

## HAZARDS AND HAZARDOUS MATERIALS

### 4.7 HAZARDS AND HAZARDOUS MATERIALS

This chapter describes existing hazards and hazardous materials in the Specific Plan Area and evaluates the potential environmental consequences of future development that could occur by adopting and implementing the proposed project. This chapter provides a summary of the relevant regulatory setting necessary to evaluate potential environmental impacts resulting from the proposed project, describes potential impacts, and discusses existing and proposed goals, policies, and implementation programs and zoning regulations that would avoid or reduce those potential impacts.

#### 4.7.1 ENVIRONMENTAL SETTING

##### 4.7.1.1 REGULATORY FRAMEWORK

Hazardous materials refer generally to hazardous substances, hazardous waste, and other materials that exhibit corrosive, poisonous, flammable, and/or reactive properties and have the potential to harm human health and/or the environment. Hazardous materials are used in products (e.g., household cleaners, industrial solvents, paint, pesticides, etc.) and in the manufacturing of products (e.g., electronics, newspapers, plastic products, etc.). Hazardous materials can include petroleum products, natural gas, synthetic gas, acutely toxic chemicals, and other toxic chemicals that are used in agriculture, commercial and industrial uses, retail businesses, hospitals, and households. Accidental releases of hazardous materials can result from a variety of incidents, including highway incidents, warehouse fires, train derailments, shipping accidents, and industrial incidents.

The term “hazardous materials” as used in this section includes all materials defined in the California Health and Safety Code:

*A material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. ‘Hazardous materials’ include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the unified program agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment.*

The term includes chemicals regulated by the United States Department of Transportation (USDOT), the United States Environmental Protection Agency (USEPA), the California Department of Toxic Substances Control (DTSC), the California Governor’s Office of Emergency Services, and other agencies as hazardous materials, wastes, or substances. ‘Hazardous waste’ is any hazardous material that has been discarded, except those materials specifically excluded by regulation. Hazardous materials that have been intentionally disposed of or inadvertently released fall within the definition of “discarded” materials and can result in the creation of hazardous waste. Hazardous wastes are broadly characterized by their ignitability, toxicity, corrosivity, reactivity, radioactivity, or bioactivity. Federal and State hazardous waste definitions are similar, but contain enough distinctions that separate classifications are in place for federal Resource Conservation and Recovery Act (RCRA) hazardous wastes and State non-RCRA hazardous wastes. Hazardous wastes require special handling and disposal because of their potential to impact public health

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and the environment. Some materials are designated “acutely” or “extremely” hazardous under relevant statutes and regulations.

Hazardous materials and wastes can pose a significant actual or potential hazard to human health and the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Many federal, State, and local programs that regulate the use, storage, and transportation of hazardous materials and hazardous waste are in place to prevent these unwanted consequences. These regulatory programs are designed to reduce the danger that hazardous substances may pose to people and businesses under normal daily circumstances and as a result of emergencies and disasters.

### **Federal Agencies and Regulations**

#### *United States Environmental Protection Agency*

The USEPA is the primary federal agency that regulates hazardous materials and waste. In general, the USEPA works to develop and enforce regulations that implement environmental laws enacted by Congress. The agency is responsible for researching and setting national standards for a variety of environmental programs and delegates the responsibility for issuing permits and for monitoring and enforcing compliance to States and Native American tribes. USEPA programs promote handling hazardous wastes safely, cleaning up contaminated land, and reducing waste volumes through such strategies as recycling. California falls under the jurisdiction of USEPA Region 9. Under the authority of RCRA and in cooperation with State and tribal partners, the USEPA Region 9 Waste Management and Superfund Divisions manage programs for site environmental assessment and cleanup, hazardous and solid waste management, and underground storage tanks.

#### *United States Department of Transportation*

The USDOT has the regulatory responsibility for the safe transportation of hazardous materials between states and to foreign countries. The USDOT regulations govern all means of transportation, except for those packages shipped by mail, which are covered by United States Postal Service regulations. The federal RCRA of 1976 (described below) imposes additional standards for the transport of hazardous wastes.

#### *Occupational Safety and Health Administration*

The Occupational Safety and Health Administration (OSHA) oversees the administration of the OSHA, which requires specific training for hazardous materials handlers, provision of information to employees who may be exposed to hazardous materials, and acquisition of material safety data sheets from materials manufacturers. The material safety data sheets describe the risks, as well as proper handling and procedures, related to particular hazardous materials. Employee training must include response and remediation procedures for hazardous materials releases and exposures.

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### *Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984*

Federal hazardous waste laws are generally promulgated under the RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984. These laws provide for the “cradle to grave” regulation of hazardous wastes. Any business, institution, or other entity that generates hazardous waste is required to identify and track its hazardous waste from the point of generation until it is recycled, reused, or disposed. DTSC is responsible for implementing the RCRA program as well as California’s own hazardous waste laws, which are collectively known as the Hazardous Waste Control Law. Under the Certified Unified Program Agency (CUPA) program, California Environmental Protection Agency (CalEPA) has in turn delegated enforcement authority to the Hayward Fire Department (HFD) for State law regulating hazardous waste producers or generators in Hayward.<sup>1</sup>

### *Comprehensive Environmental Response, Compensation, and Liability Act and the Superfund Amendments and Reauthorization Act of 1986*

Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as “Superfund,” on December 11, 1980. CERCLA established prohibitions and requirements concerning closed and abandoned hazardous waste sites; provided for liability of persons responsible for releases of hazardous waste at these sites; and established a trust fund to provide for cleanup when no responsible party could be identified. The Superfund Amendments and Reauthorization Act (SARA) amended the CERCLA on October 17, 1986. SARA stressed the importance of permanent remedies and innovative treatment technologies in cleaning up hazardous waste sites; required Superfund actions to consider the standards and requirements found in other State and federal environmental laws and regulations; provided new enforcement authorities and settlement tools; increased State involvement in every phase of the Superfund program; increased the focus on human health problems posed by hazardous waste sites; encouraged greater citizen participation in making decisions on how sites should be cleaned up; and increased the size of the trust fund to \$8.5 billion.

