

TITLE 9

DIVISION 11: UNDERGROUND TANK SUBSTANCE STORAGE

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CHAPTER 1: TITLE, PURPOSE & DEFINITIONS

§ 91101.00	TITLE UNDERGROUND (TANK) SUBSTANCE STORAGE REGULATIONS
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§ 91101.00 TITLE, UNDERGROUND (TANK) SUBSTANCE STORAGE REGULATIONS

This Division (Title 9, Division 11 inclusive) shall be known and may be referred to in all proceedings, actions, and transactions as the "UNDERGROUND (TANK) SUBSTANCE STORAGE REGULATIONS", (UST).

§ 91101.01 PURPOSE

The County of Imperial has experienced problems with leakage from underground storage tanks. In order to better protect the health and safety of the citizens of Imperial County from the potentially disastrous affects of such spills and/or the undetected leakage from underground storage tanks, the provisions of this Division shall be liberally construed and applied uniformly throughout the County of Imperial both incorporated and unincorporated.

§ 91101.02 DEFINITION(S)

In addition to the definitions specified in this Division, and Title 9, Division 14, the definitions contained in California Code of Regulations, Title 23, Chapter 3 Subchapter 16 (CCR) 23-16 are hereby incorporated by reference and are as applicable as specified herein.

Words and/or phrases not specifically defined herein or by reference are to have the meanings as defined in Webster's Dictionary, (latest edition).

§ 91101.03 APPLICABILITY

Provisions and conditions of this Title shall apply to all lots, parcels, structures, and use(s) of land or bodies of water created, utilized, established, altered, or improved by any person, firm, corporation, or organization; by the United States or any of its agencies; by the State of California or any of its agencies or political subdivisions; by any of its agencies or political subdivisions; by any County or City; by any authority or public entity organized under the laws of the State of California, or the Federal Government.

§ 91101.04 REFERENCE TO STATE LAW

In addition to the regulations, provisions, conditions or procedures specified herein, any owner, installer or operator shall also be required to comply with California Code of Regulations (CCR) Title 23, Chapter 3 Subchapter 16.

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CHAPTER 2: GENERAL PROVISIONS

§ 91102.00	ASSUMPTION OF RESPONSIBILITY
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§ 91102.00 ASSUMPTION OF RESPONSIBILITY

Pursuant to Health and Safety Code Section 25282, the County of Imperial hereby assumes responsibility for implementation and enforcement of Health and Safety Code, Chapter 6.7 (Sections 25280 through 25299.6) "Underground Storage of Hazardous Substances" together with rules and regulations issued by the State Department of Health Services and promulgated as California Code of Regulations (CCR) Title 23, Chapter 3 Subchapter 16.

§ 91102.01 ENFORCEMENT RESPONSIBILITY

The County of Imperial shall be the enforcement agency for the incorporated and the unincorporated areas of Imperial County. The authority designated as the responsible agency for the enforcement of this Division shall be the Planning & Development Services Department (Planning Director) serving as "lead agency" in conjunction with the Director of Environmental Health Services (EHS) and the Fire Chief of the jurisdiction wherein the system is located, subject to the following:

- A. The duties of the Planning Director shall include, but are not limited to, directing, administering, and enforcing all provisions of this Ordinance and California Code of Regulations (CCR) Title 23, Chapter 3, Subchapter 16 as they pertain to the installation, alteration, repair, permitting, monitoring and abatement of underground facilities. The Planning Director shall act as the central coordinator for permitting and enforcement including reporting to State and other agencies as required. Upon locating any system that is leaking, the Planning Director shall immediately notify both the Director of EHS and the Fire Chief.
- B. The duties of the Director of EHS shall include, but are not limited to, the directing and enforcement of all provisions of this Ordinance as they pertain to public health; including the disposal of contaminated materials, etc. It shall be the responsibility of the Director of EHS to determine whether or not a public health hazard exists.
- C. The duties of the Designated Fire Chief will include, but are not limited to, the directing or enforcement of all provisions of this Ordinance; as they pertain to fire and emergency services.

§ 91102.02 RIGHT OF ENTRY

Personnel of the Planning & Development Services Department assigned to administer this Division shall have the right of entry during regular business hours in the performance of their duties.

