

CHAPTER 7: UNDERGROUND STORAGE FACILITIES

Division 7.1: General Provisions

Sec. 7.100 Authority and Short Title

This Chapter, which is adopted under the authority of the Constitution and laws of the State of Texas, shall be known as the Underground Storage Tank Regulations of the City of Sunset Valley, Texas.

Sec. 7.101 Purpose and Scope

The purpose of these regulations is to protect the public health, life, property, natural resources and environment, to further the City's water pollution control and abatement program, to protect ground and surface water and the City's drinking water supply from contamination, to ensure fire prevention and to safeguard the health and lives of fire, police and emergency service personnel through the regulation of the construction of underground storage facilities and the handling and storage of the hazardous materials contained therein.

Sec. 7.102 Relationship to Law and Regulations

The provisions set forth in these regulations are intended to be consistent with and supplemental to the provisions of the Texas Water Code and the regulations adopted pursuant thereto relative to standards for the design, construction, installation or operation of underground storage facilities, and provisions of the Texas Health and Safety Code and the regulations adopted pursuant thereto relative to the storage, handling and use of flammable liquids at retail service stations.

Division 7.2: Special Provisions

Sec. 7.200 Compliance with Zoning Restrictions

No land or property in the City of Sunset Valley shall be developed, used or operated as a retail service station, fuel outlet or other facility at which hazardous materials regulated by this Code are stored in underground storage tanks, and no such station, outlet or facility shall be constructed within the City, except in those districts in which such stations, outlets or facilities are authorized pursuant to the City's zoning regulations.

Sec. 7.201 Compliance with Code Required

No land or property in the City of Sunset Valley shall be developed, used or operated as a retail service station, fuel outlet or other facility at which hazardous materials regulated by this Code are stored in underground storage tanks, and no such station, outlet or facility shall be constructed or substantially modified or repaired within the City, except in exact compliance with the provisions of this Code and all other applicable local, state and federal laws and regulations, or before all necessary approvals and permits have been granted or issued by the City Council and any other regulatory body from which an approval or permit must be obtained pursuant to any applicable law or regulation.

Sec. 7.202 Construction Permit Required

No person may construct or install or substantially modify or repair an underground storage facility, tank system or component part thereof for the storage of hazardous materials regulated by this Code unless the property owner and/or operator of the facility or tank system or any part thereof has made application to the City for and has been issued a construction permit in conformity with the provisions of this Chapter. No construction permit shall be issued or approval granted by the City unless the requirements and standards set forth or referred to herein have been complied with in full. These requirements and standards are considered the minimum necessary to protect the public health, safety, welfare and environment.

Sec. 7.203 Storage Permit Required

No person may store, either temporarily or permanently, any hazardous material regulated by this Code in an underground storage facility or tank system unless the property owner and/or operator of the facility or tank system has made application to and received approval from the City for an underground storage tank storage permit in conformity with the provisions of this Chapter. No storage permit shall be issued or approval granted by the City unless the requirements and standards referred to herein have been satisfied or complied with in full. These requirements and standards are considered the minimum necessary to protect the public health, safety, welfare and environment.

Sec. 7.204 Utilities

The City shall not sell or supply any water or sewage service or authorize the connection of gas or electricity to any property for which the necessary permits required by this Chapter have not been secured nor with respect to which the requirements and standards contained or referred to herein have not been complied with in full.

Division 7.3: Materials Required

Sec. 7.300 Regulated Liquids

Any liquids with a toxicity, flammability, reactivity or contact hazard rating of two (2) or above as defined by Appendix C of this Code, which are stored or contained in an underground storage facility or tank system, shall be regulated by this Chapter.

Sec. 7.301 Mixtures

Mixtures shall be regulated based on the rating criteria in Appendix A of this Chapter.

Division 7.4: Permit Procedures

Sec. 7.400 Applicants

- (a) The owner of the property on which the underground storage facility or tank system is to be installed or constructed shall apply for and sign the construction permit application required by this Chapter. If the facility or system is to be owned or operated by a person other than the owner of the property on which the facility or system is located, the construction permit application shall also be signed by the person who will own and/or operate the facility or system.

- (b) If the application is for the substantial modification or repair of an existing facility, tank system or component part thereof, and the facility or system is owned and/or operated by a person other than the owner of the property on which the facility or system is located, the construction permit application shall also be signed by the person who owns and/or operates the facility or system.
- (c) The owner of the property on which the underground storage facility or tank system is located and in which hazardous materials are to be stored shall apply for and sign the storage permit application required by this Chapter. If the facility or system is owned and/or operated by a person other than the owner of said property, the storage permit application shall also be signed by the person who owns and/or will operate the facility or system.

Sec. 7.401 Contents of Application

- (a) An application for a construction permit or storage permit required by this Chapter shall be filed on application forms provided by the City and shall contain all the information called for therein.
- (b) An application for a construction permit must be accompanied by the following:
 - (1) Address and legal description of property;
 - (2) Name and address of owner of property;
 - (3) Name and address of owner and/or operator of the underground storage facility or tank system, if different from owner of property;
 - (4) A statement indicating the intended contents of the tank(s) and the projected life design of the system(s);
 - (5) A reference key for all symbols and abbreviations used;
 - (6) A site plan, drawn to an appropriate scale, showing the following:
 - (A) The location of the proposed tank installation on the site;
 - (B) The location of any structures adjacent to the tank installation;
 - (C) The location of other underground tanks, septic systems, waste oil sumps, etc., within 500 feet of the tank installation;
 - (D) The location of all utility service lines within 500 feet of the tank installation sewer, water, electrical, air, etc;
 - (E) The location and depth and a description of any existing and proposed supply, observation or monitoring wells on or adjacent to the site;
 - (F) The location of the oil-water separator required pursuant to Section 7.601(d)(1) of this Chapter.

