treatment plant or sewage treatment plant collection system without the express permission of the owner or operator of the sewage treatment plant.

(b) *Construction, operation, and closure.* No person shall construct, modify, install, replace, operate, or close a hazardous materials storage facility without complying with the requirements of this code.

(c) *Compliance with state and federal regulations applicable to the hazardous materials regulated by this code.* No person shall store, handle, or dispose of hazardous materials or construct, operate, or close a hazardous material storage facility in violation of any applicable state or federal regulations.

Sec. 353.28. Reporting and response.

(a) *Discharge reporting.* A release of a hazardous material to the soils, air, surface water, or groundwater in Alachua County shall be reported by the hazardous materials storage facility owner, operator, or emergency coordinator as required below.

- (1) A release, as defined under SARA Title III or CERCLA, subject to a SARA Title III or CERCLA Reportable Quantity (RQ) shall be reported as follows :
 - a. A release shall be reported to the Department if the released quantity is greater than one pound per site and the release is subject to a one pound SARA Title III or CERCLA reporting requirement.
 - b. All other releases subject to SARA Title III or CERCLA reporting requirements shall be reported to the Department if the released quantity is greater than ten pounds.
- (2) A release not subject to SARA Title III or CERCLA reportable requirements shall be reported if the released quantity is greater than ten pounds.

The Department shall be notified immediately after the emergency response agencies have been notified. (For more information on SARA Title III and

CERCLA reporting requirements, contact the Alachua County Office of Emergency Management.)

- (3) All air discharges, as defined in this code, shall be reported immediately to the Alachua County Warning Point.
- (4) All release and discharge reporting shall be followed up with a written or electronic notification within 72 hours of the accident. The notification shall contain at a minimum the following information:
 - a. Date, time, and location of discharge,
 - b. Type and amount of material discharged, and
 - c. A brief narrative, including description of impacted areas and any corrective actions taken.

(b) *Response.* In the event of a hazardous material discharge, the hazardous material storage facility owner or operator must take appropriate immediate action to protect human health and the environment.

(c) Evidence of contamination shall be reported to the Department during normal working hours within 24-hours of discovery. If the evidence of contamination is discovered during a holiday or weekend, the evidence of contamination shall be reported on the first working day following the holiday or weekend.

Sec. 353.29. Site remediation and monitoring.

(a) *Authority.* The Department is authorized to order the cleanup, abatement, or monitoring or take such other actions as may be necessary to cause cleanup, abatement, or monitoring of any hazardous material found in the soils, surface water, groundwater, and/or air in Alachua County which results in exceedance of any applicable federal, state, or local regulation, standard, or guideline. In case of conflicting regulations, standards, or guidelines the most stringent one will apply. For the purpose of determining site rehabilitation completion the Department will follow the Florida Department of Environmental Protection (FDEP) Contaminant Cleanup Target Levels, found in Chapter 62-777, F.A.C., as may be amended from time to time. For contaminants not listed in Chapter 62-777, F.A.C, the Department will rely on site specific conditions.

Storage facilities, transport companies owner or operators, and property owners shall be provided the opportunity to remediate any environmental damages through the use of their own equipment, personnel, and contractors.

Specific phases of contamination assessment, site remediation, or monitoring plans that have received formal approval from the FDEP or the United States Environmental Protection Agency (EPA) prior to June 24, 1991 shall not require additional approval by the Department.

(b) *Communication.* The storage facility or transport company owner or operator, or the property owner shall provide to the Department a minimum of one week's advance notice for any meetings with the FDEP or the EPA to discuss discharges, site assessments, site remediation, monitoring plans, or closures, and shall copy the Department on any and all correspondence to FDEP or EPA regarding discharges, site assessment, site remediation, monitoring plans, or closures. The storage facility or transport company owner or operator, or the property owner is also responsible for reimbursement of all reimbursable costs incurred by the Department.

(c) *Reimbursable costs responsibility.* The storage facility or transport company owner or operator, or the property owner is responsible for reimbursement of all reimbursable costs incurred by the Department. Costs incurred by the Department specific to a given contaminated site shall include, but not be limited to the following: cost of equipment operation and maintenance associated with the response to a discharge or release incident; cost of materials used in the response to a discharge or release incident; personnel cost of contract services (including the cost of transportation and disposal of solid and hazardous wastes). The Department shall submit its invoice of reimbursable costs to the storage facility or transport company owner or operator, or the property owner responsible for the contaminated site.

(d) *Storage facility, transportation facility, and property owner appeal.* The storage facility or transportation company owner or operator, or the property owner may appeal the reimbursable costs designated by the Department invoice(s) in accordance with the appeal procedure of this code.

Sec. 353.30. Hazardous materials transportation incidents.

Discharges or releases resulting from transportation related hazardous material incidents shall be subject to all provisions of the hazardous materials management code regarding discharge prohibitions, discharge reporting, initial remedial measures, site remediation and monitoring, and cost recovery.

Sec. 353.31. Storage facility classes.

Storage facilities are identified by five classes. The classes are structured according to the type of use, the anticipated volumes of hazardous materials to be stored, complexity of the hazardous materials storage facility, and potential for discharge. The storage facility uses which define each class are indicated below:

(a) *Class AA*

- (1) Dental Offices and other medical offices with x-ray machines.
- (2) Other facilities not otherwise classified and posing minimal potential for discharge but storing hazardous material or producing hazardous waste, as determined by ACEPD.

(b) *Class A.*

- (1) Analytical laboratories, one or two employees.
- (2) Chemical storage and distribution, prepackaged and drummed chemicals with no mixing or repackaging.
- (3) Animal clinics, animal hospitals, and grooming businesses with pesticide dipping.
- (4) Funeral homes.
- (5) Furniture refinishers.
- (6) Machine shops, one or two employees.
- (7) Mechanical repair, restricted to minor repairs.
- (8) Medical laboratories.
- (9) One-hour photo labs or small tray developing facilities.
- (10) Pest control, one vehicle.
- (11) Printers, one or two employees; no more than two presses; no camera work.
- (12) Veterinarian offices or grooming business, no pesticide dipping.
- (13) Facilities storing or using hazardous materials and utilizing septic tanks for domestic waste disposal and generating less than 55 gallons of hazardous waste per year.