§ **91102.03 APPEALS BOARD**

There is hereby created a Board of Appeals for the Underground Tank Monitoring Program consisting of seven members which shall be qualified in accordance with the following: Three (3) underground owner/operators actively involved in owning and/or operating underground tanks or systems; two (2) laymen; one (1) engineer or architect; and one (1) accountant/CPA. These members shall be appointed by the Board of Supervisors. Of the members so appointed, all will be appointed for a term of four years. The Building Official or his designee shall act as Secretary to this Board of Appeals. The Secretary shall maintain or cause to be maintained minutes of the meetings and shall record all proceedings before said Board of Appeals by mechanical means. This Board of Appeals may from time to time make written recommendations to the Board of Supervisors as to changes or additions relating to the suitability of the ordinance and/or procedures.

§ **91102.04 APPEALS**

Any person aggrieved by the decision of the Building Official as to a matter within the purview of this Division shall have the right to appeal such decision to the Board of Appeals in accordance with rules and regulations relating to appeal procedures adopted by said Board of Appeals and approved by the Board of Supervisors.

An appeal may be made by filing an application therefore, with the Building Official. Such application must be accompanied by a filing fee as specified in Division 9, of One Hundred Dollars (\$100.00).

§ **91102.05 APPEALS TO THE BOARD OF SUPERVISORS**

The decision of the Board of Appeals on any appeal shall be final, unless within ten (10) days after said decision, a written appeal to the Board of Supervisors is filed by the applicant with the Clerk of the Board. Said appeal shall state the reason(s) upon which the appeal is made. The appeal shall be accompanied by a filing fee of One Hundred Dollars (\$100.00). Said appeal shall be heard at a scheduled public hearing by the Board of Supervisors following the date of the filing of said appeal. Notice of the time and place of said hearing shall be given to the applicant by mailing such notice to him, postage prepaid, at his last known address at least five (5) days prior to the date set for such hearing. A copy of said notice shall also be sent to the Building Official and to all members of the Board of Appeals. The Board of Supervisors shall not consider any appeal until the appeal has first been considered by the Building Board of Appeals, and said Appeals Board has rendered a decision and filed a written report with the Board of Supervisors.

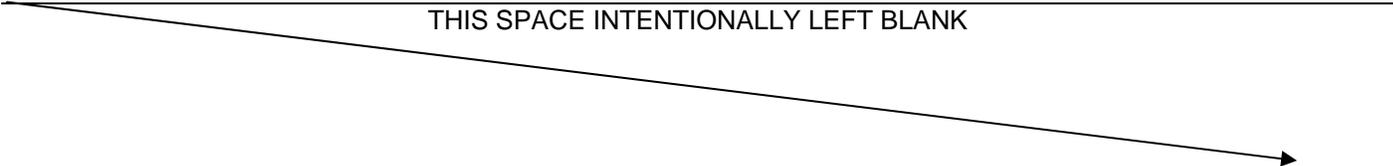
§ **91102.06 STATE SURCHARGE FEES**

State Surcharge Fees shall be as established by the State Legislature. These fees shall be collected by the County and forwarded to the State of California Water Resources Control Board. These fees shall be billed separately from the Permit to Operate Fees.

§ **91102.07 REFUNDS**

Refunds of County Permit Fees to owner/operator shall be authorized by the Building Officials providing the owner/operator has filed a written request for a refund stating the reason for the refund request. The amount to be refunded shall be determined by the Building Official. No refund shall be allowed for a fiscal year wherein the monitoring has already been completed.

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TITLE 9

DIVISION 11: UNDERGROUND SUBSTANCE STORAGE

CHAPTER 3: PERMITS, FEES AND STANDARDS.

§ 91103.00	PERMITS REQUIRED
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§ 91103.02	APPLICATION FOR PERMIT
§ 91103.03	TERM OF PERMIT
§ 91103.04	TRANSFER OF PERMIT
§ 91103.05	RENEWAL OF PERMIT
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§ 91103.08	STANDARDS
§ 91103.09	ABANDONED TANKS
§ 91103.10	TANK REMOVAL
§ 91103.11	COMPLIANCE WITH OTHER REGULATIONS
§ 91103.12	SPECIAL INSTALLATION PROCEDURES
§ 91103.13	FEES

§ 91103.00 PERMITS REQUIRED

No person shall own, operate, or use, any underground storage tank or system unless a permit has been issued to the owner or operator by the Planning & Development Services Department:

- A. At the time the installation of said system.
- B. Within ten days of final installation inspection on new installations.
- C. Within sixty days of the effective date of this Ordinance for existing installations.

