AN ORDINANCE OF THE SOLANO COUNTY BOARD OF SUPERVISORS
ESTABLISHING A PROCEDURE FOR THE ISSUANCE OF PERMITS AND
CONTROL OF UNDERGROUND STORAGE OF HAZARDOUS SUBSTANCES

The Board of Supervisors of the County of Solano, State of
California does ordain as follows:

SECTION I.
Chapter 13.5 is hereby added to the Solano County Code, to read
as follows:

CHAPTER 13.5
UNDERGROUND STORAGE OF HAZARDOUS SUBSTANCES

Section 13.5.010. Purpose.
It is the purpose of this chapter to establish standards for
construction and monitoring of facilities used for the underground
storage of hazardous substances, and to establish a procedure for
issuance of permits for the use of these facilities.

Section 13.5.020. Definitions.
Board means the Solano County Board of Supervisors.
Facility means any one, or combination of, underground storage
tanks used by a single business entity at a single location or site.
Hazardous substance means all of the following liquid and solid
substances, unless State Water Resources Control Board determines
the substance could not adversely affect the quality of the waters
of the County or the region:
(1) Substances on the list prepared by the Director of the
Department of Industrial Relations pursuant to Section 6382 of the
(2) Hazardous substances, as defined in Section 25316 of the
(3) Any substance or material which is classified by the
National Fire Protection Association (NFPA) as a flammable liquid, a
class II combustible liquid, or a class III-A combustible liquid.
Permitting Authority shall be the Director of Environmental
Health, or his designee.

Person means an individual, trust, firm, joint stock company,
corporation, including a government corporation, partnership, and
association. "Person" also includes any city, county, district, the
state, or any department or agency thereof.

Primary containment means the first level of containment, such
as the portion of a tank which comes into immediate contact on its
inner surface with the hazardous substance being contained.

Product-tight means impervious to the substance which is con­tained, or is to be contained, so as to prevent the seepage of the
substance from the primary containment. To be product-tight, the
tank shall not be subject to physical or chemical deterioration by
the substance which it contains over the useful life of the tank.

Secondary containment means the level of containment external
to, and separate from, the primary containment.

Single-walled means construction with walls made of only one
thickness of material. For the purpose of this chapter, laminated,
coated, or clad materials shall be considered single-walled.

Storage or store means the containment, handling or treatment
of hazardous substances, either on a temporary basis or for a period
of years. "Storage" or "store" does not mean the storage of hazar­
dous wastes in an underground storage tank if the person operating
the tank has been issued a hazardous waste facilities permit by the
State Department of Health Services pursuant to Section 25200 or
granted interim status under Section 25200.5 of the Health and
Safety Code of the State of California, and has submitted to the
Permitting Authority documentation verifying the issuance of the
permit or the granting of the interim status.

Unauthorized release means any release or emission of any
hazardous substance which does not conform to the provisions of this
chapter, unless this release is authorized by the State Water Re­
sources Control Board pursuant to Division 7 (commencing with Section
13000) of the Water Code of the State of California.

Underground storage tank means any one or combination of tanks,
including pipes connected thereto, which is used for the storage of
hazardous substances and which is substantially or totally beneath
the surface of the ground. "Underground storage tank" does not
include any of the following:

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(1) A tank used for the storage of hazardous substances used for the control of external parasites of cattle and subject to the supervision of the County agricultural commissioner if the County agricultural commissioner determines, by inspection prior to use, that the tank provides a level of protection equivalent to that required by Section 13.5.030, if the tank was installed after June 30, 1984, or protection equivalent to that provided by Section 13.5.050, if the tank was installed on or before June 30, 1984.

(2) Tanks which are located on a farm and store motor vehicle fuel which is used only to propel vehicles used primarily for agricultural purposes.

(3) Tanks used for aviation or motor vehicle fuel located within one mile of a farm and the tank is used by a licensed pest control operator, as defined in Section 11705 of the Food and Agricultural Code of the State of California, who is primarily involved in agricultural pest control activities.

(4) Structures such as sumps, separators, storm drains, catch basins, oil field gathering lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation pumps, lined and unlined pits, sumps and lagoons. Sumps which are a part of a monitoring system required under Section 13.5.030 or Section 13.5.040 are not exempted by this section.

Special inspectors means a professional engineer, registered pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code of the State of California, who is qualified to attest, at a minimum, to structural soundness, seismic safety, the compatibility of construction materials with contents, cathodic protection, and the mechanical compatibility of the structural elements.