(c) *Class B.*

- (1) Aircraft maintenance and repairs without plating facilities.
- (2) Analytical laboratories, three to ten employees.
- (3) Dry cleaners, with dry cleaning plants on premises.
- (4) Automobile and truck repairs, no fleet operations.
- (5) Boat maintenance and repairs, no manufacturing.
- (6) Cement batch plants

- (7) Construction industries, road construction and paving.
- (8) Electric motor repairs.
- (9) Engine repairs.
- (10) Golf courses.
- (11) Jewelry manufacturing.
- (12) Machine shops.
- (13) Paint distributors and product testing research laboratories.
- (14) Paint and body shops.
- (15) Pest control, two to nine vehicles.
- (16) Photo processing laboratories.
- (17) Plastic manufacturing.
- (18) Printers, three or more presses and/or camera work.
- (19) Radiator repairs.
- (20) Silk screening and screen painting.
- (21) Miscellaneous facilities storing or using hazardous materials and generating more than 55 gallons per year of hazardous wastes and not otherwise included in a specific class.

(d) *Class C.*

- (1) Aircraft maintenance and repair with plating facility.
- (2) Analytical laboratories, more than ten employees.
- (3) Anodizing shops.
- (4) Battery manufacturers and reclaimers.
- (5) Boat manufactures.

- (6) Pesticide sales or distribution centers storing more than 275 gallons of materials.
- (7) Fleet maintenance operations.
- (8) Hospitals.
- (9) Paint manufacturing.
- (10) Pest control, ten or more vehicles.

If a storage facility stores extremely hazardous substances, as designated by title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III), in quantities greater than the threshold planning quantities established by SARA Title III or 25 gallons of liquids or 150 pounds of solids, whichever is less, then that storage facility shall receive a minimum classification as a class C storage facility.

(e) *Class D.*

- (1) Asphalt plants.
- (2) Automobile salvage yards and junk yards.
- (3) Portland cement manufacturing
- (4) Chemical manufacturing

(f) *Other uses.* Facilities storing, using, or generating hazardous materials and having a specific use not listed above shall be classified by the Department based on a comparison of the non-listed use to a similar use that has been classified. The Department may re-classify individual storage facilities after taking into consideration special conditions such as major reduction in the use and storage of hazardous materials or hazardous waste generation due to changes in technology, pollution prevention, or waste minimization practices.

Sec. 353.32. Storage facility siting prohibitions and environmentally sensitive areas.

(a) *Prohibitions enumerated.*

(1) *Applicability.* The requirements of this section are only applicable in the unincorporated areas of Alachua County. This section shall not be construed as to restrict any municipality from entering into interlocal agreements with the County for the purpose of enforcement of some or all of the provisions of this section within the municipality. The requirements of this section shall apply to all owners or operators of new storage facilities under planning for construction and owner or

operators of existing storage facilities that are planning to expand at their present site.

These requirements are designed primarily for owners or operators of new storage facilities where there is more flexibility in siting new construction. Owner or operators of existing storage facilities can propose additional engineering controls and hazardous materials management practices as alternatives in obtaining a variance to the siting prohibitions outlined in subsection (2), (3), or (4) below for expansion of their current operation.

- (2) Except as provided by section 353.32(b), no person shall construct a new wholesale bulk fuel storage, portland cement manufacturing, chemical manufacturing, pesticide manufacturing, auto salvage or junkyard, asphalt plant, battery reclamation or manufacturing, electronics manufacturing using halogenated solvents, any hazardous waste transfer site, any site defined by the Resource Conservation and Recovery Act (RCRA) as a treatment, storage, or disposal (TSD) facility for hazardous waste, or regional pesticide distribution site in areas of Alachua County designated as the unconfined zone of the Floridan aquifer system in Florida Geological Survey Open File Report 21, "Geologic Interpretation of the Aquifer Pollution Potential in Alachua County, Florida" (a complete copy of the report is available from the Department). See the map on file in the offices of the county for the location of the unconfined zone.
- (3) Except as provided by section 353.32(b), no person shall construct an underground storage tank system for the storage of hazardous materials in areas of Alachua County designated as the unconfined zone of the Floridan aquifer system in Florida Geological Survey Open File Report 21, "Geologic Interpretation of the Aquifer Pollution Potential in Alachua County, Florida" (see the map on file in the offices of the county for the location of the unconfined zone).
- (4) Except as provided by section 353.32(b), no person shall construct a new class C or class D storage facility in the unconfined zone of Alachua County within 100 feet of a sinkhole or surface water body, within 300 feet of an existing off-site private water supply well, or within 500 feet of an existing off-site public water supply well, or within 1,000 feet of an existing municipal water supply well, or at an elevation less than one foot above the 100-year floodplain elevation when within the floodplain of a surface water body.

Except as provided by section 353.32(b), no person shall construct a new class C or class D storage facility in the perforated or confined zones of Alachua County within 100 feet of a sinkhole or surface water body, within 200 feet of an existing off-site private water supply well, or within 400 feet of an existing off-site public water supply well, or within 700 feet of an existing municipal water supply well, or within the Secondary Wellfield Protection Zone of the City of Gainesville Murphree Well Field as defined in Alachua County Unified Land Development Code (Chapter

355), or at an elevation less than one foot above the 100-year floodplain elevation when within the floodplain of a surface water body.