### *Emergency Planning Community Right-to-Know Act*

The Emergency Planning Community Right-to-Know Act (EPCRA), also known as SARA Title III, was enacted in October 1986. This law requires State and local governments to plan for chemical emergencies. Reported information is then made publicly available so that interested parties may become informed about potentially dangerous chemicals in their community. EPCRA Sections 301 through 312 are administered by EPA’s Office of Emergency Management. EPA’s Office of Information Analysis and Access implements the EPCRA Section 313 program. In California, SARA Title III is implemented through California Accidental Release Prevention (CalARP) program. The State of California has delegated local oversight authority of the CalARP program to the HFD.<sup>2</sup>

<sup>1</sup> City of Hayward, 2014, Hayward 2040 General Plan Background Report, Chapter 9, Hazards, page 9-67.

<sup>2</sup> City of Hayward, 2014, Hayward 2040 General Plan Background Report, Chapter 9, Hazards, page 9-64 and 9-67.

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### *Hazardous Materials Transportation Act*

The USDOT regulates hazardous materials transportation under Title 49 of the Code of Federal Regulations. State agencies that have primary responsibility for enforcing federal and State regulations and responding to hazardous materials transportation emergencies are the California Highway Patrol (CHP) and the California Department of Transportation (Caltrans). The California State Fire Marshal's Office has oversight authority for hazardous materials liquid pipelines. The California Public Utilities Commission has oversight authority for natural gas pipelines in California. These agencies also govern permitting for hazardous materials transportation.

### *Federal Response Plan*

The Federal Response Plan of 1999 is a signed agreement among 27 federal departments and agencies and other resource providers, including the American Red Cross, that: 1) provides the mechanism for coordinating delivery of federal assistance and resources to augment efforts of State and local governments overwhelmed by a major disaster or emergency; 2) supports implementation of the Robert T. Stafford Disaster Relief and Emergency Act, as well as individual agency statutory authorities; and 3) supplements other federal emergency operations plans developed to address specific hazards. The Federal Response Plan is implemented in anticipation of a significant event likely to result in a need for federal assistance or in response to an actual event requiring federal assistance under a Presidential declaration of a major disaster or emergency. The Federal Response Plan is part of the National Response Framework, which was most recently updated on March 22, 2008.

### *The Stafford Act*

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) of 1988 authorizes federal government assistance for emergencies and disasters when State and local capabilities are exceeded. The Stafford Act forms the statutory authority for most federal disaster response activities, especially as they relate to the Federal Emergency Management Agency (FEMA) and FEMA programs.

### *National Response Framework*

The 2013 National Response Framework, published by the United States Department of Homeland Security, is a guide for the nation to respond to all types of disasters and emergencies. The Framework describes specific authorities and best practices for managing incidents that range from serious local or large-scale terrorist attacks or catastrophic natural disasters. In addition, the 2013 National Response Framework describes the principles, roles, and responsibilities, and coordinating structures for responding to an incident, and further describes how response efforts integrate with those of the other mission areas.

## **State Agencies and Regulations**

### *California Environmental Protection Agency*

One of the primary State agencies that regulate hazardous materials is the CalEPA. CalEPA is authorized by the USEPA to enforce and implement certain federal hazardous materials laws and regulations. The California DTSC, a department of the CalEPA, protects California and Californians from exposure to

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hazardous waste, primarily under the authority of the RCRA and the California Health and Safety Code.<sup>3</sup> The DTSC requirements include the need for written programs and response plans, such as Hazardous Materials Business Plans. The DTSC programs include dealing with aftermath clean-ups of improper hazardous waste management, evaluation of samples taken from sites, enforcement of regulations regarding use, storage, and disposal of hazardous materials, and encouragement of pollution prevention.

### *California Division of Occupational Safety and Health*

Like OSHA at the federal level, the California Division of Occupational Safety and Health (CalOSHA) is the responsible State-level agency for ensuring workplace safety. The CalOSHA assumes primary responsibility for the adoption and enforcement of standards regarding workplace safety and safety practices. In the event that a work site is contaminated, a Site Safety Plan must be crafted and implemented to protect the safety of workers. Site Safety Plans establish policies, practices, and procedures to prevent the exposure of workers and members of the public to hazardous materials originating from the contaminated site or building.

### *California Building Code*

The State of California provided a minimum standard for building design through the California Building Code (CBC), which is found in Title 24, Part 2 of the California Code of Regulations (CCR). The CBC is based on the 1997 Uniform Building Code, with certain California-specific modifications. The CBC is updated every three years, and the current 2016 edition of the CBC went into effect on January 1, 2017. It is generally adopted on a jurisdiction-by-jurisdiction basis, and may be subject to further modification based on local conditions. Commercial and residential buildings are plan-checked by local city and county building officials for compliance with the typical fire safety requirements of the CBC, including the installation of sprinklers in all high-rise buildings; the establishment of fire resistance standards for fire doors and building materials; and the clearance of debris and vegetation near occupied structures in wildfire hazard areas. The 2016 CBC has been adopted for use by the City in Hayward Municipal Code Section 9-1.00.<sup>4</sup>

### *California Fire Code*

The California Fire Code (CFC) incorporates, by adoption, the International Fire Code of the International Code Council, with California amendments. This is the official Fire Code for the State and all political subdivisions. It is found in CCR Title 24, Part 9 and it is revised and published approximately every three years by the California Building Standards Commission. The 2016 CFC has been adopted for use by the City in the Hayward Municipal Code Section 3-14.00.<sup>5</sup>

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<sup>3</sup> Hazardous Substance Account, Chapter 6.5 (Section 25100 et seq.) and the Hazardous Waste Control Law, Chapter 6.8 (Section 25300 et seq.) of the Health and Safety Code.

<sup>4</sup> City of Hayward Municipal Code, Chapter 9, Building Regulations, Article 1, Building Code of the City of Hayward, Section 9-1.00, 2016 California Building Codes, Adoption by Reference.

<sup>5</sup> City of Hayward Municipal Code, Chapter 3, Public Safety, Article 14, Fire Prevention Code of the City of Hayward, Section 3-14.00, Adoption of California Fire Code.

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### *California Emergency Management Agency*

The California Emergency Management Agency (CalEMA) was established as part of the Governor's Office on January 1, 2009. It was created pursuant to Assembly Bill 38, which merged the duties, powers, purposes, and responsibilities of the former Governor's Office of Emergency Services with those of the Governor's Office of Homeland Security. CalEMA is responsible for the coordination of overall State agency response to major disasters in support of local government. The agency is responsible for ensuring the State's readiness to respond to and recover from all hazards—natural, manmade, emergencies, and disasters—and for assisting local governments in their emergency preparedness, response, recovery, and hazard mitigation efforts.