Owner means the owner of an underground storage tank.

Operator means the operator of an underground storage tank.

Pipe means any pipeline or system of pipelines which is used in connection with the storage of hazardous substances and which are not intended to transport hazardous substances in interstate or intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.
Section 13.5.030. Design Standards and Monitoring Systems

For New Facilities.

No underground storage tank or facility shall be installed after January 1, 1984, unless a Permit To Operate is first obtained from the Permitting Authority. A Permit To Operate shall not be issued for any underground storage tank or facility installed after January 1, 1984, unless the underground storage tank or facility meets the following requirements:

(a) Be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in them in accordance with the following performance standards:

(1) Primary containment shall be product-tight.

(2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing, for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(5) If the facility is open to rainfall, then the secondary containment must be able to additionally accommodate the volume of a 24-hour rainfall as determined by a 100-year storm history.

(6) Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment.

(7) The design and construction of underground storage tanks for motor vehicle fuels storage need not meet the requirements of paragraphs (1) to (6), inclusive, if the primary containment construction of glass fibre, reinforced plastic, cathodically protected steel, or steel clad with glass fibre reinforced plastic, any such alternative primary containment is installed in conjunction with a system that will intercept and direct a leak from any part of
the tank to a monitoring well to detect any release of motor vehicle
fuels stored in the tank and which is designed to provide early leak
detection, response, and to protect groundwater from releases, and
if the monitoring is in accordance with the alternative method
identified in paragraph (3) of subdivision (b) of Section 13.5.040.
Pressurized piping systems connected to underground storage tanks
used for the storage of motor vehicle fuels and monitored in accord-
ance with paragraph (3) of subdivision (b) of Section 13.5.040 shall
also be deemed to meet the requirements of this subdivision.

(b) Be designed and constructed with a monitoring system
capable of detecting the entry of the hazardous material stored in
the primary containment into the secondary containment. If water
could intrude into the secondary containment, a means of monitoring
for water intrusion and for safely removing the water shall also be
provided.

(c) When required by the Permitting Authority, a means of
overfill protection for any primary tank, including an overfill
prevention device or an attention-getting high level alarm, or both.
Primary tank filling operations of underground storage tanks con-
taining motor vehicle fuels which are visually monitored and con-
trolled by a facility operator satisfy the requirements of this
paragraph.

(d) Different substances that in combination may cause a fire
or explosion, or the production of flammable, toxic, or poisonous
gas, or the deterioration of a primary and secondary containment so
as to avoid potential intermixing.

(e) If water could enter into the secondary containment by
precipitation or infiltration, the facility shall contain a means of
removing the water by the owner or operator. This removal system
shall also provide for a means of analyzing the removed water for
hazardous substance contamination and a means of disposing of the
water, if so contaminated, at an authorized disposal facility.

Section 13.5.040. Monitoring Systems for Existing Facilities.
No underground storage tank or facility installed on or before
January 1, 1984, and used for the storage of hazardous substances
shall continue to operate unless a Permit To Operate is obtained by
January 1, 1985. No Permit To Operate such tank or facility shall be issued or remain valid unless the following actions are taken:

(a) On or before January 1, 1985, the owner shall outfit the facility with a monitoring system capable of detecting unauthorized releases of any hazardous substances stored in the facility, and thereafter, the operator shall monitor each facility, based on materials stored and the type of monitoring installed.

(b) On or before January 1, 1985, the owner shall provide a means for visual inspection of the tank, wherever practical, for the purpose of monitoring required by subdivision (a). Alternative methods of monitoring the tank on a monthly, or more frequent basis, may be required by the Permitting Authority.

The alternative monitoring methods include, but are not limited to, the following methods:

(1) Pressure testing, vacuum testing or hydrostatic testing of the piping systems or underground storage tanks.

(2) A groundwater monitoring well or wells which are down gradient and adjacent to the underground storage tank, vapor analysis within a well where appropriate, and analysis of soil borings at the time of initial installation of the well. The Permitting Authority shall develop regulations specifying monitoring alternatives and shall approve the location and number of wells, the depth of wells and the sampling frequency, pursuant to these regulations.