The Department may require partial or full compliance with section 353.34, "Pollution Prevention Plan " and section 353.35, "Environmental quality monitoring," to mitigate the potential for soil or groundwater contamination on hazardous material storage facilities located in the area of Alachua County where the Floridan Aquifer is in the unconfined zone, or within 100 feet of a sinkhole or surface water body, or within 300 feet of an existing off-site private water supply well, or within 1,000 feet of an existing off-site public water supply well, or at an elevation less than one foot above the 100-year floodplain elevation when within the floodplain of a surface water body. The location of the 100-year floodplain shall be based upon the most recent revision of Federal Emergency Management Agency flood insurance rate maps or an acceptable engineering equivalent. These requirements and compliance schedules imposed by the Department shall be subject to review and approval by the board of county commissioners.

(b) *Variances to siting prohibitions.* The board of county commissioners in a quasi-judicial hearing, upon the recommendation of the development review committee (DRC), may grant a variance to the siting prohibitions of subsections (2), (3), and (4) above where it has been demonstrated by the owner or operator of the hazardous materials storage facility that the material, in the quantity and/or solution stored or the conditions under which it is to be stored, does not pose a hazard to human health or the environment.

The owner or operator shall provide such information as is needed to properly consider the requested variance. The Department shall recommend appropriate conditions and safeguards such as, but not limited to: additional containment infrastructure, monitoring requirements, management requirements, or operational procedures. These conditions shall be considered by the board of county commissioners and the DRC in their deliberations for approval, denial, or modification of the variance request. The owner or operator shall apply for a variance pursuant to the procedures of section 353.37.

Sec. 353.33. Storage facility standards.

(a) *Applicability.*

(1) This section is applicable to all owner or operators of new and existing storage facilities in Alachua County.

(b) *General Duty Clause.* The owners or operators of a storage facility have a general duty in the same manner and to the same extent as the general duty clause in the Occupational Safety and Health Act (OSHA), to identify hazards which may result from hazardous materials discharges using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent discharges, and to minimize the consequences of accidental discharges which do occur.

(c) *Construction.*

- (1) No agency of the county or of any city located within the county, nor any employee, official, or agent thereof, shall issue a building permit or any authorization which allows the alteration, installation, replacement, repair, or removal of a hazardous materials storage facility regulated by this chapter without prior approval of the Department.
- (2) All construction activities and alterations undertaken at new or existing hazardous material storage facilities shall be carried out in a manner that is in compliance with standards and requirements contained in this code. Owners and operators of such storage facilities shall submit plans for any proposed construction activities (or alterations to existing storage facilities) prior to initiating these activities to the Department. The Department shall review these plans for compliance with the requirements of this code within a period not to exceed five business days from the date of receipt of the proposed activities. The Department shall approve, disapprove, or reject the plans if incomplete, within the five-day review period.
- (3) A storage container shall be designed, constructed and installed in accordance with the applicable standards established by the National Fire Protection Association, the American Society for Testing and Materials, the EPA, and all other applicable nationally recognized standard-setting organizations adopted by the above-mentioned organizations. In case of a conflict or discrepancy between these referenced standards, the most stringent applicable standard shall apply.
- (4) Defective storage containers shall be removed from service, repaired, or decontaminated and disposed of in accordance with local, state, and federal waste management standards.

(d) *Inspection.* Storage container configuration shall provide for the capability of a complete visual inspection of the container where possible. Owners or operators of storage facilities shall maintain a documented inspection and release detection program. Owners or operators of existing hazardous materials storage facilities served by a septic tank system shall install and secure a four-inch pipe with a locked cap or locked top to the top of the septic tank to provide an access point for monitoring of liquids within the tank.

(e) *Labeling.* Individual storage containers shall be labeled to convey information as to the hazard presented by the material being contained. Pesticide storage containers which are labeled in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act are exempt from this labeling requirement.

(f) *Security.*

- (1) Owner or operators of storage facilities regulated by this code shall make provisions to restrict the access of people, wildlife, or livestock to the hazardous materials stored onsite.
- (2) Warning signs.
 - a. Warning signs shall be placed in drum storage, tank storage, and extremely hazardous substance (as defined by SARA Title III) storage areas.
 - b. These signs must contain statements such as: "WARNING--HAZARDOUS MATERIALS STORAGE FACILITY," "DANGER--UNAUTHORIZED PERSONNEL KEEP OUT" or similar statements. The size, color, and lettering of these signs shall be designed to be clearly legible from a distance of 100 feet. The signs shall be durable and in English as a primary language; additional warning signs in a language other than English may be required by the Department. Additional signs or markings may be required as directed by the local authority having jurisdiction .

(g) *Material transfer points.* Material transfer points shall be designed, constructed, and managed in a manner to prevent hazardous materials discharges and releases.

(h) *Storage containers.*

- (1) *Generally.* All storage containers including underground storage tank systems (except as otherwise noted in section 353.33(i) (2)) shall be product-tight and be provided with secondary containment.
 - a. Materials which are incompatible shall be stored in separate areas sufficiently far apart, but not less than 20 feet, to prevent mixing if spilled. Alternatively, physical barriers may be constructed to provide separation.
 - b. Storage containers stored outside must be covered with a durable impermeable material to protect the container and to prevent the accumulation of rainwater on the top of the container. This requirement shall not apply to owners or operators of storage which visually demonstrate that the container storage and handling practices at that site do not result in the intrusion of rainwater into the containers.
 - c. Defective storage containers shall be removed from service, repaired, or decontaminated and disposed of in accordance with local, state, and federal waste management standards.
 - d. Storage containers shall be kept closed at all times, except when adding or removing waste or products.

(2) *Construction.*

- a. Prior to any person causing, allowing, or permitting the placement of any hazardous material in a new storage facility, a new storage tank system, or within a new secondary containment system, as-built drawings of the storage tank system and the secondary containment shall be submitted to the Department. As-built drawings will be approved by the Department within 14 days after submission of drawings that provide sufficient detail to demonstrate that the system has been constructed in conformity with this code. If the drawings are not approved, no hazardous materials are allowed to be placed in the container or delivered to the storage facility.