### *California Department of Forestry and Fire Protection*

The California Department of Forestry and Fire Protection (CAL FIRE) has mapped fire threat potential throughout California.<sup>6</sup> CAL FIRE ranks fire threat based on the availability of fuel and the likelihood of an area burning based on topography, fire history, and climate. The rankings include no fire threat, moderate, high, and very high fire threat. Additionally, the CAL FIRE published the *2010 Strategic Fire Plan for California*, which contains goals, objectives, and policies to prepare for and mitigate for the effects of fire on California's natural and built environments.<sup>7</sup>

### *California Department of Transportation and California Highway Patrol*

The California Department of Transportation (Caltrans) and California Highway Patrol (CHP) are the two State agencies that have primary responsibility for enforcing federal and State regulations and responding to hazardous materials transportation emergencies. Caltrans manages more than 50,000 miles of California's highways and freeways, provides intercity rail services, permits more than 400 public-use airports and special-use hospital heliports, and works with local agencies. Caltrans is also the first responder for hazardous material spills and releases that occur on highways, freeways, and intercity rail lines.

The CHP enforces hazardous materials and hazardous waste labeling and packing regulations designed to prevent leakage and spills of materials in transit and to provide detailed information to cleanup crews in the event of an accident. Vehicle and equipment inspection, shipment preparation, container identification, and shipping documentation are all part of the responsibility of the CHP, which conducts regular inspections of licensed transporters to assure regulatory compliance. In addition, the State of California regulates the transportation of hazardous waste originating or passing through the State.

Common carriers are licensed by the CHP, pursuant to Section 32000 of the California Vehicle Code. This section requires licensing every motor (common) carrier who transports, for a fee, in excess of 500 pounds of hazardous materials at one time and every carrier, if not for hire, who carries more than 1,000

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<sup>6</sup> California Department of Forestry and Fire Protection (CAL FIRE), [http://www.fire.ca.gov/fire\\_prevention/fire\\_prevention\\_wildland\\_zones\\_development.php](http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_zones_development.php), accessed on January 25, 2018.

<sup>7</sup> California Department of Forestry and Fire Protection (CAL FIRE), 2010, *2010 Strategic Fire Plan for California*, <http://cdfdata.fire.ca.gov/pub/fireplan/fpupload/fpppdf668.pdf>, accessed on January 25, 2018.

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pounds of hazardous material of the type requiring placards. Common carriers conduct a large portion of the business in the delivery of hazardous materials.

### *California Health and Safety Code and Code Regulations*

California Health and Safety Code Chapter 6.95 and CCR Title 19, Section 2729 set out the minimum requirements for business emergency plans and chemical inventory reporting. These regulations require businesses to provide emergency response plans and procedures, training program information, and a hazardous material chemical inventory disclosing hazardous materials stored, used, or handled on-site. A business which uses hazardous materials or a mixture containing hazardous materials must establish and implement a business plan if the hazardous material is handled in certain quantities.

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### Regional Agencies and Regulations

#### *San Francisco Bay Regional Water Quality Control Board*

The Porter-Cologne Water Quality Act<sup>8</sup> established the State Water Resources Control Board (SWRCB) and divided the State into nine regional basins, each under the jurisdiction of a Regional Water Quality Control Board (RWQCB). The San Francisco Bay RWQCB – Region 2 regulates water quality in the City of Hayward. The San Francisco Bay RWQCB has the authority to require groundwater investigations and/or remedial action if the quality of groundwater or surface waters of the State are threatened.

#### *Bay Area Air Quality Management District*

The Bay Area Air Quality Management District (BAAQMD) has primary responsibility for control of air pollution from sources other than motor vehicles and consumer products. The latter are typically the responsibility of the CalEPA and the California Air Resources Board. The BAAQMD is responsible for preparation of attainment plans for non-attainment criteria pollutants, control of stationary air pollutant sources, and issuance of permits for activities, including demolition and renovation activities affecting asbestos containing materials (District Regulation 11, Rule 2) and lead (District Regulation 11, Rule 1).

#### *Alameda County Department of Environmental Health*

The Alameda County Department of Environmental Health operates the Household and Small Business Hazardous Waste Collection Program.

### Local Regulations

#### *Association of Bay Area Governments Multi-Jurisdictional Local Hazard Mitigation Plan*

The City of Hayward has adopted the Association of Bay Area Government's (ABAG) Multi-Jurisdictional Local Hazard Mitigation Plan ("Taming Natural Disasters") as the City's Local Hazard Mitigation Plan (LHMP). The Multi-Jurisdictional LHMP involves local agencies throughout its nine-county Bay Area jurisdiction, with an overall strategy to maintain and enhance disaster response of the region, as well as to fulfill the requirements of the Federal Disaster Mitigation Act of 2000. Each partner jurisdiction (including Hayward) has submitted an "Annex" document that contains jurisdiction-specific hazard mitigation strategies to attach to the Multi-Jurisdictional LHMP. The Multi-Jurisdictional LHMP, which focuses on mitigation before rather than after disasters, (1) identifies natural hazards the community and region face (e.g., earthquakes, flooding, severe weather), (2) assesses the community's and region's vulnerability to these hazards, and (3) identifies specific preventive actions that can be taken to reduce the risk from the hazards. Adoption of the Multi-Jurisdictional LHMP allows the City of Hayward to become eligible for Federal Disaster assistance.

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<sup>8</sup> California Water Code Sections 13000 et seq.

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### *Hayward Comprehensive Emergency Management Plan*

The *Hayward Comprehensive Emergency Management Plan* addresses the HFD's responsibilities in emergencies associated with natural disaster, human-caused incidents, and technological incidents, including earthquakes and their seismic-related results (e.g., liquefaction). It defines the primary and support roles of Hayward agencies and departments in after-incident damage assessment and reporting requirements. The HFD also operates the Community Emergency Response Team program. The program trains and certifies members of the public in basic emergency response and organizational skills, including light fire suppression, hazardous materials awareness, first aid, light search and rescue techniques, and disaster response assistance.