- (G) The location of all permanent or casual surface water bodies on or adjacent to the site; and
- (H) All information and plans required by the Texas Water Commission under the "Edwards Rules", Tex. Water Comm'n., 31 TEX.ADMIN. CODE § 313.1 through § 313.27, including but not limited to:
 - (i) floodplain boundaries and drainage plan;
 - (ii) geologic survey of the site and all areas adjacent thereto;
 - (iii) recharge features mapped within a 500-foot radius of the site; and
 - (iv) geology and recharge features for a distance of at least one-mile downstream of the property or to the boundary of the recharge zone.
- (7) Plan elevation and cross-section drawings and specifications in sufficient detail to allow the reviewer to evaluate the following design and installation parameters:
 - (A) Tank description - including capacity, dimensions, product compatibility, corrosion resistance, etc;
 - (B) Installation practices - excavation, tank placement, backfilling, ballasting, final cover, etc;
 - (C) Piping, fittings, pumping and dispensing systems;
 - (D) Secondary and tertiary containment systems;
 - (E) Leak detection monitoring systems;
 - (F) Overfill protection and transfer spill prevention systems;
 - (G) Oil-water separator required pursuant to Section 7.601(d)(1) of this Chapter; and
 - (H) Tank, piping and secondary and tertiary containment integrity testing specifications and procedures.
- (8) The non-refundable application fee established by the City;
- (9) Facility design plans and specifications which are stamped by a registered professional engineer in accordance with subsection (3) of this section;
- (10) The Materials Management Plan required by Division 7.5 of this Chapter; and
- (11) Name and address of installer or on-site supervisor for storage tank and/or system and state license number of such person(s);

- (c) An application for a storage permit required by this Chapter shall be filed upon completion of construction of the underground storage facility or tank system and shall include the following:
- (1) Name and address of the facility and business phone number;
 - (2) Name of operator;
 - (3) Name, title, mailing address and business phone number of responsible official;
 - (4) Name and emergency telephone number of primary emergency response persons;
 - (5) A facility storage map showing the following:
 - (A) The location of all underground hazardous materials storage and use areas and access to such facilities;
 - (B) The location of all emergency equipment related to each facility (monitor wells, alarm box, absorbent); and
 - (C) The maximum hazardous materials storage capacity of hazardous materials stored;
 - (6) A Hazardous Materials Inventory showing the following:
 - (A) The name of each type of hazardous material stored;
 - (B) The capacity of each underground storage tank;
 - (C) The toxicity, reactivity and/or flammability rating of each hazardous material to be stored; and
 - (D) The installation date of the underground storage tank; and
 - (7) The Materials Management Plan required by Division 7.5 of this Chapter.
- (d) The City may require such additional information as it deems necessary to properly evaluate the construction or storage permit application and whether or not the applicant and the underground storage facility or tank system satisfy the requirements of this Chapter.
- (e) All underground storage facility or tank system design plans and specifications shall bear the stamp and certification of one or more professional engineers, registered in the State of Texas, attesting to such as, but not limited to, the following: structural soundness, seismic safety, compatibility of construction materials with the surrounding environment and the hazardous materials being contained, corrosion protection, mechanical compatibility with the structural elements and conformity with minimum design and installation plans, standards and specifications set forth in this Chapter. The certification shall bear the signature, seal and registration number of said engineer(s).

Sec. 7.402 Permit Approval

- (a) A permit shall be granted after:
 - (1) The applicant has filed with the City a permit application which includes all information called for by this Chapter;
 - (2) The applicant has submitted proof acceptable to the City that the applicant is in compliance with all applicable state and federal statutes and regulations and has been granted all permits and approvals required thereunder.
 - (3) The City, upon review of the application, has determined that the applicant has fully complied with the provisions of this Chapter and all other applicable City Codes and Ordinances;
 - (4) The applicant has paid the non-refundable application or renewal fee as established by the City;
 - (5) The storage tank excavation and trenches have been inspected and approved by the Barton Springs/Edwards Aquifer Conservation District; and
 - (6) If the application is for a storage permit, the underground storage facility or tank system has been inspected and approved by the City engineer.
- (b) The continued use of, and permit approval for, any underground storage facility or tank system is subject to review and modification by the City whenever the City has reason to believe that the provisions of this Chapter have been violated or whenever there has been any leak or release from the underground storage tank system or any part thereof and each time the permit is renewed. The permit is subject to modification, suspension, revocation or termination by the City in accordance with Division 7.12 of this Chapter.

Sec. 7.403 Renewal

- (a) A construction permit is valid for a period of six months.
- (b) A storage permit is issued for a term of two (2) years. Every application for the renewal of a storage permit shall be made no later than thirty (30) days before expiration of the permit and shall be accompanied by payment of the appropriate renewal fee as established by the City. However, if an underground storage facility or tank system or any part thereof is substantially modified or repaired, the owner and/or operator of the facility or system must renew the storage permit upon completion of the modification or repairs. The existing permit shall remain effective until the City makes a final decision either to grant or deny the pending application for renewal. The City shall notify the permit holder of the expiration date no later than ninety (90) days before the permit expires. No renewal shall be granted unless the City finds that the record of the permit holder's compliance with the provisions of this Chapter and with the relevant rules and regulations of the Texas Water Commission and other State, federal and local agencies warrants renewal, that the physical condition of the facility, tank system and all parts thereof meet the minimum standards imposed by this Chapter, the Water Commission, and other State, federal and local agencies.

Sec. 7.404 Transfer

A construction or storage permit may be transferred to a new owner or operator of the same business at the same location only if the new owner or operator signs the permit, accepts responsibility for all obligations under this Chapter at the time of the transfer of the business, and documents the transfer and acceptance on a form provided by the City, no later than thirty (30) days after transfer of ownership or operation of the business. All permit transfers shall be subject to the approval of the City.

Sec. 7.405 Fees

No construction or storage permit shall be granted, renewed or continued in effect until or unless the non-refundable fee established by the City has been paid. The fee shall be paid at the time an application is filed. No refund or rebate of the fee shall be allowed.

Sec. 7.406 Amendment

Any information required to be submitted by this Ordinance shall be amended or supplemented no later than thirty (30) days after the occurrence of any event that would render the information contained therein untrue, misleading or incomplete.