(3) *Out-of-service storage containers.*

- a. Hazardous materials shall be removed from an out-of-service storage container and the container decontaminated within 30 days of being classified as out-of-service. Decontamination shall mean that all residuals of hazardous materials shall be removed from the storage tank system by rinsing with an appropriate solvent, by steam cleaning, pressure washing, or other equivalent procedure(s). The residuals and rinsate shall be properly treated or disposed of in accordance with local, state, and federal waste management standards.
- b. The out-of-service storage container shall have the fill line, gauge opening, pump connection, and other openings secured against uncontrolled access. The system shall be properly maintained.
- c. Out-of-service storage containers must meet the standards of this code prior to being placed in-service. If they cannot be upgraded to meet the required standards, then they must be closed in accordance with section 353.36, "Closure requirements."

(i) *Secondary containment.*

(1) *Generally.*

- a. Secondary containment shall be constructed of a material of sufficient structural integrity to contain the required capacity of liquids and shall be free of cracks, joints, gaps, or other imperfections which would allow leakage through the containment.
- b. Secondary containment shall be constructed and maintained with a substance of sufficient chemical and structural integrity to contain the hazardous material stored in the primary containment to allow for the cleanup of any discharge or release from the primary containment. Earthen

materials (clay, sand, soils, etc.) shall not be used to provide secondary containment.

All new or expanding secondary containment systems shall have all secondary containment surfaces that can come in contact with the hazardous material being contained coated with a material chemically resistant to the hazardous material stored. This practice will reduce the contamination of stormwater by small amounts of hazardous material leaching out of the surface of the containment into the stormwater and will facilitate the cleanup of any spilled hazardous material.

- c. Secondary containment is not required for aboveground piping provided the site has a regular and documented program for leak prevention, and detection. Owners or operators of storage facilities suffering discharges from aboveground piping shall be required to install secondary containment.

(2) *Exemptions.*

- a. Storage containers that do not contain free liquids or flammable materials, are not stored with flammable materials, and are not exposed to rainfall or stormwater runoff are exempt from the secondary containment standards of this subsection.
- b. Secondary containment will not be required for mobile tanks provided the following conditions are met:
 - 1. The owner or operator of the tank shall prepare an emergency plan detailing what steps will be taken in case of an emergency due to tank failure. The plan must include at a minimum: a description of the owner or operator spill response capabilities, including available equipment and documented training.
 - 2. The emergency equipment shall include at a minimum a spill kit or absorbent material in quantities capable of recovering at least 20% of the tank capacity, the spill kit or absorbent material shall be stored or located in the vicinity of the storage tank at all times.
 - 3. The mobile tank shall never be stored or located within 20 feet of a storm drain, floor drain, surface water body, or within the 100-year flood plain of a surface water body.

The Department reserves the right to require secondary containment for mobile tanks if:

- 1. The owner or operator has a documented history of discharges or releases from similar equipment.

2. A determination is made that the owner or operator is utilizing a tank as a mobile tank for the sole purpose of circumventing the secondary containment requirements of this chapter.

c. Double-walled storage tank systems, provided that the system is designed, constructed and installed to:

1. contain a release from any portion of the inner tank within the outer wall, and,

2. detect a failure of the inner wall, and,

3. in compliance with all applicable requirements of this chapter including installation, material transfer points and leak detection provisions.

(3) *Laboratory and production areas.*

a. Secondary containment which is equipped with berming shall be provided for storage containers stored in laboratory or production areas when the capacity of the storage container exceeds 55 gallons or an aggregate capacity of 165 gallons.

b. Storage containers shall not be required to have secondary containment berming pursuant to the condition described in subsection a. above if storage containers are a minimum of 20 feet away from all doorways, provided all floor drains and all floor joints which could be impacted in the event of a spill are sealed with a substance chemically compatible to the hazardous materials stored at the storage facility.

(4) *Capacity.*

a. The secondary containment system for aboveground storage containers shall have capacity to contain the volume of precipitation from a 100-year, 24-hour storm which would be collected in the containment system; and

1. Ten percent of the total volume of all the containers stored; or

2. One hundred thirty percent of the volume of the largest containers, whichever is greater.

b. The capacity for containing a 100-year, 24-hour storm may be omitted from the containment volume specified above if it can be demonstrated that the accumulation of rainfall will be prevented.

Outdoor container storage areas may have the capacity requirement for the 100-year storm waived if it is demonstrated to the Department that the normal operations and discharge response capabilities at the storage facility can provide adequate protection from such an event. If a waiver is granted, the containment shall have a minimum berm of four inches to contain the storage area.

- c. The volume of rainfall from a 100-year, 24-hour storm in Alachua County is approximately 11.04 inches according to the 1987 State of Florida Department of Transportation Drainage Manual (volume 2A, figures 5-1 and 5-6).
- d. The floor in a room of a building used as a storage facility shall be recessed a minimum of four inches or shall be provided with a perimeter curb with a minimum height of four inches or shall be provided with a perimeter open-grate trench draining to an appropriately sized sump to prevent the flow of liquid to adjoining areas.
- e. Owners or operators of existing storage facilities with secondary containment that meets the criteria of containing 100 percent of the volume of the largest container in the containment area shall not be required to retrofit to meet the capacity requirement in subsection a., b., or c. above unless a discharge or release occurs that breaches the capacity of the containment.

(5) *Drainage.*

- a. Secondary containment shall be constructed to prevent stormwater runoff from entering the containment. A roof over the storage facility, to prevent the accumulation of rainfall in the containment area, is encouraged and highly recommended, but not required.
- b. The containment system shall be constructed to facilitate removal of accumulated stormwater or spilled hazardous materials. The base of secondary containment for aboveground storage facilities shall be sloped to a collection point or sump to allow for controlled removal of accumulated stormwater or spilled hazardous materials. Existing secondary containment shall not be required to retrofit to meet this requirement.
- c. Accumulated stormwater shall be removed from the secondary containment system as soon as possible. Stormwater removal shall be initiated within 72 hours if accumulated stormwater exceeds the Alachua County 100-year, 24-hour storm rainwater volume of 11.04 inches.