### *Hayward Hillside Design and Urban/Wildland Interface Guidelines*

In 1993 the City of Hayward adopted the Hillside Design and Urban/Wildland Interface Guidelines for development in the hill area in order to address potential fire hazards. The Wildland/Urban Interface is defined as the hill area south of D Street and east of Mission Boulevard. The guidelines include standards for streets and sidewalks that allow for fire truck access, cluster home development to make efficient use of hillside space, architectural and site design that allow for fire setbacks, building construction requirements, and environmental disaster mitigation.

### *Looking Forward Hayward 2040 General Plan*

The City of Hayward 2040 General Plan, adopted in July 2014, includes goals, policies, and programs intended to avoid or reduce impacts on hazardous and hazardous materials in the Hazards (HAZ), Public Facilities and Services (PFS), and Community Health and Quality of Life (HQL) elements of the 2040 General Plan. These goals, policies, and programs identify methods and resources for minimizing death, injury, property and environmental damage, and social disturbance resulting from natural and human-induced hazards, as well as goals, policies and strategies related to hazardous materials, hazardous wastes, and hazardous materials emergency response. As described in the General Plan EIR, in most cases, no one goal, policy, or implementation program itself is expected to completely avoid or reduce an identified potential environmental impact.<sup>9</sup> However, the collective, cumulative mitigating benefits of the policies listed below are intended to reduce hazards and hazardous materials-related impacts. Specific goals and policies are described in Section 4.7.3, Impact Discussion, to demonstrate how the policy would avoid or reduce the impact.

The following goals and policies are relevant to the analysis of potential hazards and hazardous materials impacts within the Specific Plan Area:

- **Goal HAZ-5:** Protect life and minimize potential property damage from urban wildfire hazards in hillside areas.
  - **Policy HAZ-5.1 Wildland/Urban Interface Guidelines:** The City shall maintain and implement Wildland/Urban Interface Guidelines for new development within fire hazard areas.

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<sup>9</sup> City of Hayward, 2014, City of Hayward 2040 General Plan certified EIR, State Clearinghouse Number 2013082015.

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- **Policy HAZ-5.2 Fire Prevention Codes:** The City shall enforce fire prevention codes that require property owners to reduce wildfire hazards on their property.
- **Policy HAZ-5.3 Defensible Space and Fuel Reduction:** The City shall promote defensible space concepts to encourage property owners to remove overgrown vegetation and to reduce fuel loads on hillside properties, especially near structures and homes.
- **Policy HAZ-5.4 Grant Funding:** The City shall seek grant funding to mitigate potential wildfire threats to the community and to implement special training workshops and projects related to defensible space and fuel reduction practices.
- **Goal HAZ-6:** Protect people and environmental resources from contaminated hazardous material sites and minimize risks associated with the use, storage, transport, and disposal of hazardous materials.
  - **Policy HAZ-6.1 Hazardous Materials Program:** The City shall maintain its status as a Certified Unified Program Agency and implement the City's Unified Hazardous Materials and Hazardous Waste Management Program, which includes:
    - Hazardous Materials Release Response Plans and Inventories (Hazardous Materials Business Plans);
    - California Accidental Release Prevention (CalARP) Program;
    - Underground Storage Tank (UST) Program;
    - Above-ground Petroleum Storage Act (APSA) Program, including Spill Prevention, Control, and Countermeasure (SPCC) Plans;
    - Hazardous Waste Generator Program;
    - On-site Hazardous Waste Treatment (Tiered Permit) Program; and
    - California Fire Code Hazardous Material Management Plans (HMMP) and Hazardous Materials Inventory Statements (HMIS).
  - **Policy HAZ-6.2 Site Investigations:** The City shall require site investigations to determine the presence of hazardous materials and/or waste contamination before discretionary project approvals are issued by the City. The City shall require appropriate measures to be taken to protect the health and safety of site users and the greater Hayward community.
  - **Policy HAZ-6.3 Permit Requirements:** The City shall direct the Fire Chief (or their designee) and the Planning Director (or their designee) to evaluate all project applications that involve hazardous materials, electronic waste, medical waste, and other hazardous waste to determine appropriate permit requirements and procedures.
  - **Policy HAZ-6.4 Land Use Buffers:** The City shall review applications for commercial and industrial uses that involve the use, storage, and transport of hazardous materials to determine the need for buffer zones or setbacks to minimize risks to homes, schools, community centers, hospitals, and other sensitive uses.
  - **Policy HAZ-6.8 Truck Routes:** The City shall maintain designated truck routes for the transportation of hazardous materials through the City of Hayward. The City shall discourage truck routes passing through residential neighborhoods to the maximum extent feasible.
- **Goal PFS-4:** Maintain a level of service in the City's wastewater collection and disposal system to meet the needs of existing and future development.

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- **Policy PFS-4.11 Industrial Pretreatment:** The City shall enforce appropriate industrial pretreatment standards and source control to prevent materials prohibited by Federal and State regulations from entering the wastewater system and to ensure compliance with the City's local discharge limits. The City shall work with the business community to maintain and implement programs to ensure compliance with all Federal, State, and local discharge requirements.
- **Goal HQL-7:** Protect residents from the harmful effects of pollution, toxic substances, and environmental contaminants.
  - **Policy HQL-7.3 Home Use of Hazardous Materials:** The City shall encourage and educate residents, nonprofits, and businesses to implement integrated pest management principles, and reduce or discontinue the use of pesticides, herbicides, and toxic cleaning substances.
  - **Policy HQL-7.5 Proximity to Pollution Sources:** The City shall avoid locating new sensitive uses such as schools, childcare centers, and senior housing, to the extent feasible, in proximity to sources of pollution, odors, or near existing businesses that handle toxic materials. Where such uses are located in proximity to sources of air pollution, odors, or toxic materials, the City shall encourage building design, construction safeguards, and technological techniques to mitigate the negative impacts of hazardous materials and/or air pollution on indoor air quality.
- **Goal HQL-9:** Build a foundation for community resilience to future threats and challenges to help ensure the City of Hayward will be able to respond and recover as quickly as possible to such threats and challenges.
  - **Policy HQL-9.5 Hazards Resiliency:** The City shall to continue to assess and monitor risks from local environmental (e.g., flooding, earthquake) and man-made hazards and work with community groups and State and regional agencies to prepare residents, business, and visitors in the event of an incident.