(3) For monitoring tanks containing motor vehicle fuels, daily gauging and inventory reconciliation by the operator, if inventory records are kept on file for one year and are reviewed quarterly the tank is tested for tightness hydrostatically or, when appropriate with pressure between three and five pounds, inclusive, per square inch at time intervals specified by the State Water Resources Control Board and whenever any pressurized system has a leak detection device for tightness hydrostatically or where appropriate, with pressure between three and five pounds, inclusive, per square inch whenever there is a shortage greater than the amount specified by the State Water Resources Control Board.

Section 13.5.045, Abandonment.

(a) No person shall abandon an underground storage tank or
close or temporarily cease operating an underground storage tank except as provided in this Section.

(b) An underground storage tank which is temporarily taken out of service, but which the operator intends to return to use, shall continue to be subject to all the permit, inspection, and monitoring requirements of this Chapter, unless the operator complies with the provisions of subdivision (c) for the period of time the underground tank is not in use.

(c) No person shall close an underground storage tank unless the person undertakes all of the following actions:

(1) Demonstrates to the Permitting Authority that all residual amounts of the hazardous substance or hazardous substances which were stored in the tank prior to its closure have been removed, properly disposed of, and neutralized.

(2) Adequately seals the tank to minimize any threat to the public safety and the possibility of water intrusion into, or runoff from, the tank.

(3) Provides for, and carries out, the maintenance of the tank as Permitting Authority determines is necessary, for the period of time the Permitting Authority requires.

(4) Demonstrates to the Permitting Authority that there has been no significant soil contamination resulting from a discharge in the area surrounding the underground storage tank or facility.

Section 13.5.050. Permit Required.

(a) No person shall operate a facility for the underground storage of any hazardous substance within Solano County, unless by authority of a valid, unexpired and unrevoked Permit To Operate issued to the owner pursuant to the provisions of Section 13.5.030, or 13.5.040.

(b) A person shall be deemed to operate a facility and violate this Section if the person, without a required Permit To Operate in effect, supervises, inspects, directs, organizes, manages or controls or is in any way responsible for or in charge of the facility for which the permit is required.

(c) This Section does not obviate the requirements to obtain
valid Permits pursuant to Titles 13 and 28 of this Code, or compliance with other applicable ordinances, including, but not limited to, the Solano County Zoning Code.

Section 13.5.060. Application Filing.

All applications for a Permit To Operate shall be filed in the office of Environmental Health.

Section 13.5.070. Application Contents.

The application for a Permit To Operate shall be filed on a form and contain such information as is prescribed by the Permitting Authority, including the following:

(a) A description of the construction of the underground storage tank or tanks.

(b) A list of all the hazardous substances which are or will be stored in the underground storage tank or tanks, specifying the hazardous substances for each underground storage tank.

(c) A description of the monitoring program for the underground storage tank or tanks.

(d) The name and address of the person, firm, or corporation which owns the underground storage tank or tanks and, if different, the name and address of the person who operates the underground storage tank or tanks.

(e) The address of the facility at which the underground storage tank or tanks are located.

(f) The name of the person making the application.

(g) The name and 24-hour phone number of the contact person in the event of an emergency involving the facility.

(h) If the owner or operator of the underground storage tank is a public agency, the application shall include the name of the supervisor of the division, section, or office which operates the tank.

(i) Such other further information as is deemed necessary to administer the provisions of this Chapter.

Section 13.5.080. Issuance.

The Permitting Authority shall act upon the application not later than 90 days after the date it is accepted as complete unless the applicant has filed with the Permitting Authority 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 prepare or present plans or other information, obtain zoning variances or other permits, or make other corrections remedying inconsistencies with the provisions of this Chapter; or 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.

Section 13.5.090. Term.

The term of the permit to operate shall be five years, at which time the permittee may apply for renewal pursuant to Section 13.5.080.

Section 13.5.100. Contents of Permit.

(a) The Permit To Operate shall contain a complete description of the enterprise for which it is issued, the date of issuance and date of expiration, and a description of any and all conditions upon which the permit has been issued. A copy of the permit shall be kept on the premises and shall be made available to the Permitting Authority upon demand.

(b) As a condition of any Permit To Operate an underground storage tank, the permittee shall complete an annual report form prepared by the Permitting Authority, which will detail any changes in the usage of any underground storage tanks, including the storage of new hazardous substances, changes in monitoring procedure and unauthorized release occurrences.

Section 13.5.105. Monitoring.

The operator of the underground storage facility shall monitor the facility using the method specified in the permit for the facility. Records shall be kept in sufficient detail to enable the Permitting Authority to determine that the operator has undertaken all monitoring activities required by the Permit To Operate.