Sec. 7.407 Appeal

- (a) An applicant or permit holder aggrieved by any decision of the City except a decision to modify, suspend or revoke a permit granted pursuant to the provisions of this Chapter, shall have the right to appeal the decision to the City Council. The appeal shall be perfected by giving written notice containing the following information to the City Secretary no later than ten (10) days after receipt of notification of the City's decision:
 - (1) The name and address of the person making the appeal;
 - (2) The facts surrounding the particular ruling;
 - (3) The ruling of the City; and
 - (4) The technical reasons why the ruling should be set aside.
- (b) As soon as practicable after the filing of the complete notice of appeal, the City Council shall hear the appeal and make a decision either affirming, modifying or reversing the decision. The person requesting the appeal shall be notified of the decision in writing. The notification shall be accompanied by a statement of the reasons for the decision.
- (c) The procedures set forth in Division 7.12 of this Chapter shall govern the modification, suspension or revocation of a permit granted pursuant to the provisions of this Chapter.

Division 7.5: Materials Management Plan

Sec. 7.500 Materials Management Plan Required

No construction or storage permit shall be granted unless and until the applicant has filed with and received approval of the City of a materials management plan, which plan shall include the information required by this Chapter.

Sec. 7.501 Maintenance Plan (*Amended 02/17/98*)

The materials management plan shall include a plan for regular maintenance of the underground storage facility and tank system, the water quality control for stormwater runoff, and all parts thereof.

Sec. 7.502 Monitoring Plan

The materials management plan shall include a monitoring plan which describes in detail the methods and procedures used at the facility to prevent and detect the release of any hazardous materials from the underground storage facility or tank system and any part thereof. The plan shall be based on the properties of the materials being stored, the type of containment system used and the monitoring method involved and, at the very least, shall include:

- (a) A description of the facility's or tank system's storage and dispensing systems;
- (b) A description of the facility's inventory control system, including a copy of the inventory record forms and a description of how and when reconciliations are performed;
- (c) A description of the tank and line leak monitoring and detection system(s) used at the facility; and
- (d) With respect to equipment that can and will be visually inspected, a description of the equipment being inspected and detailed explanation of what the inspector will be looking for to ascertain if a release has occurred.

Sec. 7.503 Closure Plan

The materials management plan shall include a detailed closure plan which describes procedures for terminating the storage of hazardous materials at the underground storage facility or tank system and any part thereof, by either closure in place or removal, in a manner that:

- (a) Minimizes the need for further maintenance;
- (b) Eliminates the threat to public health, safety or the environment from residual hazardous materials at the facility;
- (c) Demonstrates that hazardous materials that were stored in the underground storage tanks will be removed, disposed of, neutralized or reused in a manner which is permissible under applicable federal, state and local laws;

- (d) Provides that soil and/or water sample(s) from areas likely to have the maximal amounts of contamination shall be obtained and analyzed for residual hazardous materials by an independent laboratory acceptable to the City and that information pertaining to the intended location of samples, sampling methods and test procedures, as well as the test results, be provided to the City in a timely manner; and
- (e) Provides for the removal or decontamination of the facility and the environment in order to minimize present and future hazards to public health, life, property or the environment.

Sec. 7.504 Contingency Plan

The materials management plan shall include an emergency release or leak response plan which describes the procedures which must be followed in response to any unauthorized discharge, spill or release of hazardous materials. Simplified emergency procedures, which include a list of who to contact should the leak detector or alarm be tripped or if an employee has reason to believe a discharge or release has occurred and what measures are to be immediately taken, shall be provided each employee at the facility and posted at conspicuous locations at the facility.

Division 7.6: Containment Specifications

Sec. 7.600 Compliance Required

No permit or approval for installation or construction of an underground storage facility or tank system or any part thereof or for the substantial modification or repair of any such facility, system or part thereof shall be granted unless and until the applicant has submitted a permit application and demonstrates to the satisfaction of the City by the submission of appropriate plans and other information that the design, construction and operation of the underground storage facility or tank system in all respects complies with the specifications contained in this Chapter.

Sec. 7.601 Specifications for Underground Storage Facilities

No person shall construct or install any underground storage facility tank system or make any substantial modification or repair thereto, except in accordance with the following requirements:

- (a) MONITORING CAPABILITY. All underground storage facilities and tank systems must be equipped with monitoring systems and be monitored in accordance with the following requirements:
 - (1) All underground storage facilities, including tanks and tank systems, intended to be used or used for the storage of hazardous materials shall be designed, constructed and operated with a continuous monitoring system and an instant alert capable of detecting that the hazardous material stored in the primary containment has entered the secondary containment. If water could intrude into the secondary containment, a means of continuous electronic monitoring for water intrusion shall also be provided unless water within the secondary containment is part of the system design. The monitoring system shall be capable of differentiating between water and the hazardous material contained;
 - (2) An automatic telephone dialer or an audio-visual alarm system designed to be activated by a release from the primary containment shall be installed with alarm terminals at the underground tank site and at the Sunset Valley City Hall;

- (3) A minimum of three observation wells constructed of non-conductive material, with a minimum diameter of four (4) inches, shall be installed within each underground storage tank excavation. The wells shall extend to a depth of at least twelve (12) inches below the level of the bottom of the tank(s) and shall be lined with electronic hydrocarbon vapor sensors or be perforated in a manner so as to be capable of detecting the presence of floating contaminants over the entire length of the wells. At least one additional observation well shall be installed in a location outside of and downdip of each storage tank excavation, and shall be at least four feet deeper than the pit liner;
 - (4) Manways shall surround all turbine pumps and fill tubes to allow inspection of fittings and to facilitate the containment of leaks or spills. All manways shall be sealed to the storage tank in order to contain any leaks or spills. Electronic sensors shall be located in the manways to monitor for the presence of hydrocarbons and alert the operator of possible problems;
 - (5) Electronic hydrocarbon sensors, located at several locations along the delivery piping, shall be installed to monitor the interstitial space and to alert the operator of possible problems;
 - (6) Monitoring devices shall be installed between double-walled delivery piping and the synthetic liner to monitor releases or leakage from the piping;
 - (7) Monitoring systems and/or observation wells, and all component parts thereof, shall be installed in accordance with any applicable codes and shall be operated and maintained in good working order;
 - (8) Testing of monitoring equipment and emergency shut-off valves shall be conducted by a certified technician at least once a year; the certification record shall be maintained at the facility at all times and a copy thereof provided the City within seven (7) days of the annual certification.
 - (9) The permit holder shall conduct such self-monitoring inspections and tests as the City may require and shall file reports attesting to the date and time of each such inspection or test. These reports shall also contain a description of the inspection or test performed, the results of each inspection or test and the printed name and title and the initials of the inspector. Failure to comply with the City's request pursuant to this section shall constitute a violation of this Chapter.
- (b) **CONTAINMENT REQUIREMENTS.** Primary, secondary and tertiary levels of containment shall be required for all underground storage tank systems. Such systems shall meet the following specifications:
- (1) All tanks or containers shall be highly resistant to the hazardous materials they are designed to contain and shall also be resistant to the particular environment in which they are stored and any physical handling they may be subject to for their projected design life;
 - (2) All tanks or containers must bear labels certifying adherence to appropriate specified construction methods and factory pressure testing for tank integrity, and must be installed by a licensed underground storage tank installer according to the manufacturer's specifications;
 - (3) All primary containment shall be product-tight;
 - (4) All secondary containment shall be external to and separate from the primary containment and all tertiary containment shall be external to and separate from the secondary containment. All secondary and tertiary containment shall be constructed of materials of sufficient thickness, density