### *Hayward Fire Department*

The HFD is a CUPA and is certified by the State to implement the Unified Hazardous Materials and Hazardous Waste Management Program (Certified Unified Program Agency – CUPA Program) in the city. The City of Hayward Hazardous Materials Office administers the CUPA Program. The CUPA Program coordinates the administrative requirements, permits, inspections, and enforcement activities for the following environmental and emergency management programs:

- Hazardous Materials Release Response Plans and Inventories
- CalARP Program
- Underground Storage Tank Program
- Aboveground Petroleum Storage Act Program, including Spill Prevention, Control, and Countermeasure Plans
- Hazardous Waste Generator Program
- Onsite Hazardous Waste Treatment (Tiered Permit) Program
- California Fire Code Hazardous Material Management Plans, and Hazardous Materials Inventory Statements

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In addition to performing responsibilities under the CUPA Program, the HFD implements the CFC (with local amendments) and emergency abatement regulations in the Municipal Code.

### 4.7.1.2 EXISTING CONDITIONS

The following information is taken in part from the *Existing Conditions and Opportunities Analysis* prepared for the Specific Plan Area. This report is included as Appendix B of this Draft EIR.

#### Hazardous Materials Sites

California Government Code Section 65962.5 requires the CalEPA to compile, maintain, and update specified lists of hazardous material release sites. The California Environmental Quality Act (CEQA)<sup>10</sup> requires the lead agency to consult the lists compiled pursuant to Government Code Section 65962.5 to determine whether a project and any alternatives are identified on any of the following lists:

- **EPA NPL:** The USEPA's National Priorities List includes all sites under the USEPA's Superfund program, which was established to fund cleanup of contaminated sites that pose risk to human health and the environment.
- **EPA CERCLIS and Archived Sites:** The USEPA's Comprehensive Environmental Response, Compensation, and Liability Information System includes a list of 15,000 sites nationally identified as hazardous sites. This would also involve a review for archived sites that have been removed from CERCLIS due to No Further Remedial Action Planned (NFRAP) status.
- **EPA RCRIS (RCRA Info):** The Resource Conservation and Recovery Act Information System (RCRIS or RCRA Info) is a national inventory system about hazardous waste handlers. Generators, transporters, handlers, and disposers of hazardous waste are required to provide information for this database.
- **DTSC Cortese List:** The DTSC maintains the Hazardous Waste and Substances Sites (Cortese) list as a planning document for use by the State and local agencies to comply with the CEQA requirements in providing information about the location of hazardous materials release sites. This list includes the Site Mitigation and Brownfields Reuse Program Database (CalSites).
- **DTSC HazNet:** The DTSC uses this database to track hazardous waste shipments.
- **SWRCB LUSTIS:** Through the Leaking Underground Storage Tank Information System, the SWRCB maintains an inventory of USTs and leaking USTs, which tracks unauthorized releases.

The required lists of hazardous material release sites are commonly referred to as the "Cortese List" named after the legislator who authored the legislation. Because the statute was enacted more than 20 years ago, some of the provisions refer to agency activities that were conducted many years ago and are no longer being implemented and, in some cases the information required in the Cortese List does not exist. Those requesting a copy of the Cortese Lists are now referred directly to the appropriate information resources contained on internet websites hosted by the boards or departments referenced in the statute, including DTSCs online EnviroStor database and the SWRCB's online GeoTracker database.

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<sup>10</sup> California Public Resources Code Section 21092.6.

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These two databases include hazardous material release sites, along with other categories of sites or facilities specific to each agency's jurisdiction. A search of the DTSC EnviroStor online database on October 12, 2018 found one voluntary cleanup site within the Specific Plan Area; the Grand Place, LLC (EnviroStor ID number 01010007) located on 22815 Sutro Street.<sup>11</sup> The Grand Place, LLC was historically used for agricultural purposes until 1953 when it was developed for commercial and light industrial use. In 2001, the DTSC allowed residential construction on the site with restrictions on groundwater use. The site was subsequently acquired by Pulte Homes and developed with townhomes.

### Existing Schools

The Hayward Unified Schools District operates 20 elementary schools, five middle schools, and three comprehensive high schools. The following schools are within 0.25-mile of the Specific Plan Area:

- All Saints School located at 22870 2nd St, Hayward, CA 94541
- Burbank Elementary School located at 222 Burbank Street, Hayward, CA 94541
- Bret Harte Elementary School located at 1047 E Street, Hayward, CA 94541
- Hayward High School located at 1633 East Avenue, Hayward, CA 94541

### Airports

The Specific Plan Area is not located within an airport land use plan area. The nearest public airports are the Hayward Executive Airport, located 2.5 miles southwest of the project site, and the Oakland International Airport located 8 miles northwest of the project site.<sup>12</sup> The nearest heliport is at the Saint Rose Hospital, located 3 miles southwest of the Specific Plan Area. There are no private airstrips within the vicinity of the city of Hayward.<sup>13</sup>

### Wildlife Fire Hazard

According to the latest Draft Fire Hazard Severity Map created by CAL FIRE in July 2007 (see Figure 4.7-1), there is an area of moderate fire hazard east of Foothill Boulevard in the northeast corner of the Specific Plan Area.

Furthermore, wildfire and wildland/urban interface fire threats affect 7,408 acres of land in Hayward. A map prepared by the Hayward Fire Department shows the areas east of Foothill Boulevard within the Specific Plan Area as being a wildfire urban interface area (see Figure 4.7-2).