If the operator is not the owner, the owner shall provide a copy of the permit to operator, enter into a written contract with the operator which requires the operator to monitor the tank as set forth in the permit, and provide the operator with a copy of Section 13.5.130, or a summary of this section, in the form which the Permitting Authority specifies by regulation. The owner shall notify
the Permitting Authority of any change of operator.

Section 13.5.110. Fees.

The Board may, by resolution and from time to time, prescribe fees for the issuance and renewal of a Permit To Operate and fees for the filing of appeals relating to demand of such permits or the revocation for the filing of appeals relating to demand of such permits or the revocation thereof. The amount of such fees will be provided by resolution of the Board.

Section 13.5.120. Transferability.

(a) Except as provided in subdivision (b), no person shall operate an underground storage tank unless a Permit To Operate has been issued. Any person who is to assume the ownership of an underground storage tank from the previous owner shall complete the form accepting the obligations of the permit and submit the completed form to the Permitting Authority at least 30 days after the ownership of the underground storage tank is to be transferred. The Permitting Authority may review and modify, or terminate the transfer of the Permit To Operate the underground storage tank upon receiving the completed form.

(b) Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid Permit To Operate has been issued shall have 30 days after the date of assumption of ownership to apply for a Permit To Operate or, if accepting a transferred permit, shall submit to the Permitting Authority the completed form accepting the obligation of the transferred permit, as specified in subdivision (a). During the period from the date of application until the permit is issued or refused, the person shall not be held to be in violation of this Section.

Section 13.5.130. Violations.

(a) Notwithstanding the provisions of Section 1 - 7, a violation of any of the provisions of this Chapter or failure to comply with any of the regulatory requirements of this Chapter is an infraction subject to the procedures described in Sections 19(c) and 19(d) of the California Penal Code, and punishable by (1) a fine not exceeding $50 for a first violation; (2) a fine not exceeding $100 for a second violation; (3) a fine not exceeding $250 for each additional
violation of the same ordinance provision within one year.

(b) Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued, or permitted by any such person, and shall be punished accordingly.

Section 13.5.140. Inspections.

(a) The Permitting Authority shall inspect every underground storage tank or facility at least once every three years. The purpose of the inspection is to determine whether the tank or facility complies with the design and construction standards of this Chapter, whether the operator has monitored and tested the tank as required by the permit, and whether the tank is in a safe operating condition. After an inspection, the Permitting Authority shall prepare a compliance report detailing the inspection and shall send a copy of this report to the permitholder.

(b) In addition to, or instead of, the inspections specified in subdivision (a), the Permitting Authority may require the permitholder to employ, periodically, special inspectors to conduct an audit or assessment of the permitholder's facility to determine whether the facility complies with the factors specified in subdivision (a) and to prepare a special inspection report with recommendations concerning the safe storage of hazardous materials at the facility. The report shall contain recommendations consistent with the provisions of this Chapter, where appropriate. A copy of the report shall be filed with the Permitting Authority at the same time the inspector submits the report to the permitholder. Within 30 days after receiving this report, the permitholder shall file with the Permitting Authority a plan to implement all recommendations contained in the report or shall demonstrate, to the satisfaction of the Permitting Authority, why these recommendations should not be implemented.

(c) In order to carry out the purposes of this Chapter, any duly authorized representative of the Permitting Authority has the authority to inspect any place where underground storage tanks are located or to inspect real property which is within 2,000 feet of any place where underground storage tanks are located.
Section 13.5.150. Unauthorized Release.
(a) Any unauthorized release from the primary containment which the operator is able to clean up within eight hours and which does not escape from the secondary containment, does not increase the hazard of fire or explosion, and does not cause any deterioration of the secondary containment of the underground storage tank, shall be recorded on the operator's monitoring reports.

(b) Any unauthorized release which escapes from the secondary containment, increases the hazard of fire or explosion, or causes any deterioration of the secondary containment of the underground tank, shall be reported by the operator to the Permitting Authority within 24 hours after the release has been detected or should have been detected. A full written report shall be transmitted by the owner or operator of the underground storage tanks within five working days of the occurrence of the release.

The Permitting Authority shall review the permit whenever there has been an unauthorized release or when it determines that the underground storage tank is unsafe. In determining whether to modify or terminate the permit, the Permitting Authority shall consider the age of the tank, the methods of containment, the methods of monitoring, the feasibility of any required repairs, the concentration of the hazardous substances stored in the tank, the severity of potential unauthorized releases, and the suitability of any other long-term preventive measures which would meet the requirements of this Chapter.