- and composition so as not to be structurally weakened as a result of contact with any discharged hazardous material and so as to be capable of containing any hazardous material discharged from a primary container and preventing its release into the environment for a period of time longer than the maximum anticipated time sufficient to allow recovery of the discharged hazardous material;
- (5) In the case of an underground storage tank with one primary container, the secondary and tertiary containment shall be large enough to contain at least one hundred ten percent (110%) of the volume of the primary container;
 - (6) In the case of an underground storage tank with multiple primary containers, the secondary and tertiary containment shall be large enough to contain one hundred ten percent (110%) of the volume of the largest primary container placed in it, or fifty percent (50%) of the aggregate internal volume of all primary containers in the storage tank, whichever is greater;
 - (7) Tertiary containment shall be provided by a liner system approved by the City to meet the following standards: **(Amended 02/17/98)**
 - (A) the liner must be capable of preventing migration of any stored or leaked materials from the tank hold for a period of at least 50 years;
 - (B) the liner must be of sufficient strength and thickness to prevent failure, including from static head and external hydrogeologic forces;
 - (C) the liner must be constructed of material that will maintain its strength, impermeability and thickness even when in direct and long-term contact with the stored or leaked materials;
 - (D) the liner must be placed on a foundation capable of supporting the liner and preventing failure due to settlement, compression or uplift;
 - (E) the liner must be installed to the surface of the tank hold;
 - (F) the liner must be installed according to manufacturer's specifications, and installation, field-seaming, and field-repair of any liner must be performed only by qualified personnel properly trained and certified by the liner manufacturer;
 - (G) the liner must be protected from puncture, abrasion, or other damage during placement, and a protective layer of material is required where the presence of any material could puncture or damage the liner;
 - (H) after installation, but before placing the tanks, the liner shall be properly tested in accordance with the manufacturer's specifications.
 - (8) All tank excavation pits shall be equipped with liners which come at least 3 feet up the sidewalls of the excavation, if the excavation is in clay, and come at least to the top of the storage tanks if the excavation is in limestone. The liners shall be of such design and material so as to be impervious to and non-reactive with hydrocarbons and may be a custom-fitted polyliner;

- (9) An underground storage tank with a double-walled primary container with a complete double shell shall be deemed to meet the primary and secondary containment requirements set forth in this section if the outer shell is constructed primarily of non-earthen materials, including but not limited to concrete, steel and fiberglass, which provide structural support, and an electronic leak detection system is located in the interstitial space (between the shells) which is continuously monitoring the space for the entry of hazardous substances from the inner container to the space and for the detection of water intrusion into the space from the outer shell;
 - (10) Appropriately sized catch pans shall be installed under all delivery pumps;
 - (11) All underground delivery piping must be of double-walled fiberglass construction which provides secondary containment of any fuel releases from the primary piping, and shall be surrounded by synthetic lining; and
 - (12) In the case of readily visible portions of underground storage tank piping, no secondary or tertiary containment is required, provided that it is being regularly and periodically visually inspected in an approved manner.
- (c) **OVERFILL PROTECTION AND TRANSFER SPILL PREVENTION.** An approved means of overfill protection and transfer spill prevention shall be required for all underground storage facilities. At a minimum:
- (1) An overfill prevention device shall be connected to the vent line to restrict flow into an underground storage tank when the tank is ninety percent (90%) full;
 - (2) An overfill containment device shall surround the fill tube to collect any residual drainage from the delivery hoses;
 - (3) A pressure loss indicator shall be installed on turbine pumps to automatically shut the pumps down should a loss in pressure occur;
 - (4) A line leak detector shall be installed on submersible pumps to automatically shut the pumps down in the event of a leak or release;
 - (5) The piping trench shall slope backwards to the line tank pit at an angle sufficient to insure that any released or escaped hazardous materials flow towards the tank pit;
 - (6) Collection pans shall be installed beneath each dispenser to collect any small leaks or spills occurring during maintenance of the dispensers; and
 - (7) Underpump emergency valves shall be installed on each fuel delivery line beneath the dispensers to automatically shut off fuel flow in the event of damage to the dispensers from collision, fire or any other cause.
- (d) **DRAINAGE AND SUMPAGE REMOVAL.** Drainage of precipitation and sumpage from within an underground storage tank shall be controlled and disposed of in accordance with all applicable state, federal and local laws and regulations for the containment and disposal of hazardous liquids so as to prevent hazardous materials from being released into the environment in an unapproved manner. No drainage or sumpage

removal system shall be approved unless the said system meets the following minimum requirements:
(Amended 02/17/98)