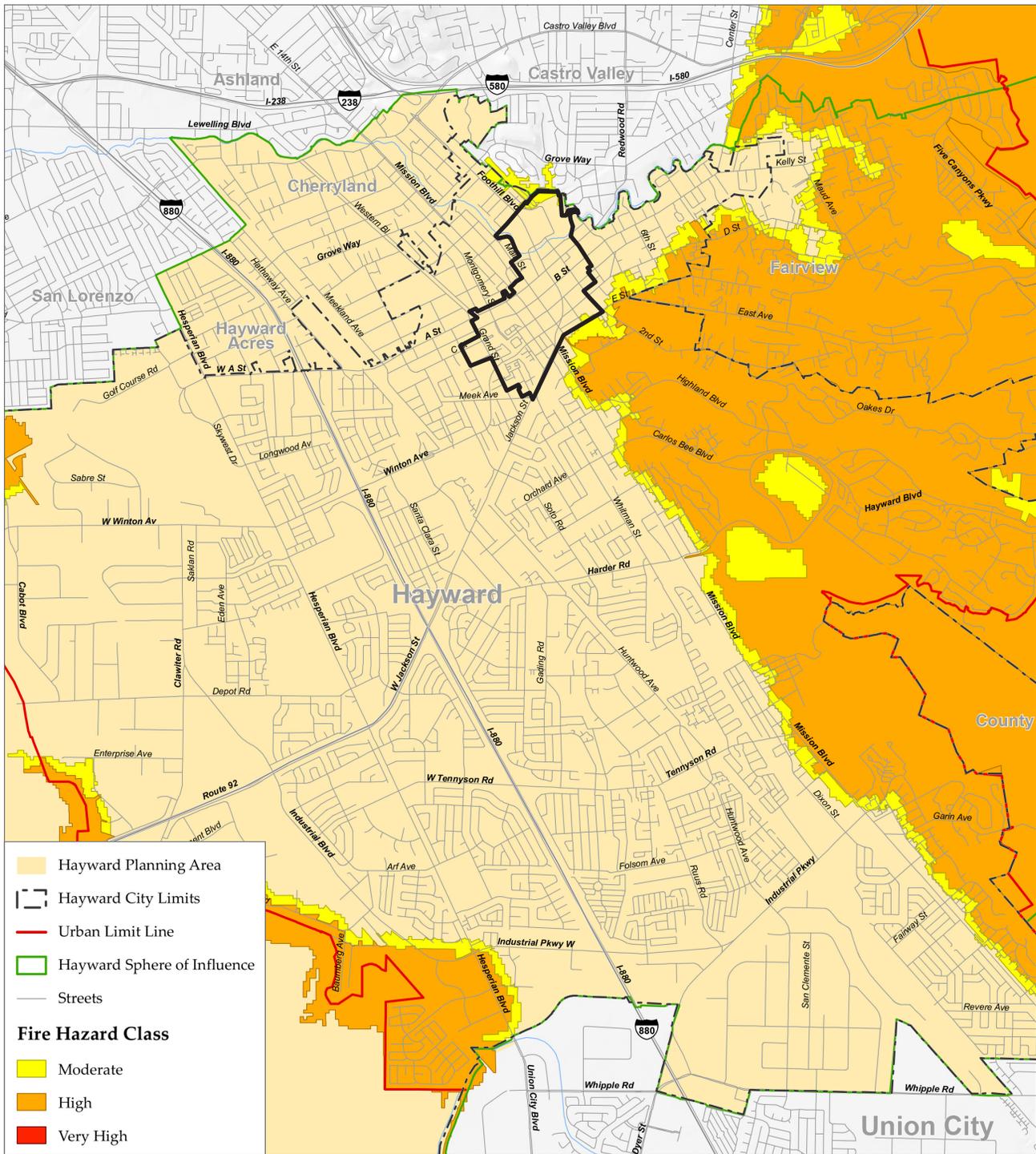
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<sup>11</sup> California Department of Toxic Substances Control EnviroStor web site, <http://envirostor.dtsc.ca.gov/public>, accessed on October 15, 2018.

<sup>12</sup> Caltrans, Division of Aeronautics Maps and Data, Caltrans Aviation GIS Data, <https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=32c3cbe24491427d872e2fec173a4b22>, accessed on October 12, 2018.

<sup>13</sup> AirNav, Browse Airports, United States of America, California, <http://www.airnav.com/airports/us/CA>, accessed on October 12, 2018.