- d. Stormwater accumulated within a hazardous material containment area shall not be released to the soils, groundwater, or surface waters in the county (including to a septic tank system) unless the owner or operator of the storage facility affirmatively verifies that the stormwater will not result in a violation of the federal, state or local standards.
- e. The determination required by the storage facility owner or operator specified in paragraph d. above shall be based upon the following criteria:
 - 1. Information or knowledge that the hazardous material containment area was clean (free of hazardous materials) prior to accumulation of stormwater and that contamination of the stormwater by hazardous materials after accumulation has not occurred; or
 - 2. Sampling, analyses and, if needed, treatment prior to release.
- f. Release of treated or untreated stormwater to a FDEP permitted municipal or industrial wastewater collection and treatment system is prohibited without a valid permit or unless prior written approval from the operator of the wastewater system is obtained and a copy of the written approval is provided to the Department.
- g. Hazardous materials which have been released to secondary containment shall be removed as soon as possible, with removal initiated within 72 hours, and properly treated or disposed of in accordance with local, state, and federal waste management standards, if not recoverable or reusable.
- h. If the secondary containment is penetrated by a drainage pipe, then there shall be a lockable valve on that pipe. This valve shall be kept closed and locked under normal conditions until a determination is made that the release of stormwater is acceptable pursuant to this subsection. The valve shall be closed and locked immediately after release of the acceptable stormwater.

(6) *Leak detection.*

- a. Storage facilities must be provided with a method or combination of methods of leak detection that:
 - 1. Can detect a release from any portion of a storage container.
 - 2. Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition.

3. Is monitored at least every 30 days.
- b. Visual monitoring shall be an acceptable leak detection method for aboveground storage containers. Visual inspections shall be conducted and documented on a monthly basis.
 - c. Underground storage tank and piping systems regulated by this code shall be equipped with a continuously operating, automatic leak detection system.
- (j) *Emergency preparedness.*
- (1) *Emergency equipment.* Emergency equipment shall be provided which is reasonable and appropriate for potential emergencies posed by the hazardous materials being stored, including but not limited to spill recovery, fire control, and environmental monitoring. Testing and maintenance shall be documented in writing by the owner or operator and maintained at the storage facility.
 - (2) *Emergency controls.* Emergency shut-off valves, switches, and other controls shall be identified and the location shall be clearly visible and indicated by means of a sign.
- (k) *Record keeping*
- (1) Owners or operators of existing hazardous material storage facilities regulated by this chapter shall maintain a complete set of receipts of hazardous wastes which are disposed of (and hazardous wastes which are recycled). The receipts shall identify the site from which the material is being transferred, the transporter of the material, the ultimate disposal or treatment location or site, the material which is being disposed of (or recycled), the quantity of material and the date. This receipt may be in the form of a completed uniform hazardous waste manifest (EPA form 8700-22).
 - (2) Owners or operators of existing hazardous material storage facilities regulated by this code shall maintain a complete set of material safety data sheets (MSDS) for all substances for which a MSDS is required by the United States Department of Labor, Occupational Safety and Health Administration, pursuant to title 29 of the Code of Federal Regulations, part 1910.1200; however, only insofar as they pose a hazard to the soil, air, groundwater, or surface water of the county.

Sec. 353.34. Pollution Prevention Plan (P2 Plan).

(a) *Applicability.* Owners or operators of storage facilities which suffer discharges to soil, air, surface water, or groundwater, or storage facilities which have a documented history of releases into secondary containment or other impervious areas may be required by the Department to prepare and submit a Pollution Prevention Plan.

Owners or operators of storage facilities located in environmentally sensitive areas as specified in section 353.32, or within the primary, secondary or tertiary Murphree Wellfield protection zones, as defined in Chapter 355 of the Alachua County Unified Land Development Code, may be required by the Department to submit a Pollution Prevention Plan.

Owner or operators of storage facilities required to have an Industrial Pretreatment Program (IPP) permit from any applicable utility company shall be required to submit a Pollution Prevention Plan to the Department.

If the owner or operator of an existing hazardous materials storage facility fails to report and clean up a discharge in accordance with the requirements of this code, then the owner or operator of that storage facility shall be required to submit a Pollution Prevention Plan to the Department.

(b) *General Requirements.* If required to submit a Pollution Prevention Plan by the Department, the storage facility owner or operator shall demonstrate in the Pollution Prevention Plan that the storage and handling of hazardous materials at the storage facility is in accordance with the applicable requirements of this code and, if applicable, that appropriate corrective action has been taken to prevent the occurrence of any additional discharges or releases. Additionally, if applicable, the P2 Plan shall include a detailed description and characterization of the waste streams generated at the storage facility and a summary of all pollution prevention, waste minimization, resource recovery or source reduction practices currently employed or planned at the storage facility. Only one Pollution Prevention Plan shall be required for each site.

(c) *Acceptance of equivalent documents.* Whenever the owner or operator has submitted a document to any other public agency which includes information equivalent to that required for any component of the Pollution Prevention Plan, a copy of the applicable portion of such document may be submitted to the Department in lieu of such component.

(d) *Compliance schedule.* The Pollution Prevention Plan shall be submitted to the Department within 60 days of receipt of notification of the requirement from the Department and shall be implemented within 30 days of approval by the Department. Time extensions may be approved pursuant to the procedures specified in section 353.37. Once a Pollution Prevention Plan is submitted, the Department shall approve, disapprove, or determine that the Pollution Prevention Plan contains insufficient information within 30 days from date of receipt.

(e) *Amendment schedule.*

- (1) *Annual submittal.* The Pollution Prevention Plan shall be reviewed annually by the storage facility owner or operator to determine if the Pollution Prevention Plan needs to be amended. Proposed amendments shall be submitted to the Department for review and approval. If storage and handling of hazardous materials at the site does not require amendments to the Pollution Prevention Plan, then the owner or operator may submit a letter to the Department stating that an amendment to the Pollution Prevention Plan is not needed at the present time.

