

TO: James L. App, City Manager

FROM: Doug Monn, Interim Public Works Director

SUBJECT: Ordinance Establishing Additional Standards for Underground Storage Tank Facilities to Protect Public Drinking Water Supplies and Limited Ground Water Resources

DATE: May 17, 2005

Needs: For the City Council to consider adoption of an Ordinance establishing additional standards for underground storage tank facilities to protect public drinking water supplies and limited ground water resources.

Facts:

1. San Luis Obispo County Environmental Health Services permits, inspects and monitors underground tank installations within the City of Paso Robles and most jurisdictions in the County, with the exception of the City of San Luis Obispo.
2. The proposed ordinance would establish additional local standards for underground storage tank facilities, to protect public drinking water supplies and limited groundwater resources, and to establish procedures for issuance of permits for the installation and use of these facilities.
3. The attached Ordinance would be consistent with recent amendments of Chapter 8.14 of the County Code and would allow consistent administration of underground tank installations by County Environmental Health both in the City of Paso Robles and the unincorporated areas in the County.
4. The Ordinance eliminates the duplicative language included in state and federal laws and removes outdated requirements that no longer apply to the installation of underground storage.
5. The proposed Ordinance would add local requirements beyond current state and federal regulations intended to reduce the risk of contaminating surface and groundwater with petroleum products leaked from underground storage tanks.
6. Specific requirements associated with the proposed ordinance would be as follows:
 - a. Requires submittal of a hydro geological assessment to the Public Health Department and the Regional Water Quality Control Board to assess risk to wells and to provide for threat mitigation if the underground storage tank location is within 1,500 feet of a drinking water well or within a zone where travel time by leaked fuel to a well is estimated to be less than two years.
 - b. Prohibits spilled fuel or any surface wash water from entering the soil or leaving the property boundary. Wash water is defined as water used to clean surfaces containing dissolved fuel or other hazardous contaminants from fueling operations.

- c. Requires the handling of water that enters underground storage tank secondary containment as hazardous waste, pending chemical analysis. Handling includes personal protection, proper removal, storage, labeling, and disposal.
 - d. Requires the installation and/or maintenance of paved surfaces around an underground storage tank system to prevent infiltration of fuel.
 - e. Requires that the permitting authority act upon an underground storage tank application no later than ninety days after the application is accepted as complete.
 - f. Requires the submittal of as-built drawings of underground storage tanks to the County by contractors within 30 days of the final construction inspection.
7. If adopted, the Ordinance would result in increased costs to companies or individuals installing new underground storage tanks. A breakdown of potential costs would be as follows:

Requirement	Cost			
	New Facility		Existing Facility	
	Minimum	Maximum	Minimum	Maximum
Hydro geological Assessment	5,000	25,000	0	0
Fuel Spill Kits and Training	100	1,000	100	1,000
Collecting Wash Water	100	100	100	100
Disposal of Contaminated Water	200	500	200	500
Maintenance of Paved Surfaces	1,000	1,000	1,000	1,000
Replacement/New Paved Surfaces	5,000	20,000	5,000	20,000
Submittal of As-Built Drawings	300	500	300	500

8. The proposed new standards for underground tank design would seem consistent with the purpose of Categorical Exemptions under Sections 15301 or 15303 of Guidelines for implementing the California Environmental Quality Act (CEQA)."

Analysis and

Conclusion: The adoption of the ordinance would:

- 1. Reduce the potential impact of leaking underground storage units to groundwater resources underground reserves of drinking water.
- 2. Reduce the frequency that surface spillage of fuel reaches surface and groundwater.
- 3. Ensure that contaminated water from tank sumps and enclosures is properly handled to reduce the unnecessary release of fuel into the environment.
- 4. Reduce regulatory oversight costs by obtaining accurate drawings of installed tanks, piping, and other equipment.

5. Reduce regulatory oversight costs by obtaining accurate drawings of installed tanks, piping, and other equipment.
6. Reduce the likelihood of damaging underground equipment during future excavation activities.

Policy

Reference: County Ordinance number 3044, Chapter 8.14, regulating the underground storage of hazardous materials.