## HAZARDS AND HAZARDOUS MATERIALS

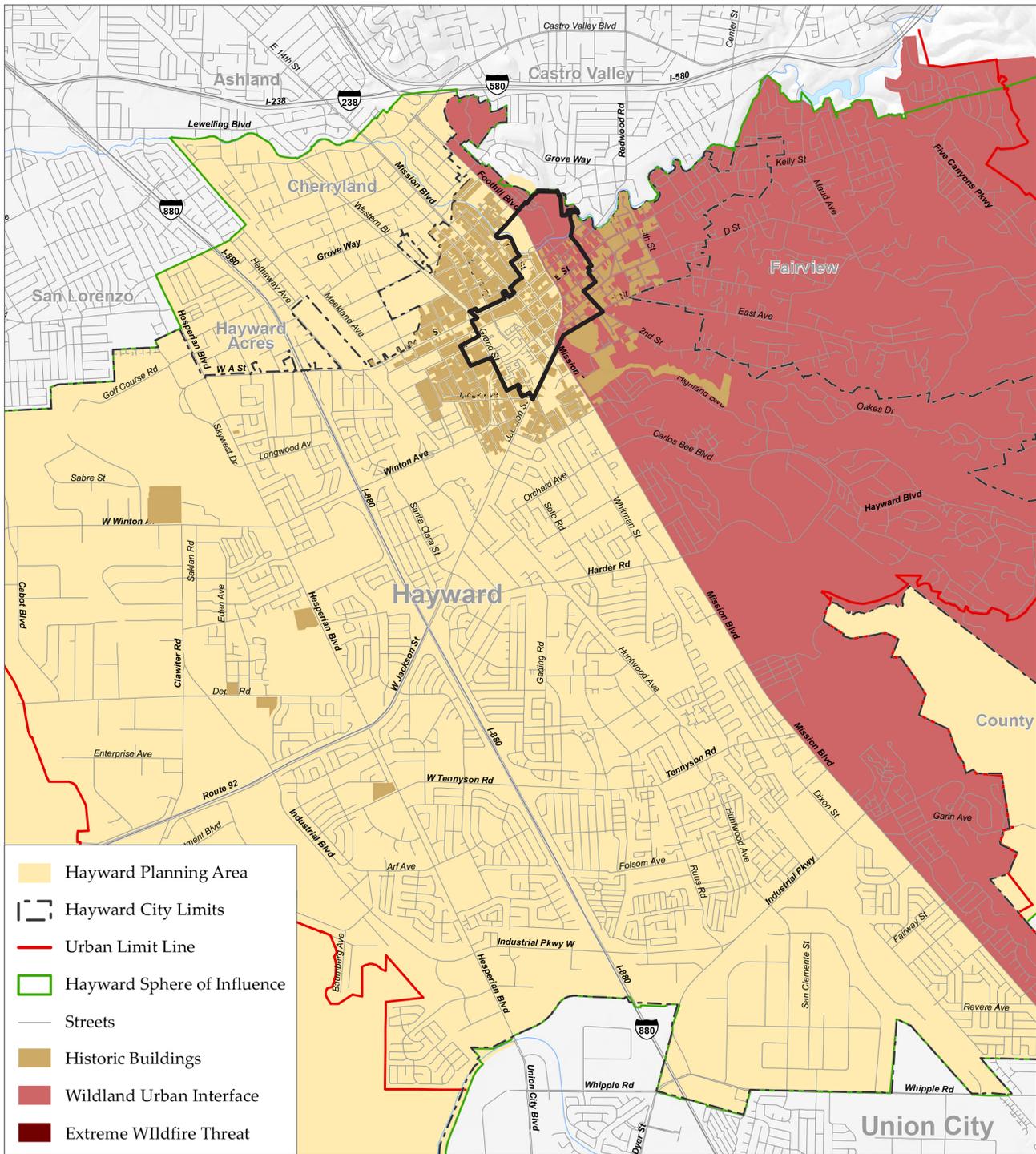


Source: 2040 Hayward General Plan, July 2014.



Figure 4.7-1  
CAL FIRE Fire Hazard Severity Zones

## HAZARDS AND HAZARDOUS MATERIALS



Source: 2040 Hayward General Plan, July 2014.



Figure 4.7-2  
Hayward Fire Department Fire Hazard Severity Zones

## HAZARDS AND HAZARDOUS MATERIALS

### 4.7.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed project would result in a significant impact related to hazards or hazardous materials if it would:

1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.
2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.
3. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within ¼-mile of an existing or proposed school.
4. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment.
5. Be located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport resulting in a safety hazard for people residing or working in the project area.
6. Be within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area.
7. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.

Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

#### 4.7.2.7 STANDARDS NOT DISCUSSED FURTHER

With regard to Standard 5 and 6, as demonstrated in Section 4.7.1.2, Existing Conditions, the Specific Plan Area is not within any airport land use plan area, and is not within 2 miles of a public airport or private airstrips or heliports. Therefore, no further discussion of the proposed project's impacts related to airport safety operations and to people residing or living in the Specific Plan Area in close proximity to airports is warranted in this Draft EIR.

### 4.7.3 IMPACT DISCUSSION

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<b>HAZ-1</b>	<b>Implementation of the proposed project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.</b>
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Future development in the Specific Plan Area could result in the use and storage of hazardous materials, including common cleaning products, building maintenance products, paints and solvents, and other similar items. These potentially hazardous materials, however, would not be of the type to occur in

## HAZARDS AND HAZARDOUS MATERIALS

sufficient quantities to pose a significant hazard to public health and safety or to the environment. Potentially hazardous building materials (e.g., asbestos containing materials, lead-based paint, etc.) could be encountered during demolition of existing structures to accommodate new development. Therefore, the transport of hazardous materials could occur during future remediation and construction activities. Transport of hazardous materials, however, would be subject to existing federal, State, and local regulations, such as the following:

- DOT Hazardous Materials Transport Act-Code of Federal Regulations 49
- USEPA Resource Conservation and Recovery Act
- USEPA Comprehensive Environmental Response, Compensation and Liability Act
- California Health and Safety Code (Chapters 6.95 and 19)
- California Code of Regulations (Section 2729)

Furthermore, potential future development in the Specific Plan Area would be required to comply with existing General Plan policies described above in Section 4.7.1.1, as applicable, that require local planning and development decisions to consider impacts from the release of hazards and hazardous materials. Specifically, Policy HAZ-6.8 stipulates that the City shall maintain designated truck routes for the transportation of hazardous materials through the City of Hayward. The City shall discourage truck routes passing through residential neighborhoods to the maximum extent feasible. Policy PFS-4.11 relates to the City enforcing appropriate industrial pretreatment standards and source control to prevent materials prohibited by Federal and State regulations from entering the wastewater system and to ensure compliance with the City's local discharge limits. Policy HQL-7.3 encourages and educates residents, nonprofits, and businesses to implement integrated pest management principles, and reduce or discontinue the use of pesticides, herbicides, and toxic cleaning substances.

Compliance with these laws and regulations would ensure hazardous impacts associated with the routine transport, use, or disposal of hazardous materials are *less than significant*.

**Significance without Mitigation:** Less than significant.

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<b>HAZ-2</b>	<b>Implementation of the proposed project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.</b>
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It is envisioned that the Specific Plan Area would be developed with a mix of residential, health, recreation, education, light industrial, commercial, public and retail uses that would be concentrated in either already developed and/or underutilized, and/or in close proximity to existing development in the city. Operation of the future projects would involve the storage and use of common cleaning substances, building maintenance products, paints, and solvents. These potentially hazardous substances would not, however, be of a type or would occur in sufficient quantities in the Specific Plan Area to pose a significant hazard to public health and safety or the environment. The storage and use of these materials would be subject to existing federal, State, and local regulations, such as the following, which are discussed further in Section 4.7.1.1, Regulatory Framework:

## HAZARDS AND HAZARDOUS MATERIALS

- USEPA laws and regulations ensure the safe production, handling, disposal, and transportation of hazardous materials. Laws and regulations established by the USEPA are enforced locally by California Environmental Protection Agency.
- As described above, OSHA oversees training for hazardous materials handlers and the provision of information to employees who may be exposed to hazardous materials.
- California Health and Safety Code Chapters 6.95 and 19, and California Code of Regulations Section 2729, set out the minimum requirements for business emergency plans. These regulations require businesses to provide emergency response plans and procedures, training program information, and a hazardous material chemical inventory disclosing hazardous materials stored, used, or handled on site. A business that uses hazardous materials or a mixture containing hazardous materials must establish and implement a business plan if the hazardous material is handled in certain quantities.
- The California Division of Occupational Safety and Health Administration is the responsible State-level agency for ensuring workplace safety. Cal OSHA assumes primary responsibility for the adoption and enforcement of standards regarding workplace safety and safety practices.
- The California Emergency Management Agency is responsible for the coordination of overall State agency response to major disasters in support of local government. The agency is responsible for assuring the State's readiness to respond to and recover from all hazards and for assisting local governments in their emergency preparedness, response, recovery, and hazard mitigation efforts.
- The HFD is the CUPA charged with implementing and enforcing State and local policies relating to hazardous materials in Hayward. This includes administration of the Hazardous Materials Business Plan Program and California Accidental Release Program.