- (1) Site surface drainage shall be designed so that runoff from the areas around the pump islands and storage tanks is collected and routed to a water quality control.
 - (2) The water quality control shall be designed to treat the first one-half inch of runoff from the collection area to achieve at least the following removal efficiencies: 95% TSS removal and 99% removal of oil and grease or chemical oxygen demand.
 - (3) The water quality control shall be designed to by-pass water to prevent scouring of the collecting material.
 - (4) The water quality control, including any gaskets, shall be constructed of materials that will not degrade during long-term exposure to the stored materials.
 - (5) The water quality control shall be installed according to applicable manufacturer's recommendations.
 - (6) The water quality control shall include an electronic hydrocarbon sensor to alert the operator of the need to remove hydrocarbons from the separator.
- (e) **FLAMMABLE LIQUIDS.** In addition to any other requirements of this Chapter, no person shall construct or install any new underground storage tank intended for the storage of flammable liquid or make any substantial repair or addition to or modification of an existing underground storage tank system containing flammable liquid, unless and until said tank system is designed and constructed to meet, at a minimum, the standards provided by the State of Texas "Rules for the Safe Storage, Handling, and Use of Flammable Liquids at Retail Service Stations." (28 TAC 27,601-27.620)

Sec. 7.602 Replacement of Tanks

Each underground storage tank shall be replaced every ten years from the date on which its initial installation was approved by the City.

Division 7.7: Testing Regulations

Sec. 7.700 New Underground Storage Facilities

- (a) Upon receipt of any underground storage tank at the site, and prior to lifting the tank into the tank excavation, each tank shall be soap tested in accordance with Section 2-7 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association (NFPA 30).
- (b) After installation of the underground storage tank into the tank excavation and before being completely covered, each tank shall be air tested with a gauge pressure not to exceed 5 pounds per square inch. Product piping shall also be tested, but with a minimum gauge pressure of 30 pounds per square inch. Any primary piping shall be tested at a minimum gauge pressure of 30 pounds per square inch. Any secondary or

tertiary containment piping shall be tested at a minimum gauge pressure of 5 pounds per square inch. If the underground tank meets the requirements of the air test then the tank shall be ballasted with water or fuel until placed into service.

- (c) Manual monitoring of secondary and tertiary containment shall begin when tanks are ballasted. Continuous monitoring shall begin when tanks are placed in service. Results of all monitoring prior to placing tanks in service shall be submitted to the City before or during final inspection. A precision test may be used in lieu of manual monitoring, if accomplished before the tanks are placed into service.
- (d) The owner of the tank may elect to not ballast underground storage tanks with water upon installation if the tank is air tested when installed and backfilled, and, prior to being placed into service, the tank is tested in the operating condition using the precision test defined by the National Fire Protection Association Pamphlet 329, "Recommended Practices for Handling Underground Leakage of Flammable Combustible Liquids," as amended, for proving the integrity of an underground storage tank.

Sec. 7.701 Existing Underground Storage Facilities

- (a) STORAGE TANKS. The tank shall be tested using a precision test which is capable of measuring a quantitative leak rate and which controls, eliminates, measures or otherwise takes into account changes in the coefficient of expansion of the liquid due to temperature changes, containment system deformations due to pressure changes, evaporative losses, and other relevant variables during the course of the test, as discussed in the National Fire Protection Association Pamphlet 329,

"Recommended Practices for Handling Underground Leakage of Flammable and Combustible Liquids," as amended. Such testing shall prove the integrity of an underground storage tank according to the following schedule:

<u>TANK AGE</u>	<u>TEST FREQUENCY</u>
0 to 5 years old	On the 5th year
6 to 10 years old	Every 2 years

- (b) PIPING. The piping shall be tested using a precision test method capable of detecting both pressure and volume changes during testing and in accordance with the following:
 - (1) Suction and gravity flow piping systems shall be tested using a precision test method capable of detecting a leak rate of at least .05 gallons per hour;
 - (2) Pressure pumped piping systems fitted with approved continuous line pressure leak sensors capable of restricting the flow of product in the delivery system when a leak is detected shall be precision tested on the same schedule as the tank to which they are attached. Pressure pumped piping systems shall be tested using a precision test method capable of detecting a leak rate of at least .01 gallons per hour; and
 - (3) Pressure pumped piping systems fitted with approved continuous line pressure leak sensors capable of completely shutting down the delivery system when a leak rate of at least .05 gallons per hour is detected shall be precision tested every three (3) years. Pressure pumped piping systems shall be tested using a precision test method of detecting a leak rate of at least .01 gallons per hour.

Sec. 7.702 Conduct of Tests

- (a) The permit holder shall insure that any precision test required by this Chapter is performed by a testing company licensed by the Texas Natural Resource Conservation Commission or its successor and which is not the owner, operator or employee of the facility to be tested.
- (b) Installation tests, air tests and precision tests required by this Chapter shall be conducted only in the presence of an inspector from the City. No such test shall be conducted unless and until a complete permit application is on file with the City. The fact that a required test result is not filed with the City shall constitute prima facie evidence that such test was not performed.
- (c) No later than twenty (20) working days after any test required by this Chapter is performed, the underground storage facility or tank owner, permit holder, and/or testing company shall provide copies of the results of such test(s) to the City. In the event a system or component part thereof fails such a test, this information shall be provided to the City by the owner, permit holder, and/or testing company no later than three (3) days after the date of the test(s).

Division 7.8: Specifications for Out of Service Facilities and Underground Storage Tank Closure

Sec. 7.800 General

- (a) No underground storage tank system or part thereof shall be abandoned.
- (b) Underground storage facilities which are temporarily out of service, and are intended to be returned to use, shall be safeguarded in an approved manner and must continue to be monitored and inspected.
- (c) Any underground storage tank which is not being monitored and inspected in accordance with this Chapter must be closed or removed in a manner approved by the City as provided for herein and as specified in the materials management plan.

Sec. 7.801 Application for Approval

The permit holder shall apply for approval to close an underground storage tank and pay the closure fee as established by City Council no less than thirty (30) days before closing the facility. Such closure shall be performed by a person holding a current license as an underground tank installer or on-site supervisor in accordance with the applicable rules and regulations of the Texas Water Commission or its Successor, and shall be in accordance with the closure plan included in the materials management plan for the facility, unless an addition to or modification of the closure plan is necessary, in which case the application for closure shall contain such addition(s) or modification(s). This thirty (30) day period may be waived by the City for good cause. The final stage of the underground storage tank closure shall be witnessed by an inspector from the City. If reinspection is necessary due to improper closure, a reinspection fee as established by City Council shall be paid.