- (2) *More frequent submittal.* Amendments shall also be submitted by the storage facility owner or operator 30 days after:
- a. An increase of 50 percent or greater of all hazardous materials currently being stored at the storage facility; or
 - b. Storage of greater than 25 gallons or 150 pounds of either a hazardous material in a hazard class not currently being stored at the storage facility or an extremely hazardous substance as defined in SARA Title III; or
 - c. Change in storage facility owner or operator; or
 - d. Change in hazardous materials storage facility class.

(f) *Pollution Prevention plan approval.*

- (1) The Pollution Prevention Plan shall demonstrate that the storage and handling of hazardous materials at the storage facility is in accordance with the requirements of this code. In cases where an existing storage facility does not meet the standards of this code, the Pollution Prevention Plan shall identify the methodology and propose a compliance schedule for achieving compliance.
- (2) The review of the Pollution Prevention Plan shall be based on the potential impact to soils, groundwater, air, and surface water; surrounding land uses (especially water supply use); and other pertinent environmental considerations.

(g) *Public record.* The Pollution Prevention Plan shall be a public record except as specified otherwise pursuant to trade secrets. The Department shall be the custodian of these records.

Sec. 353.35. Environmental quality monitoring.

(a) *Applicability.*

- (1) Owners or operators of new or expanding storage facilities located in environmentally sensitive areas of the county, as specified in section 353.32 may be required by the Department to submit a monitoring plan to establish and monitor soil, surface water, and groundwater conditions at the site. The plan shall be submitted to the Department for approval and must have received approval by the Department before it is implemented.
- (2) Owners or operators of storage facilities that undergo closure shall be required to submit a monitoring plan if, as a result of the closure, the site of the storage facility is found to be contaminated, or the site is confirmed to be contaminated prior to closure.

(b) *Requirements.* The monitoring plan must be submitted by the storage facility owner or operator within 90 days of notification by the Department. All soil or groundwater data which is submitted to either the FDEP or the EPA shall also be submitted simultaneously to the Department. The monitoring plan shall include, but not be limited to :

- (1) The location and type of surface water bodies at the site;
- (2) Hydrogeological information (including direction and rate of groundwater flow in the uppermost aquifer; horizontal and vertical permeability of and depth to the uppermost aquifer; and vertical permeability, depth, thickness, and areal extent of the geologically relevant confining beds); and
- (3) The location, type, schedule, and number of soil, surface water, and groundwater samples to be collected; the parameters (indicators of hazardous materials stored) to be analyzed; the frequency specifying how often the samples shall be collected and the analytical methods to be used. All analytical work must be done by a laboratory which is state certified for the appropriate analytical methods to be used. In the event that the Department deems that the monitoring plan submitted by the owner or operator is inadequate to assess and monitor the soil and groundwater conditions, the Department may require that additional conditions be included as part of the monitoring plan (such as, but not limited to: additional sampling points, an alternate sampling frequency, alternate sampling techniques, additional analytical parameters, etc.). A quality assurance plan shall be submitted and approved which shall demonstrate compliance with the standards specified by the FDEP/ prior to implementing the monitoring program.

(c) *Submission of information.* Information submitted to and approved by other regulatory organizations, such as FDEP or EPA, in response to other regulatory or administrative requirements may be submitted to meet part or all of the monitoring plan requirements described in this subsection. The Department shall approve, disapprove, request additional information, or reject for having inadequate information any monitoring plan within 30 days of the date of receipt.

Sec. 353.36. Closure requirements.

This section shall apply only to owners or operators of storage facilities that are discontinuing operations at a present storage facility, moving their operations to another site, abandoning the use of a hazardous materials storage facility, or to out-of-service storage containers.

Closure activities that have been initiated prior to June 24, 1991 and have written approval for the closure activities from the FDEP or the EPA shall not be required to submit a separate closure plan to the Department. In these cases, a copy of the approved closure plan submitted to the FDEP or the EPA shall be provided to the Department for documentation of the closure.

- (a) *When required.* Closure of a hazardous materials storage facility shall be initiated as soon as possible, but at a minimum within 30 days from the last day of operation, and be finished within 180 days from the last day of operation. Extensions or changes to this time schedule can be requested under the provisions of Section 353.37 .
- (b) Prior to initiating a closure, a closure plan must be submitted to the Department for approval. The Department shall approve, disapprove, or reject for having inadequate information any closure plan within 30 days of date of receipt. If the closure plan is rejected for having inadequate information, an amended closure plan which has the required additional information shall be submitted to the Department within 30 days.

The closure plan shall specify how the closure will be carried out to be in compliance with all applicable local, federal, and state rules, regulations, and practices. In approving a closure plan, the Department may impose certain conditions as part of the approved closure plan to address special conditions.

(c) *General Requirements for Closures*

A storage facility closure plan shall include, but not be limited to:

- (1) Closure shall be conducted in such a manner that all contaminated equipment (including tanks and piping) and structures are properly decontaminated.
- (2) Decontaminated equipment and structures, residues from decontamination procedures and contaminated soils shall be properly treated or disposed of in accordance with local, state, and federal waste management standards or practices.
- (3) Underground storage tanks.
 - a. All components of an underground storage tank system involved in closure shall be removed from the site.
 - b. When the owner or operator demonstrates that removal will endanger the structural integrity of a building, aboveground or underground utility, or road, in-place decontamination and filling with sand or other equivalent inert material shall be allowed and approved as an alternate procedure by the Department.