Section 13.5.155. Repairs.
Any physical modification, including replacement, of an underground storage tank or facility, shall be undertaken in compliance with applicable codes as specified in part (c) of Section 13.5.050.

Section 13.5.160. Hearing Authority.
Whenever the terms "Hearing Authority" are utilized in this title, they shall be deemed to refer to one or more persons assigned the responsibility of conducting a hearing by the County Administrator. The County Administrator shall be authorized to assign hearing responsibilities from time to time to either:

(a) County management personnel whom the County Administrator
found are qualified by training and experience to conduct such hearings;

(b) Any person or persons qualified by training or experience who the County Administrator may employ or who are retained by contract to conduct such hearings; or

(c) Administrative law judges assigned to the State of California Office of Administrative Hearings.

The County Administrator is hereby authorized to contract in the name of the County for the retention of hearing services at rates which do not exceed financial limitations established by the County's annual budget.

Section 13.5.170. Appeals.

Any decision of the Permitting Authority may be appealed to the Hearing Authority.

Any such appeal shall be in writing, shall state the specific reasons therefor, and grounds asserted for relief, and shall be filed with the Director of Environmental Health not later than 15 days after the date of service. If an appeal is not filed within the time or in the manner prescribed above, the right to review of the action against which complaint is made shall be deemed to have been waived.

Section 13.5.180. Appeal Hearing.

Not later than 30 days, or longer if a notice of continuance is mailed to the appellant, following the date of filing an appeal within the time and in the manner prescribed by Section 13.5.170, the Hearing Authority shall conduct a hearing for the purpose of determining whether the appeal should be granted. Written notice of the time, date and place of hearing shall be mailed to the appellant not later than 10 days preceding the date of the hearing.

During the hearing, the burden of proof shall rest with the appellant. The provisions of the California Administrative Procedure Act (commencing at Section 11500 of the Government Code) shall not be applicable to such hearings; nor shall formal rules of evidence in civil or criminal judicial proceedings be so applicable. At the conclusion of the hearing, the Hearing Authority shall prepare a written decision which either grants or conditionally grants or denies the appeal, and contains findings of fact and conclusions.
Notice of the written decision, including a copy thereof, shall be filed with the Director of Environmental Health, and mailed to the appellant not later than seven days following the date on which the hearing is closed.

Section 13.5.190. Finality of Determination.

The decision by the Hearing Authority shall become final upon the date of filing and mailing.

Section 13.5.200. Ground for Revocation.

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 part (b) of Section 13.5.150;

(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.


The Permitting Authority may revoke a Permit To Operate by issuing a written notice of revocation, stating the reasons therefor, and serving same, together with a copy of the provisions of this Chapter, upon the holder of the permit. The revocation shall become effective 15 days after the date of service, unless the holder of the license files an appeal within the time and in accordance with the provisions of Section 13.5.170. If such an appeal is filed, the revocation shall not become effective until a final decision on the appeal is issued.

Section 13.5.215. Administration.

Except as otherwise provided, the Director of the Environmental Health is charged with the responsibility of administering this Chapter, and shall be authorized from time to time 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.

SECTION II.

This Ordinance shall be published once before the expiration of FIFTEEN (15) DAYS after its final passage in the Vallejo
Times, a newspaper of general circulation, printed and published in the County of Solano, State of California, and shall be in full force and effect THIRTY (30) DAYS after its passage.

OSBY DAVIS, Chairman
Board of Supervisors

ATTEST:

LINDA L. TERRA, Clerk to
the Board of Supervisors

I, LINDA L. TERRA, Clerk of the Board of Supervisors of the County of Solano, State of California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting held December 13, 1983.

On motion of Supervisor Hewitt, Seconded by Supervisor Pippo, this Ordinance was adopted at a regular meeting of said Board on December 20, 1983, by the following vote:

AYES: SUPERVISORS: BRANN, CUNNINGHAM, HEWITT, PIPPO, and CHAIRMAN DAVIS

NOES: SUPERVISORS: NONE

ABSTAINED: SUPERVISORS: NONE

ABSENT: SUPERVISORS: NONE

WITNESS my hand and the Seal of said Board this 20th day of December, 1983.

LINDA L. TERRA, Clerk to the Board of Supervisors