Sec. 7.802 Soil Contamination

If the soil and/or water samples required by the closure plan indicate soil or subsurface contamination, the permit holder shall be required to demonstrate to the City that the condition no longer presents a threat of harm to the public health, life, property or the environment as a condition of approval to close the facility.

Sec. 7.803 Observation Wells

The City may require the installation of an observation well in the tank pit backfill area prior to the taking of any closure action.

Sec. 7.804 Tank Removal Standards (*Amended 02/17/98*)

The owner or operator who is removing, or has removed, any regulated storage tank must demonstrate that no materials stored in, leaked, or spilled from the tank remain within the soils or groundwater. Such a demonstration will consist, at a minimum, of four samples collected from locations with the greatest likelihood of residual materials and analyzed for chemicals that are most likely to identify residual material. The owner or operator must obtain advance approval from the City of a tank removal plan that includes the proposed number of samples to be collected, their anticipated locations, and the chemicals for which the samples will be analyzed.

Division 7.9: Leaks

Sec. 7.900 Prevention of Leaks, Releases, Spills and Overspills

All owners, operators and/or permit holders of underground storage tank facilities, systems and/or component parts thereof shall ensure that the facilities, systems and component parts are constructed, operated, maintained and managed in a manner that will prevent releases of hazardous materials regulated by this Chapter, and further, that spills and overfills of such materials do not occur.

Sec. 7.901 Initial Response to Leaks or Releases

Upon discovery or identification of any leak or release, the owner, operator and/or permit holder of the underground storage tank facility or system shall take immediate action to prevent any further release into the environment of the hazardous material regulated by this Chapter, including shutting down the leaking underground storage tank system or any component part thereof as determined necessary.

Sec. 7.902 Reporting of Leaks or Releases

- (a) Any leak or release from the primary containment which the storage permit holder is able to clean up within eight hours, and which does not escape from the secondary containment, does not increase the hazards of fire or explosion, and does not cause any deterioration of the secondary containment, shall be recorded on the permit holder's monitoring reports and reported to the City within seven (7) days of its occurrence.
- (b) Any leak or release from the primary containment which increases the hazard of fire or explosion, or causes any deterioration of or escapes from the secondary containment, shall be reported by the storage permit holder to the City Fire Department or Police Department immediately upon detection. The

reporting party shall provide information relating to the ability of the permit holder to contain and dispose of the hazardous material, the estimated time required to complete containment and disposal operations and the type and degree of hazard created.

Sec. 7.903 Required Testing and Corrective Action

If there has been a leak or release from an underground storage facility or tank system or any part thereof which presents a potential threat to public health, safety or the environment or where there is any suspicion of soil or subsurface contamination, soil and/or groundwater samples from areas likely to have maximal amounts of contamination shall be obtained and analyzed for residual hazardous materials by an independent laboratory in a manner acceptable to the City. Information pertaining to the location of samples, sampling methods, test procedures, and test results shall be provided to the City no later than fifteen (15) days after the testing is completed. If there is any indication of soil or subsurface contamination, the permit holder shall be required to immediately initiate cleanup or decontamination operations and to demonstrate to the City that the condition no longer presents a threat of harm to the public health, safety or environment. If test results indicate the material is a hazardous waste, the matter will be referred to the Texas Natural Resource Conservation Commission and the City may take such other action as is authorized by this Chapter or any other regulation or statute.

Sec. 7.904 Corrective Action for Unknown Sources of Pollution

- (a) When an unknown source of pollution from the release of materials regulated by this Chapter is discovered, the owner or permit holder of any underground storage tank determined by the City to be a potential source of the release shall, upon written request from the City:
 - (1) Submit inventory records for the preceding twelve (12) month period to the City for review;
 - (2) Submit records of repairs performed on the facility for the preceding three (3) years to the City for review;
 - (3) Cause each facility to be precision tested within five (5) days of receipt of the written request from the City. The underground storage facility owner, permit holder or testing company shall provide copies of the results of the tests to the City no later than ten (10) working days after the date the tests were performed;
 - (4) If an underground storage tank fails the above mentioned precision test(s), the owner or permit holder shall install one or more approved monitoring wells adjacent to the underground storage tank and shall have an independent laboratory acceptable to the City perform analyses on soil, core and/or water samples extracted from these wells to determine if any contamination exists. The City and/or its designated agent, including but not limited to the Barton Spring/Edwards Aquifer Conservation District, shall determine which samples shall be extracted from these wells. The results of these analyses shall be provided to the City no later than ten (10) working days after the date the tests were performed; and
 - (5) All costs for such precision tests, well installations, sampling, and lab analyses shall be borne by the owner or permit holder of the underground storage tank system.

Sec. 7.905 Permit Review

The City shall review the storage permit when there has been a leak or release or when it determines that an underground storage tank system or any part thereof is unsafe, and may modify, suspend or revoke the permit in accordance with the provisions of Division 7.12 of this Chapter. In determining whether to suspend, terminate or modify the permit, the City shall consider the age of the underground storage tank system or part thereof, the condition of the primary, secondary and tertiary containment, the leak detection monitoring methods employed, the feasibility of any required repair or modifications, the concentration of the hazardous materials involved, the severity of any potential leaks or unauthorized releases and the suitability of any other long term preventative measures which meet the requirements of this Chapter.

Sec. 7.906 Corrective Action by City

- (a) The City may undertake corrective action in response to a release or threatened release if:
 - (1) The owner or operator of the underground storage tank facility, system or component part is unwilling or unable to take the corrective action necessary to protect the public health or safety and/or the environment;
 - (2) The owner or operator cannot, after reasonable attempts to do so by the City, be located; or
 - (3) The City determines that immediate action is necessary to protect the public health and safety and/or the environment.
- (b) In the event the City undertakes corrective action in response to a release or threatened release as authorized by Subsection (a) above, the City may charge the owner or operator for the reasonable costs incurred in connection therewith, and may use all legal means to secure payment of said costs. Nothing herein is intended to limit or preclude the City from taking any other action authorized by law or this Chapter to secure compliance with the terms hereof or to preserve and protect the public health and safety and the environment.

Sec. 7.907 Repairs

- (a) If there has been a leak or release of hazardous materials from an underground storage facility or tank system or any part thereof not under pressure, the owner or permit holder may repair the tank once by an interior coating process if the tank meets all of the following criteria:
 - (1) An inspector qualified to check tank interiors for possible damage shall enter the tank and inspect the entire surface and certify that the shell will provide structural support for interior lining;
 - (2) The material used to repair the tank by an interior coating process is approved by the City as compatible with the hazardous materials to be stored in the tank;
 - (3) The material used to repair the tank by an interior coating process is applied by a person holding a valid underground tank installer or on-site supervisor license issued by the State of Texas and in accordance with nationally recognized engineering practices, such as American Petroleum Institute Publication #1631;

- (4) Each interior lined steel tank shall be protected from corrosion through the use of an engineered, properly maintained and installed cathodic protection system;
 - (5) Before the tank is placed back in service following the repair, the tank is tested in operating condition using a precision test method. The precision test shall not be performed by the owner or operator of the tank or by an employee of the owner or operator; and
 - (6) The permit holder shall notify the City of his or her intent to interior line an underground storage tank and shall apply for authorization on forms provided by the City. No work shall commence prior to the City's approval of such application. The permit holder shall submit documentation of interior lining and cathodic protection to the City no later than thirty (30) days after the tank has been interior lined.
- (b) If there has been no leak or release from an underground storage tank containing hazardous materials not under pressure, the permit holder may line the interior of the tank as a preventative measure in accordance with the requirements in subsection (c)(6) above.
- (c) Damaged piping shall not be repaired, but shall instead be replaced.

Division 7.10: Records

Sec. 7.1000 Maintenance of Records

Copies of the construction or storage permit applications, the permits, inspection check sheets, monitoring logs, inventory records and all other records required by this Chapter shall be maintained by the permit holder for a period of not less than three (3) years. Said records shall be made available to the City during normal working hours and on reasonable notice.

Sec. 7.1001 Public Records

- (a) The permit, permit application, materials management plan, and any other documentation maintained pursuant to this Chapter are public records except as provided in section 7.1002. Any request for a public record hereunder shall be submitted in writing to the City Secretary.
- (b) In the event of an emergency, the City may disclose pertinent information maintained pursuant to this Chapter to appropriate fire, police and emergency medical services personnel. Said fire, police and emergency medical services personnel shall protect the disclosure of such information coming into their possession from release to the public.

Sec. 7.1002 Confidential Information

In the event that any information required by this Chapter constitutes a trade secret, or if its disclosure would give advantage to competitors, or if for any other reason its disclosure is not required under the Texas Open Records Act, Article 6252-17a V.A.T.S., that information shall be identified in a coded manner (with key) such that it cannot be revealed to any person other than City personnel, provided that the applicant requests that of such information be kept confidential in accordance with section 7.1003.

Sec. 7.1003 Confidential Information Procedures

- (a) The City shall protect from disclosure any and all information required to be so protected under the Texas Open Records Act. Permit applicants or permit holders are encouraged but not required to comply with the following procedures to assist the City in maintaining confidentiality:
 - (1) At the time such information is submitted in writing to the City, a written claim of confidentiality should be simultaneously submitted, specifying each piece of information for which confidentiality is claimed. An assertion of confidentiality for the entire document shall not be sufficient;
 - (2) The confidential information sought to be protected should be submitted to the City on a separate form or forms, clearly and conspicuously marked or labeled as containing confidential information; and
 - (3) A letter or legal memorandum, signed by legal counsel for the permit holder or permit applicant, supporting the asserted confidential status and setting forth the reasons why each piece of information should be given confidential status under the Texas Open Records Act, should accompany each piece of information for which a claim of confidentiality is asserted.
- (b) The City shall not protect from disclosure any information which in the written opinion of the City Attorney or the Attorney General of Texas is required to be disclosed under the Texas Open Records Act.
- (c) Nothing in this Chapter shall be construed to require any person to disclose to the City any information the disclosure of which would violate any Federal law or contract with the United States Government.

Division 7.11: Miscellaneous

Sec. 7.1100 City Inspection

- (a) The City shall conduct inspections for the purpose of ascertaining compliance with this Chapter and causing to be corrected any conditions which would constitute any violation of this Chapter.
- (b) No new underground storage tank, or substantial modification or repair of an existing underground storage facility or tank system or any part thereof, shall be covered without approval by an inspector from the City and/or the Barton Springs/Edwards Aquifer Conservation District to confirm compliance with the applicable provisions of this Chapter.
- (c) Nothing in this Chapter shall be construed to hold the City or the Barton Springs/Edwards Aquifer Conservation District or any officer, employee, or representative thereof, responsible for any damage to persons or property by reason of making or failing to make an inspection required or authorized by the provisions of this Chapter.

Sec. 7.1101 Right of Entry

- (a) Whenever necessary for the purpose of investigating or enforcing the provisions of this Chapter, or whenever any officer of the City or his or her designate, including but not limited to, an inspector from the Barton Springs/Edwards Aquifer Conservation District, has reasonable cause to believe that there exists at

any underground storage tank system conditions which constitute a violation of this Chapter, said officer may enter such facility at all reasonable times to inspect the facility or to perform any duty imposed on any of said officers by law; provided that if such facility be occupied, the officer shall first present proper credentials and request entry, and further provided that if such facility is unoccupied, the officer shall first make a reasonable effort to contact a responsible person from such facility and request entry. If entry is refused, the officer seeking entry shall have recourse to every remedy provided by law to secure entry, including fines and excavation, if necessary.

- (b) Any permit applicant shall agree in writing to allow entry by an officer of the City or his or her designate to the facility or underground storage tank system which is the subject of the application for the purpose of inspection of conditions during the approval stage and during construction.
- (c) Any permit holder shall agree to allow entry to the facility or underground storage tank system which is the subject of the permit for the purpose of inspection by City officials or their designates.