(d) *Public records notice.*

- (1) The owner of real property at which a regulated storage facility has undergone abandonment or closure shall record a notice in the public records of Alachua County which includes: a legal description of the property where the closure occurred, a statement that the property housed a hazardous materials storage facility, a description of any remaining contamination of soil or groundwater on the property, a summary of any closure procedures, contamination assessment, and remedial activities which were undertaken.
- (2) The public records notice shall be submitted to the Department within 30 days of closure or abandonment for review and written approval prior to filing the notice with the clerk of the court.

Sec. 353.37. Approval of alternate procedures and requirements, and variances.

(a) *Application.* The owner or operator of a storage facility subject to the provisions of this code may apply to the Department for a variance from a specific requirement of this chapter provided the owner or operator of the storage facility demonstrates that it can and will utilize an alternate procedure which will provide a level of environmental protection equal to or greater than the requirement for which the variance is sought. Requests for approval of variances to siting prohibitions as per section 353.32(b), shall also follow this procedure.

(b) *Required information.* The request for approval of alternative procedures or requirements shall be initiated by completing and submitting an alternative procedures or requirements request to the Department. The information required shall consist of:

- (1) The specific provisions of the code for which an alternative procedure is being sought;
- (2) The basis for the alternate procedure;
- (3) A detailed description of the alternate procedure proposed.

The description shall include how the alternate procedure provides the equivalent or greater degree of environmental protection as compared to the requirement for which the alternate procedure is being sought and any other pertinent siting, construction, containment, or other information to demonstrate the alternate procedure's efficacy.

(c) *The Department action.* The Department shall specify in writing within 30 days to the owner or operator each alternate procedure or requirement approved or denied for an individual storage facility in accordance with this section. Action taken by the Department may be appealed by filing written notice within 30 days to the county manager. The decision of the Department shall be reviewed in accordance with the appeal procedure of this chapter.

Sec. 353.38 Hazardous Materials Storage License.

(a) Applicability

(1) Required. No person shall construct, modify, install, replace, or operate a Class C or D hazardous material storage facility in Alachua County without a Hazardous Materials Storage License.

(2) Existing Storage Facility License. Within ninety (90) days of notification from the Department, the owner or operator of a regulated facility Class C or D shall submit an application for an existing storage facility license.

(b) General requirements.

(1) Application for a Hazardous Materials Storage License, or renewal thereof, shall be made and completed in the manner prescribed by the Department. The application shall be completed with all requested information and shall be signed by the owner or operator, as applicable. The completed application shall be submitted to the Department, together with the appropriate license fee.

(2) The license application information and supporting documentation shall be complete, truthful, and correct. Falsification of application information shall be grounds for denial, suspension, or revocation of a license.

(3) Within thirty (30) days after receipt of the application, the Department shall examine the application, and shall notify the applicant of the deficiencies or lack of information and allow 30 days for corrections or submission of the necessary information. After receipt of all required information and the license fee, the Department shall either issue or deny a license within sixty (60) days.

(4) The Department shall issue or renew a license upon the applicant's demonstration that all standards required by this chapter and other regulations applicable to the hazardous materials regulated by this code have been met and upon receipt of the appropriate fee.

(5) A license, when issued, shall be in the name of the owner or operator, as applicable, which name may be that of an individual, firm, association, joint venture, corporation, partnership, governmental entity, or other legal entity. A license shall specify the regulated storage facility covered by the license. A license may cover one or more hazardous materials storage systems located at the same storage facility. A license shall provide conditions necessary to ensure that the provisions of this code are met. Commencement of construction of a storage facility under a Hazardous Materials Storage License shall be deemed acceptance of all conditions specified in the license.

(6) Licenses shall be issued for a period not to exceed five (5) years, at which time, a renewal application shall be submitted to the Department.

(7) Upon sale or legal transfer of a licensed storage facility, the new owner or operator shall apply by letter to the Department for a new storage facility license. Hazardous Materials Storage Licenses are not transferable.

(8) The issuance of a license does not convey any vested rights or exclusive privileges, nor does a license authorize any injury to public or private property, an invasion of personal rights, or any violation of federal, state, or local laws or regulations.

(9) A license does not constitute a waiver of, or approval, of any other permit or license or other approval that may be required for other aspects of the total project or operation.

(10) A license, or copy thereof, shall be available for inspection on the licensed premises during the life of the license.

(11) By accepting a license, the storage facility owner or operator understands and agrees that all records, notes, monitoring data, and other information relating to the operation, construction, closure, or abandonment of the licensed storage facility that are submitted to the Department may be used as evidence in any enforcement proceeding.

(12) A permit issued under the Murphree Wellfield Protection Code may be deemed equivalent by the Department to a Hazardous Materials Storage License.

(13) Access to storage facility. The owner or operator of a licensed storage facility, by acceptance of a license, specifically agrees to allow access to the storage facility at reasonable times by authorized personnel from the Department for the purpose of inspection and testing to determine compliance with the license and the provisions of this code.

(14) Prior to any person causing, allowing, permitting, or suffering the placement of any hazardous material in a storage system covered by a Hazardous Materials Storage License, pursuant to this code, as-built drawings shall be submitted for approval.

(c) Specific Conditions: In approving a license request, the Department may impose certain conditions as part of the license in order to address special site and operational conditions.

(d) Documents. The following information and accompanying documentation as may be applicable shall be submitted to the Department, together with the completed application:

(1) An inventory of all regulated hazardous materials stored based on the following criteria:

a. If the material stored has a SARA Title III or CERCLA Reportable Quantity of one pound then the material shall be listed if stored in total quantities of one pound or more.

b. All other materials shall be listed if stored in total quantities of ten pounds or more.

(2) Detailed plans and specifications of all hazardous materials storage systems, including, but not limited to, details of tanks, conveyance and pumping systems, secondary containment, leak detection, overfill protection and material transfer points.

(3) Plans for emergency actions to be taken in the case of hazardous materials discharges or releases, including arrangements with local emergency authorities and monitoring capabilities.

(4) Proof of compliance with other applicable federal, state and local requirements related to the storage and handling of hazardous materials.

(e) At least sixty (60) days prior to expiration of a license, the storage facility owner or operator shall apply to the Department for license renewal. License renewal shall be approved by the Department on a demonstration by the owner or operator that the storage facility complies with the provisions of this code.

(f) Denial, Suspension, or Revocation of Licenses.

(1) The Department may deny, suspend, or revoke a license for failure to comply with this code and/or the conditions of any license issued pursuant to this code.

a. The Department may deny any license application pursuant to this code on a finding that the license applicant or his agent knowingly submitted false or inaccurate information in the application.

b. The Department may revoke or suspend any license issued pursuant to this code on a finding that the license holder has violated the provisions of this code or license conditions; or has refused lawful inspections as required by this code.

(2) When the Department has reasonable cause to believe that grounds for the denial, suspension, or revocation of a license exists, it shall notify the applicant or license holder in writing stating the grounds upon which the license is being denied, suspended, or revoked, and advising the applicant or license holder of the right to a hearing in accordance with section 353.40. If the applicant or license holder makes no written request to the Department for a hearing within fifteen (15) calendar days from receipt of such notice, the license shall be deemed denied, suspended, or revoked. If a timely request for a hearing is made, a hearing shall be held in accordance with the provisions of section 353.40.

Sec. 353.39. Establishment of fees.

Fees will be established by the board of county commissioners, assessed according to the storage facility classes as stated in section 353.31, and collected to finance the administration of this code. For the purpose of this section, administration shall include, but not be limited to, review

of Pollution Prevention Plans, license applications, site inspections, data management, and enforcement activities. The fee schedule required by this subsection shall be established by resolution of the board of county commissioners and shall accompany this code as an attachment. The procedure for compliance with the fee assessment of this code is as follows: pay the required fee and provide the notification form to the Department within 30 days of receiving notice of the requirements of this chapter. This shall be accomplished by paying the appropriate fee to the Board of County Commissioners of Alachua County, in care of the Department, and completing and submitting Form HM-100 (known as the hazardous materials storage facility notification form) that was included with the official notice from the Department. A copy of Form No. HM-100 is found on file in the offices of the county.

Sec. 353.40. Violations; enforcement; remedies.

Violations of this chapter of the code may be referred by the Department to the County's Codes Enforcement Board or other enforcement mechanism in accordance with F.S.Ch. 162, and Chapter 24 of the Alachua County Unified Land Development Code relating to the Alachua County Codes Enforcement Board and Citation Ordinance. Remedies may include the following:

(a) *Judicial remedies.*

(1) The County may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages to property including animal, plant, and aquatic life, caused by any violation.

(2) The County may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than ten-thousand-dollars (\$10,000.00) for each offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(3) It shall not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the County has failed to exhaust its administrative remedies, or has failed to hold an administrative hearing prior to the institution of a civil action.

(b) *Injunctive relief.* It is hereby found and declared that a violation of the provisions of this code constitutes an irreparable injury to the citizens of Alachua County. The county may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this code or order; to enjoin any violation of this code; and to seek injunctive relief to prevent injury to the soils, air, and water, including animal, plant, and aquatic life, in the county and to protect human health, safety, and welfare caused or threatened by any violation.

(c) *Administrative Appeals.*

(1) Decisions to approve, deny, suspend, or revoke a license or plan pursuant to this code may be appealed to a hearing officer. Such an appeal shall provide an administrative mechanism to address alleged error in the application of a specific provision of this code. An

appeal may be filed by the applicant, license holder or a substantially affected person. The adverse interest may be shared in common with the other members of the community at large.

(2) No person may apply to a court for relief from a decision of the Department unless he or she has first exhausted the remedies provided herein.

(3) A person requesting an appeal shall file this request in writing along with the appropriate fee for such petition to the Department within fifteen (15) days of the final decision made by the Department.

(4) The written request for appeal shall include a sworn statement of the particular facts and the basis for the appeal, the specific code provision alleged to be applied in error, the different result which would occur if the appropriate provisions were correctly applied, and the particular relief sought.

(5) The Department shall schedule the appeal before the hearing officer, and shall provide to the hearing officer a staff report on the actions taken by the Department.

(6) The hearing officer shall consider the record, testimony by the applicant, members of the Department, any substantially affected persons, and any other appropriate witness, and the error alleged. Based on this information the hearing officer shall either sustain or reverse the decision appealed by giving a written explanation for his or her decision.

Sec. 353.41. Use of awards; environmental cleanup fund.

(a) Any money recovered by the county in an action against any person who has caused pollution in the county in violation of this code or state law shall be used to remediate contaminated sites in the county.

(b) There is hereby created the Alachua County Environmental Cleanup Fund, which is to be supervised and used by the county to remediate contaminated sites in the county to the extent of money available in the fund. The fund shall consist of all money specified in subsection (a).

Sec. 353.42. Severability.

It is the declared intent of the board of county commissioners that, if any section, subsection, sentence, clause, phrase, or provision of this chapter is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this chapter.

Sec. 353.43. Chapter to be liberally construed.

Section 1. This chapter shall be liberally construed in order to effectively carry out the purposes hereof which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of Alachua County, Florida.

Section 2. Severability. It is the declared intent of the board of county commissioners that, if any section, subsection, sentence, clause, phrase, or provision of this chapter is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this chapter.

Section 3. Inclusion in the Code. It is the intention of the Board of County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances of Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section," "article," or other appropriate designation.

Section 4. Effective Date. A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten days after enactment by the Board of County Commissioners, and shall take effect upon filing with the Department of State.

DULY ADOPTED in regular session, this 25 day of Jan., A.D., 2000.

BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA

By: Penelope Wheat

Penelope Wheat, Chair

ATTEST:

J. K. "Buddy" Irby

J. K. "Buddy" Irby, Clerk

APPROVED AS TO FORM

D. Wagner

Alachua County Attorney

(SEAL)

DEPARTMENT APPROVAL
AS TO CORRECTNESS

Ch. Bird

Department Head