Additionally, future development would also be required to comply with General Plan policies listed above in Section 4.7.1.1, Regulatory Framework, as applicable, that require local planning and development decisions to consider impacts from exposure to hazardous materials. Specifically, Policies HAZ-6.1, HAZ-6.2, and HAZ-6.4 aim to protect people and environmental resources from contaminated hazardous material sites and minimize risks associated with the use, storage, transport, and disposal of hazardous materials. Compliance with these regulations would ensure that the risk of accidents and spills are minimized to the maximum extent practicable. Consequently, overall, associated impacts would be *less than significant*.

**Significance without Mitigation:** Less than significant.

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<b>HAZ-3</b>	<b>Implementation of the proposed project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 miles of an existing or proposed school.</b>
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All Saints School, Burbank Elementary School, Bret Harte Elementary School, and Hayward High School are located within 0.25-miles from the Specific Plan boundaries. Therefore, future development in the Specific Plan Area could impact schools. The City of Hayward Building Division coordinates the review of building permits to ensure that hazardous materials use requirements are met prior to construction, including required separation between hazardous materials and sensitive land uses, and proper hazardous

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## HAZARDS AND HAZARDOUS MATERIALS

materials storage facilities. In addition, the future development under the Specific Plan could use hazardous materials during construction and operation. Future development under the Specific Plan would be required by the HFD to store, manage, and dispose of the materials in accordance with the Unified Program.

As addressed in impact discussion HAZ-1, construction of future development allowed by the proposed Specific Plan could involve the routine transport, use, and disposal of hazardous or potentially hazardous materials to, from, and on development sites. As stated in impact discussion HAZ-2, the proposed Specific Plan calls for a range of uses that would not involve the storage or handling of large quantities of hazardous materials. The amount of hazardous chemicals and materials that would be involved in the implementation of the proposed Specific Plan would be subject to existing government regulations. As stated in the impact discussions HAZ-1 and HAZ-2, compliance with existing federal, State, and local regulations, procedures, and policies would avoid potential impacts associated with hazardous materials handling, use, and storage in the Specific Plan Area.

Furthermore, General Plan policies listed above in Section 4.7.1.1, Regulatory Framework, as applicable, that require local planning and development decisions to consider impacts from the release of hazardous materials near schools. Specifically, Policy HAZ-6.4 states that the City shall review applications for commercial and industrial uses that involve the use, storage, and transport of hazardous materials to determine the need for buffer zones or setbacks to minimize risks to homes, schools, community centers, hospitals, and other sensitive uses. Policy HQL-7.5 stipulates that the City shall avoid locating new sensitive uses such as schools, childcare centers, and senior housing, to the extent feasible, in proximity to sources of pollution, odors, or near existing businesses that handle toxic materials. Where such uses are located in proximity to sources of air pollution, odors, or toxic materials, the City shall encourage building design, construction safeguards, and technological techniques to mitigate the negative impacts of hazardous materials and/or air pollution on indoor air quality. Compliance with these regulations, procedures, and policies would ensure that hazardous materials are properly handled, thereby reducing potential risks to nearby schools. Therefore, potential impacts to schools would be *less than significant*.

**Significance without Mitigation:** Less than significant.

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**HAZ-4                      Implementation of the proposed project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would not create a significant hazard to the public or the environment.**

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As discussed previously, a search of the DTSC EnviroStor online database on October 12, 2018 found one voluntary cleanup site within the Specific Plan Area; the Grand Place, LLC (EnviroStor ID number 01010007) located on 22815 Sutro Street. The Grand Place, LLC was historically used for agricultural purposes until 1953 when it was developed for commercial and light industrial use. In 2001, the DTSC allowed residential construction on the site with restrictions on groundwater use. The site was subsequently acquired by Pulte Homes and developed with townhomes. There are no sites within the Specific Plan Area that are included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and impacts would be *less than significant*.

## HAZARDS AND HAZARDOUS MATERIALS

**Significance without Mitigation:** Less than significant.

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**HAZ-5                    Implementation of the proposed project would not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.**

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As discussed in Section 4.7.1.1, Regulatory Framework, the City has adopted ABAG's multi-jurisdictional LHMP for the San Francisco Bay Area, as modified for the City's LHMP. Buildout of the Specific Plan Area would result in changes to current circulation through the Specific Plan Area for emergency vehicles, cars, buses, bicycles, and pedestrians; however, no physical components that would interfere with the ability to implement emergency response are proposed. Project plans include fire and emergency access through all phases of construction and operation. Compliance with the provisions of the CFC and the CBC would ensure that buildout of the Specific Plan would result in a *less-than-significant* impact with respect to interference with an adopted emergency response plan or emergency evacuation plan.

**Significance without Mitigation:** Less than significant.

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**HAZ-6                    Implementation of the proposed project would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.**

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As shown in in Section 4.7.1.2, Existing Conditions, there is an area of moderate fire hazard east of Foothill Boulevard in the northeast corner of the Specific Plan Area and the entire area east of Foothill Boulevard is a wildfire urban interface area (see Figure 4.7-2).

All projects to be developed within the wildlife urban interface area will abide by the design requirements of the Hayward Hillside Design and Urban/Wildfire Interface Guidelines. Furthermore, the General Plan includes policies described above in Section 4.7.1.1, as applicable, that require local planning and development decisions to consider impacts from wildfire hazards. Specific policies include the following: Policy HAZ-5.1 mandates the implementation of the Wildland/Urban Interface Guidelines for new development; Policy HAZ-5.2 requires the City to enforce fire prevention codes that require property owners to reduce wildfire hazards on their property; Policy HAZ-5.3 promotes defensible space concepts to encourage property owners to remove overgrown vegetation and to reduce fuel loads on hillside properties, especially near structures and homes; Policy HAZ-5.4 requires the City to seek grant funding to mitigate potential wildfire threats to the community and to implement special training workshops and projects related to defensible space and fuel reduction practices; and, Policy HQL-9.5 requires the City to continue to assess and monitor risks from local environmental (e.g., flooding, earthquake, wildfire) and man-made hazards and work with community groups and State and regional agencies to prepare residents, business, and visitors in the event of an incident.

**Significance without Mitigation:** Less than significant.