§ 91103.01 ISSUANCE OF PERMITS

All permits issued pursuant to this Division shall be issued by the Planning & Development Services Department, as said Department deems appropriate.

§ 91103.02 APPLICATIONS FOR PERMIT

All applications for permits provided herein shall be upon forms and in the format as required by the Planning & Development Services Department.

§ 91103.03 TERM OF PERMIT

Permits issued pursuant to this Division shall be effective for a minimum of five (5) years. If the owner operator has selected the annual monitoring payment schedule, this permit shall become null and void unless the annual monitoring fee is received by the Department prior to the annual expiration date.

§ 91103.04 TRANSFER OF PERMIT

Permits issued pursuant to this Division may be transferred to a new owner only after said person completes and submits the necessary applications accepting the obligations of the permit and receives Planning & Development Services Department approval.

Said application and approval shall be obtained within thirty (30) days after a change of ownership.

§ 91103.05 RENEWAL OF PERMIT

All permits issued pursuant to this Division shall be renewed at least sixty (60) days prior to the expiration of the existing permit.

§ 91103.06 REVOCATION OF PERMIT

The Planning & Development Services Department may revoke any permit issued pursuant to this Division, upon any of the following:

- A. Owner is in violation of the terms and conditions of the permit, state law, the Codified Ordinances of the County of Imperial or the operating standards.
- B. Owner prohibits monitoring of the site by personnel of the Planning & Development Services Department.
- C. Owner continues to operate an unsafe or leaking system.
- D. Permit to operate has been transferred or altered without the approval of the Planning & Development Services Department.
- E. The annual monitoring fee for the system is not received by the Division prior to the annual expiration date.

The owner/operator shall have three (3) working days following receipt of a written notice of intent to revoke to correct any and all violations.

§ 91103.07 SPECIAL CONDITIONS

The administrative authority being the Planning Director may, upon specific findings supported by research, testing, etc., consider alternative installation standards, or monitoring procedures, provided they are in compliance with the intent of this Ordinance and California Code of Regulations (CCR) Title 23, Chapter 3, Subchapter 16.

§ 91103.08 STANDARDS

The standards and procedures shall be the conditions found in this Division, of the Codified Ordinance of the County of Imperial, Health and Safety Code Chapter 6.7 and the Rules and Regulations set forth in California Code of Regulations (CCR), Title 23, Chapter 3, Subchapter 16.

§ 91103.09 ABANDONED TANKS

An owner shall secure any temporarily or permanently closed facility in compliance with Section 2670, 2671, 2672 of the California Code of Regulations (CCR) Title 23, Chapter 3, Subchapter 16 and to the satisfaction of the Planning/Building Department.

Any abandoned or closed system that the Planning & Development Services Department or the EHS Division determines is a health or safety hazard shall be removed at the direction of the Planning & Development Services Department, and at the cost of the property owner.

§ 91103.10 TANK REMOVAL

Underground storage tanks shall be removed under the supervision of and by permit issued by the Imperial County Planning & Development Services Department. Soil removed during the excavation shall be tested by

a certified lab for contamination and results shall be interpreted by the Environmental Health Services Department, the soil shall be disposed of at a Class I, Class II or Class III disposal site, or under limited conditions be allowed as backfill into the excavation mixing operation. The Imperial County Building Department shall cause recordation of a document with the Imperial County Recorder's office indicating the disposition of this soil.

§ 91103.11 COMPLIANCE WITH OTHER REGULATIONS

Individuals or organizations using or intending to use underground storage tanks shall comply with the provisions of Article 79 of the 1988 Uniform Fire Code, relating to flammable and combustible liquids, as adopted by the County of Imperial pursuant to the provisions of Chapter 4 of Division 3 of Title 5 of the Codified Ordinances of the County of Imperial, and California Code of Regulations (CCR) Title 23, Chapter 3, Subchapter 16.