Fiscal

Impact: Adoption of the Ordinance will not impact the City's General Fund. The County Public Health Department's Environmental Health Division will recover any additional cost associated with the amended Ordinance through assessment of permit fees at the County level.

Options:

- a. Introduce for first reading Ordinance No. XXX N.S. establishing requirements and conditions for underground storage tanks consistent with those adopted by the County of San Luis Obispo and enforced by County Environmental Health Services; and set June 7, 2005, as the date for adoption of said Ordinance.
- b. Amend, modify, or reject the above option.

Attachment (1):

- 1) Draft Ordinance

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
ESTABLISHING ADDITIONAL STANDARDS FOR UNDERGROUND STORAGE
TANK FACILITIES TO PROTECT PUBLIC DRINKING WATER SUPPLIES AND
LIMITED GROUND WATER RESOURCES

WHEREAS, the County of San Luis Obispo Environmental Health Services ("County") is responsible for permitting, inspecting and monitoring underground tank installations within the County, including those within the City of Paso Robles; and

WHEREAS, County has proposed certain revisions to the City's Municipal Code regarding underground tank installation requirements to update and refine certain of those requirements and to further reduce the risk of contamination from any leakage from underground storage tanks; and

WHEREAS, the proposed revisions would be consistent with amendments to the County Code and would allow for consistent administration of underground tank installations by the County; and

WHEREAS, any additional costs related to the additional requirements will be recovered by the County through its assessment of permit fees.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
DOES ORDAIN AS FOLLOWS:

Section 1. Municipal Code Section 7.30.031 is added to the El Paso de Robles Municipal Code and is adopted to read as follows:

Subsection A - Purpose:

It is the purpose of this chapter is to establish additional local standards for underground storage tank facilities to protect public drinking water supplies and limited groundwater resources, and to establish procedures for issuance of permits for the installation and use of these facilities.

Subsection B - Notification of the San Luis Obispo County Air Pollution Control District.

Whenever any provision of this chapter applies to facilities for the storage and transfer of gasoline subject to San Luis Obispo County Air Pollution Control District Rule 424, Storage and Transfer of Gasoline, the owner or operator of the facility shall obtain District approval prior to commencing construction or modification.

Subsection C - Definitions.

Unless the context requires otherwise, the terms used in this chapter shall have the definitions provided by section 25281 of Chapter 6.7 of Division 20 of the Health and Safety Code of the State of California, or by section 2611 of Chapter 16 of Title 23 of the California Code of Regulations.

Subsection D - Additional Definitions.

For the purpose of this chapter, the following words and phrases are defined, and shall be construed as set out in this chapter:

- (a) "Permitting Authority" shall be the County Health Officer or his/her designee.
- (b) "Qualified professional" means a person who is a registered geologist registered pursuant to Section 7841 of the Business and Professions Code or a certified engineering geologist or certified hydro geologist licensed pursuant to Section 7842 of the Business and Professions Code.
- (c) Wash water means water used to clean surfaces containing dissolved fuel or other hazardous contaminants from fueling operations.
- (d) "SWRCB" means the California State Water Resources Control Board.

Subsection E - Report Requirements and Conditions for proposed New Facilities.

- (a) A permit to operate shall not be issued for any underground storage tank system or facility when a new installation permit application is received by the permitting authority after the adoption of this ordinance

amendment, unless the underground storage tank system or facility is evaluated for site susceptibility to contamination of a public drinking water well and surface water used as a source of drinking water. The assessment shall be conducted by a qualified person using the best available information. If existing data is not adequate to make a determination, the qualified person shall collect sufficient data to determine the hydrogeologic setting.

- (b) Facilities that are proposed to be located within a 1,500 foot radius of a public drinking water well or surface water body used as a source of drinking water, or are located within Zones A (two year travel time to a drinking water well) or B5 (two to five year travel time to a drinking water well) as defined by the California Department of Health Services "Drinking Water Source Assessment and Protection Program" shall provide a hydrogeological site assessment with the permit application.
- (c) A hydrogeological assessment report shall be prepared by a qualified professional and submitted to the permitting authority and the Regional Water Quality Control Board. The report shall include data to support its conclusions, such as a description of site and local geology, depth to groundwater and direction of groundwater flow, locations of water wells, and construction details for the water wells.
- (d) Sites determined by the permitting authority and Regional Water Quality Control Board concurrence to be highly vulnerable to ground or surface water contamination will be required to provide a means of mitigating the threat to ground or surface water.