Division 7.12: Permit Modification, Suspension, and Revocation

Sec. 7.1200 General

If the City determines that there has been a failure to comply with any term or condition of the permit and associated documents, or with any provision of this Chapter, or if there has been a leak or release or the City has determined that an underground storage tank system or any part thereof is unsafe, the City may modify, suspend or revoke the permit in accordance with the procedures set forth herein.

Sec. 7.1201 Noncompliance

- (a) For purposes of this Chapter, non-compliance shall mean and include any one or more of the following:
 - (1) The failure of the permittee to comply with the provisions this Chapter;
 - (2) The failure of the permittee to comply with the provisions of any relevant City code or ordinance other than the Underground Tank Storage Regulations, or with any applicable rule, regulation or law of any other federal, state or local agency;
 - (3) The failure to the permittee to comply with any term or condition imposed by the City in connection with the issuance of the permit;
 - (4) The making of any material misrepresentation or false or misleading statement by the permit applicant or one acting on his behalf in connection with or on the permit application;
 - (5) The failure of the permittee to timely commence the work required or authorized by the permit as approved by the City; or
 - (6) The failure of the permittee to timely complete the work required or authorized by the permit as approved by the City.

Sec. 7.1202 Modification, Suspension and Revocation of Permit

- (a) A permit may be modified, suspended or revoked for:
 - (1) Non-compliance as that term is defined in section 7.1201;
 - (2) The occurrence of any leak or release from the underground storage tank system or any component part thereof;
 - (3) The hazardous or unsafe condition of the underground storage tank system on any component thereof; or
 - (4) Any other reason allowed by law.
- (b) In determining whether a permit should be modified, suspended or revoked, the City shall consider, among other factors, those matters identified in section 7.905 of this Chapter.
- (c) If the City determines that a permittee is in noncompliance, as that term is defined herein, or that a permit should be modified, suspended or revoked for any other reason set forth in section 7.1202(a), the City shall give written notice by certified mail, return receipt requested, to the permittee and, if not he same person, the property owner, which notice shall:
 - (1) State the nature of the noncompliance or other condition warranting modification, suspension or revocation;
 - (2) Direct the specific action be taken to correct the noncompliance or other condition warranting modification, suspension or revocation within thirty (30) days of the receipt of the notice;
 - (3) Advise that a hearing may be requested before the City Council to determine whether or not the permittee is in noncompliance, and whether or not the permit should be modified, suspended or revoked;
 - (4) Advise that to request a hearing, a written application therefor must be filed with the City Secretary within ten (10) days of receipt of the notice provided for herein; and
 - (5) Advise that if no hearing is requested within said ten (10) days, and if the required corrective work is not completed within the thirty (30) day period specified in the notice, the permit shall be modified, suspended or revoked as appropriate.
- (d) If no hearing is requested and if the required corrective action is not completed within the time specified by the City, the permit shall be modified, suspended or revoked, and no work shall be done on or hazardous materials stored or handled in the facility, system or a component part thereof except as thereafter expressly directed or authorized by the City.
- (e) If a hearing has been requested within ten (10) days of receipt of the notice by the filing of a written application therefor with the City Secretary, the City Council shall, no later than thirty (30) days after receipt of said request, hold a hearing to determine whether the permittee is in noncompliance or if some other reason exists which would warrant the modification, suspension or revocation of the permit and

whether such action should be taken. Written notice of the date, time and place of the hearing shall be given to the permittee and, if not the same person, the owner of the property.

- (f) If, after hearing, the City Council determines that the permittee is in noncompliance or that such other condition exists that would warrant modification, suspension or revocation of the permit, and that the permit should be modified, suspended or revoked, it shall order, if appropriate, that the necessary corrective action be completed within such time as the Council directs. If the work is not so completed, the permit shall be modified, suspended or revoked, and no further work shall be done or hazardous materials stored or handled except as thereafter expressly directed or authorized by the City.

Division 7.13: Acts Prohibited; Enforcement

Sec. 7.1300 Violations

- (a) It shall be unlawful for any person owning the property on which an underground storage tank facility or tank system or part thereof is located, or any person owning or having physical control of an underground storage tank system or part thereof, to receive, produce or store, or to allow the receipt, production, or storage of, any material or materials regulated by this Chapter without first obtaining and having a current hazardous materials underground storage permit and except in strict compliance with the terms of this Chapter.
- (b) It shall be unlawful for any person to construct, install or substantially modify or repair any underground storage tank facility, system or component part thereof subject to the requirements of this Chapter without first obtaining a construction permit and except in strict compliance with the terms of this Chapter.
- (c) It shall be unlawful for any person owning the property on which an underground storage facility or tank system or any part thereof is located or any person having physical control of an underground storage tank facility or system or any part thereof to close or to allow closure of such facility, system or part thereof without first obtaining approval from the City pursuant to section 7.503.
- (d) Any person to whom a hazardous materials underground facility construction or storage permit has been granted commits a violation of this Chapter if such person fails to observe and perform any term or condition stated in the permit, materials management plan, or in any other document submitted in order to secure the permit.
- (e) The owner of any land or underground storage tank where anything in violation of this Chapter is constructed, installed, placed or used, and any architect, builder, contractor, agent, laboratory, independent inspector, or any other person employed in connection therewith commits a violation of this Chapter if he or she knowingly aids, assists, or contributes to the commission of any such violation.

Sec. 7.1301 Remedies

Nothing in this Section shall limit in any manner the authority of the City to seek any other relief, including, but not limited to, injunctive or other civil relief available under the law.

Sec. 7.1302 Recovery of Costs

- (a) The City may, upon notice to the permittee, retain such experts, including but not limited to engineers, hydrologists and attorneys, to advise and represent the City in connection with its determination that a permittee is in non-compliance, or that such other condition exists that would warrant modification, suspension or revocation of the permit. In the event that the City does determine that action should be taken with respect to the permit, the permittee shall reimburse the City for the reasonable costs incurred in connection with the retention of such experts.
- (b) In addition to any other method allowed by law pursuant to which the City can recover the costs it incurs in connection with the permit modification, suspension or revocation proceedings, including those authorized by subsection (a) above, the City may, at its discretion, collect on any bond or letter of credit required of the permittee.
- (c) Nothing in this section is intended to limit the remedies available to the City.