§ 91103.12 SPECIAL INSTALLATION PROCEDURES

Individuals or organizations intending to install and/or operate underground storage tanks shall comply with the special installation and inspection requirements, contained in this Division, in addition to requirements contained in Article 79 of the 1988 Uniform Fire Code and the California Code of Regulations (CCR) Title 23, Chapter 3, Subchapter 16.

- A. Prior to a fuel or hazardous substance tank being installed in the ground, it must be approved by the County Fire Chief and the County's Building Official, or their designees, while on-site and immediately prior to installation. This approval will require verification of the required coatings, approval tags and serial numbers, and a complete visual inspection of the surface and/or surface coatings of the tank.
- B. The installation of the tanks and back-filling around the tank shall be completed in the presence of an on-site inspector.
- C. Pressure checks of the tank and the piping system shall be performed precisely as outlined in the Uniform Fire Code.
- D. The corrosion protective wrapping of all metallic parts requiring this type of protection shall be done in the presence of an on-site inspector.
- E. Back-filling material shall be clean sand or "pea" gravel no larger than 1/4" diameter. Materials excavated from the subject sites shall not be used for backfilling.
- F. The location of all lines and/or tanks shall be "staked" by the installation contractor upon completion of all filling to provide all contractors sufficient guidance to avoid potential damage to the system due to the impact to heavy equipment, the driving of stakes, or similar occurrence.
- G. All underground storage facilities shall, in addition to the provisions contained herein, comply with Division 11, Title 9 of the Codified Ordinances of Imperial County.

§ 91103.13 FEES

In addition to any fees established by State or Federal law, the fee schedule contained in Division 9, Chapter 3 shall be required for this Division.

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CHAPTER 4: PENALTIES

§ 91104.00	PENALTIES
§ 91104.01	MISDEMEANOR PENALTIES
§ 91104.02	EFFECTIVE DATE
§ 91104.03	CITATIONS

§ 91104.00 PENALTIES

Notwithstanding any other provisions of law or ordinance establishing criminal or civil penalties the following shall apply:

- A. Failure to secure a permit to operate within ten (10) days of final installation inspection of a new system shall result in an increase of the permit fee by \$100.00 per system.
- B. Failure to secure a permit to operate an existing facility within 30 days but prior to sixty (60) days of the effective date of this Ordinance, and/or final inspection of a new system shall increase the permit fee by \$200.00 per tank.
- C. Failure to secure a permit to operate an existing facility within sixty (60) days of the effective date of this Ordinance, and/or final inspection of a new system shall increase the permit fee by \$400.00 per tank.
- D. Failure to renew an existing permit within 60 days prior to its expiration date shall increase the permit fee to \$100.00 per system.
- E. Failure to notify the Division of any leak shall result in a \$500.00 per day fee and payment at any and all County costs related to the detection and abatement of said leak. In addition to the \$500.00 per day penalty said fee shall commence at the time of detection of the leak and shall continue until the abatement of the leak. For purposes of this Section a day shall be any 24- hour period.
- F. Failure to complete necessary applications or receive Building Inspection Division approval of a permit to transfer within 30 days of a change of ownership shall increase the permit by \$100.00 per tank.
- G. Any state-mandated penalty shall be in addition to those set forth here and above.
- H. Failure of the owner/operator to submit the annual monitoring fee to the Division prior to the annual expiration date shall increase the annual monitoring fee for that calendar year by \$50.00 per system.

§ 91104.01 MISDEMEANOR PENALTIES

Any person, firm or corporation violating any provision of division shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not exceeding Five Hundred Dollars or by imprisonment in County Jail for not to exceed six months or both fine and imprisonment. Each separate day or portion thereof during which any violation of this Code occurs or continues shall constitute a separate offense and upon conviction thereof shall be punishable as herein provided.

§ 91104.02 EFFECTIVE DATE

Registration and permit to operate procedure shall become effective upon the effective date of this Ordinance.

§ 91104.03 CITATIONS

The Building Official or his designee(s) having the authority by Division 13 to issue citations, against any person, firm or corporation that is in violation of any provision of this ordinance and/or any section, article, or regulation of the adopted codes, may issue a citation to effect compliance with all applicable laws, ordinances, and/or regulations.

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