Subsection F - Operating Standards for New and Existing Facilities.

- (a) Discharge of spilled fuel or spilled fuel washed from fueling operations to soil or beyond the property boundary shall not be permitted.
- (b) The discharge of wash water beyond the property boundary shall not be permitted pursuant to the requirements of the U.S. EPA National Pollutant Discharge Elimination System (NPDES) Storm Water Phase II Final Rule and the NPDES General Permit for Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems (MS4 General Permit). Wash water is considered to be an illicit discharge under the MS4 General Permit.
- (c) Any liquid that enters secondary containment shall be stored and disposed as hazardous waste, unless determined to be non-hazardous by a laboratory certified by the State of California for the analysis of hazardous waste.
- (d) Paved surfaces shall be constructed and maintained to minimize surface infiltration of spilled fuel. A fuel resistant sealant shall be used to seal cracks and joints in the paved surface.

Subsection G Issuance.

- (a) The permitting authority shall act upon the application no later than ninety days after it is accepted as complete, unless the applicant has filed with the permitting authority a written notice of a request, and received written approval for extension of the time within which action is taken on the grounds that additional time is required to:
 - (1) Prepare or present plans or other information, or
 - (2) Obtain zoning variances, development plans, or other permits, or
 - (3) Make other corrections remedying inconsistencies with the provisions of this chapter, or
 - (4) The permitting authority has on file a written notice from a public agency showing just cause for an extension of time, and has approved an extension of time pursuant thereto.
- (b) The permitting authority shall require the submittal of "as-built" drawings for permitted Underground Storage Tank system construction or repair. The "as-built" drawings must show the actual location of newly installed systems including underground piping, conduits, monitoring equipment and other significant system components within 30 days of the final construction inspection. The permit to operate may be subject to revocation if accurate as-built drawings are not submitted to the permitting authority within the specified time frame.

Subsection H - Grounds for revocations.

Any permit to operate issued pursuant to this chapter may be revoked during its term upon one or more of the following grounds:

- (a) That an unauthorized release has occurred pursuant to section 25295 of Chapter 6.7 of the Health and Safety Code;

(b) That modifications have been made to the underground storage tank or facility in violation of the permit to operate;

(c) That the holder of the permit has violated one or more conditions upon which the permit has been issued.

Subsection I Method of Revocation.

The permitting authority may revoke a permit to operate by issuing a written notice of revocation, stating the reasons therefore, and serving same, together with a copy of the provisions of this chapter, upon the holder of the permit. The revocation shall become effective immediately.

Subsection J - Administration.

Except as otherwise provided, the agency having jurisdiction is charged with the responsibility of administering this chapter, and shall be authorized to promulgate and enforce such rules or regulations consistent with the purposes, intent, and express terms of this title as he or she deems necessary to implement such purposes, intent and express terms.

Subsection K - Negative Declaration

The City Council finds that the proposed new standards for underground tank design would be consistent with the purpose of Categorical Exemptions under Sections 15301 or 15303 of Guidelines for implementing the California Environmental Quality Act (CEQA)."

Section 2. This addition of Municipal Code Section 17.30.031 of the City of El Paso de Robles entitled **An Ordinance of the City of El Paso de Robles establishing additional standards for underground storage tank facilities to protect public drinking water supplies and limited ground water resources** shall supersede all other ordinances or parts of ordinances in conflict herewith.

Section 3. If any section, subsection, sentence, clause or phrase of the ordinance is, for any reason, held to invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of the ordinance. The City Council for the City of Paso Robles hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

This Ordinance and the rules, regulations, provisions, requirements, orders and matters established herein, are hereby adopted and shall take effect and be in full force and effect 30 days after the date of its second reading and adoption.

Introduced at a regular meeting of the City Council held on May 17, 2005, and passed and adopted by the City Council of the City of El Paso de Robles on the 7th day of June 2005 by the following roll call vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk