

<b>Topic:</b>	Aquifer Protection
<b>Resource Type:</b>	Regulations
<b>State:</b>	Washington
<b>Jurisdiction Type:</b>	Municipal
<b>Municipality:</b>	City of Tacoma
<b>Year (adopted, written, etc.):</b>	1988
<b>Community Type – applicable to:</b>	Urban; Suburban
<b>Title:</b>	South Tacoma Groundwater Protection District
<b>Document Last Updated in Database:</b>	July 21, 2015

### ***Abstract***

Tacoma established the South Tacoma Groundwater Protection District in order “to prevent the degradation of groundwater in the South Tacoma aquifer system by controlling the use and handling of hazardous substances.” Permits are required for all activities that use hazardous substances and applicants must have “demonstrated that said facility complies with all provisions of this chapter and the standards set forth in the General Guidance and Performance Standards.”

### ***Resource***

#### **Chapter 13.09**

#### **SOUTH TACOMA GROUNDWATER PROTECTION DISTRICT**

##### **13.09.010 Background, purpose, and intent.**

The South Tacoma groundwater aquifer system serves as a significant source of drinking water for the City of Tacoma. It supplies as much as 40 percent of the City’s total water demand during periods of peak summer usage. As future growth and development occur, this resource will become increasingly important.

It has been found and determined that a major cause of groundwater contamination in the South Tacoma aquifer system is from accidental or improper release of hazardous substances from spillage, leaks, or discharges. Due to the large number of potential sources of toxic and hazardous material within the area which recharges the aquifer system and the possibility of further contamination, the City of Tacoma finds that it is necessary and in the public interest to establish the South Tacoma Groundwater Protection District.

The South Tacoma Groundwater Protection District is an overlay land use control district specifically designed to prevent the degradation of groundwater in the South Tacoma aquifer system by controlling the use and handling of hazardous substances. The overlay district imposes additional restrictions on development in order to protect public health and safety by preserving and maintaining the existing groundwater supply for current and potential

users and to protect the City of Tacoma from costs which might be incurred if unsuitable development were to reduce either the quality or quantity of this important public water supply source.

The intent of this overlay district is to provide supplemental development regulations in the area so designated to permanently protect this supplemental source of Tacoma's water supply from additional long-term contamination originating from surface land use activities. Due to the exceptional vulnerability and sensitivity of the aquifer system resource to contamination, it is the intent and purpose of this chapter to safeguard groundwater resources in the aquifer system from hazardous substance pollution by controlling or abating pollution from existing commercial and industrial sources and by preventing future pollution from new or different land uses or activities.

It is further the intent of this chapter to establish orderly procedures which will ensure that newly constructed storage facilities for hazardous substances meet appropriate performance standards, and that existing storage facilities are properly maintained, inspected, and tested. (Ord. 24083 § 1; passed May 10, 1988)

#### **13.09.020 Declaration of policy.**

In order that the City of Tacoma might maintain its groundwater resources within the South Tacoma Channel as near as reasonably possible to their natural condition of purity, it is the policy of the City of Tacoma to establish strict performance standards which will reduce or eliminate threats to this resource from improper storage, handling, and disposal of hazardous substances at business locations and developments. Also, the City of Tacoma shall require use of all practical methods and procedures for protecting groundwater which do not discourage appropriate commercial and industrial uses from locating and conducting business within the South Tacoma Channel area. (Ord. 24083 § 1; passed May 10, 1988)

#### **13.09.030 Scope and applicability.**

A. The mandates of this chapter shall apply to new, substantially modified, and existing developments and facilities as defined herein. When determined appropriate by the Health Department, an existing facility shall comply with the inspecting, monitoring, and testing requirements set forth in Section 13.09.100 of this chapter.

B. All property within the district defined herein shall be subject to the restrictions set forth herein, as well as the bulk, use, setback, and other controls of the zoning district in which it is presently located, and owners of property shall comply with the mandates of this chapter in addition to the zoning requirements of the district in which such property is presently or may later be located. In the event of conflict with the regulations of the underlying zoning district and the mandates of this chapter, the provisions of this chapter shall control. (Ord. 24083 § 1; passed May 10, 1988)

#### **13.09.040 Definitions.**

For the purpose of this chapter, certain words and terms are defined as follows:

A. "Abandon" means to discontinue use of an underground tank pursuant to agreed conditions of final or partial closure. Underground tanks can only be abandoned if they have

been completely decontaminated and removed from the ground.

B. "Aquifer" means a saturated geologic formation which will yield a sufficient quantity of water to serve as a private or public water supply.

C. "Contamination" means the degradation of any component of the environment by a release of hazardous substance in sufficient quantity to impair its usefulness as a resource.

D. "Closure" means to cease a facility's operations related to hazardous substances by complying with the approved facility closure plan and all closure requirements.

E. "Environment" means the sum of all physical, biological, and chemical conditions inherent to any particular locality. These conditions directly influence all life, and include, but are not limited to, such parameters as soil, air, and water.

F. "Facility" means all structures, contiguous land, appurtenances, and other improvements on the land used for recycling, reusing, reclaiming, transferring, storing, treating, disposing, or otherwise handling a hazardous substance (HS) which is not specifically excluded by the exemptions contained in Section 13.09.080. Use of the term "facility" includes underground and aboveground tanks, and operations which handle, use, dispose of, or store hazardous substances.

G. "Groundwater" means all water found beneath the ground surface. The slowly moving subsurface water present in aquifers and recharge areas.

H. "Development" means the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or structure; any use or change in use of any building or land; any extension of any use of land, or any clearing, grading, or other movement of land for which permission may be required pursuant to this chapter.

I. "Hazardous substance(s)" means any material, either singularly or in combination, which may pose a present or potential hazard to human health or to the quality of the drinking water supply in the South Tacoma aquifer system when improperly used, stored, transported, or disposed of or otherwise mismanaged, including without exception those materials identified as hazardous waste in 40 CFR 261 or defined as a hazardous substance in 40 CFR 302, RCW 173-303, Chapter 12.08 of the Official Code of the City of Tacoma, and those set forth in the General Guidance and Performance Standards hereinafter referred to. In addition, hazardous substances shall include petroleum products and byproducts, including crude oil or any fraction thereof such as gasoline, diesel, and waste oil which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

J. "Health Department" means the Tacoma/Pierce County Health Department.

K. "High-impact use" means a business establishment that is considered to be hazardous and/or noxious due to the probability and/or magnitude of its effects on the environment. For purposes of this chapter, these uses or establishments possess certain characteristics

which pose a substantial or potential threat or risk to the quality of the ground and surface waters within the South Tacoma Groundwater Protection District. Highimpact uses shall include but are not limited to the following:

1. Chemical manufacture and reprocessing.
2. Creosote/asphalt manufacture or treatment.
3. Electroplating activities.
4. Manufacture of Class 1A or 1B flammable liquids as defined in the Fire Code.
5. Petroleum and petroleum product refining, including reprocessing.
6. Wood product preserving.
7. Hazardous waste treatment, storage, and disposal facilities.

L. "Impervious surface" means natural or man-made material on the ground that does not allow surface water to penetrate into the soil. Impervious surfaces may consist of buildings, parking areas, driveways, roads, sidewalks, and any other areas of concrete, asphalt, plastic, etc.

M. "Operator" means any person in control of, or having responsibility for, the daily operation of a storage facility.

N. "Permeable surfaces" means sand, gravel, and other penetrable deposits on the ground which permit movement of groundwater through the pore spaces, or active or abandoned wells which permit the movement of fluid to the groundwater.

O. "Person" means any individual, trust, joint stock company, corporation (including government corporation), partnership, association, consortium, joint venture, commercial entity, state, municipality, commission, political subdivision of a state, interstate body, the Federal government, or any department or agency of the Federal government.

P. "Recharge areas" means areas of permeable deposits exposed at the surface which transmit precipitation and surface water to the aquifer.

Q. "Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing of a hazardous substance from a facility or other regulated operation or activity into or onto soil, air, water, groundwater, or other natural or man-made structures or materials.

R. "Release detection" means a method or methods of determining whether a release or discharge of a hazardous substance has occurred from a regulated facility into the environment.

S. "Retail business use," for purposes of this chapter, means a use in which individually packaged products or quantities of hazardous substances are rented or sold at retail to the general public and are intended for personal or household consumption.

T. "Solid waste" means all putrescible and nonputrescible solid and semi-solid waste, including garbage, rubbish, ashes, industrial waste, swill, demolition and construction waste, abandoned vehicles or parts thereof, and discarded commodities.

U. "Substantial modifications" means the construction of any additions to an existing facility, or restoration, refurbishment, or renovation which:

1. Increases or decreases the in-place storage capacity of the facility;
2. Alters the physical configuration; or
3. Impairs or affects the physical integrity of the facility or its monitoring systems;
4. Alters or changes the designated use of the facility.

V. "Underground tank" means any one or a combination of tanks (including underground pipes connected thereto) which are used to contain or dispense an accumulation of hazardous substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Specific exclusions to this definition are contained in Section 13.09.080. (Ord. 24083 § 1; passed May 10, 1988)

### **13.09.050 General provisions.**

A. District Designated (Location). For the purposes of this chapter and to carry out these regulations, the boundaries of the South Tacoma Groundwater Protection District are delineated on a map, as now or hereafter updated and supplemented, which is made part hereof by this reference, and a copy of which is on file in the Public Works Department, the Public Utilities Department, and the Health Department. The physical boundaries of the South Tacoma Groundwater Protection District are more particularly described as follows:

Beginning at the southwest corner of Section 25, Township 20 North, Range 2 East of the W. M.; thence north along the west line of said Section 25 and the west line of Section 24, Township 20 North, Range 2 East of the W.M. to the northwest corner of Manito Park Annex; thence west 230 feet more or less to a point 615.78 feet east of the west line of the John Rigney Donation Land Claim; thence north parallel to the west line of said John Rigney Donation Land Claim a distance of 336.6 feet more or less to a point 587.4 feet south of the north line of said John Rigney Donation Land Claim; thence west parallel to the north line of said John Rigney Donation Claim 525 feet more or less to the center line of Orchard Street West (Custer Road); thence northeasterly along the center line of Orchard Street West to the north line of the southeast quarter of Section 23, Township 20 North, Range 2 East of the W.M.; thence east along said north line of the southeast quarter of Section 23 to the northeast corner of the southeast quarter of said Section 23; thence north along the west line of

Sections 24, 25 and 12, Township 20 North, Range 2 East of the W.M. to the north line of said Section 12; thence east along said north line of Section 12 and the north line of Sections 7 and 8, Township 20 North, Range 3 East of the W.M. to the center line of South 19th Street; thence easterly along said center line of South 19th Street to the center line of South Yakima Avenue; thence southerly along the center line of South Yakima Avenue to the center line of F.A.I. # 5 Freeway; thence westerly and southerly along said centerline of F.A.I. #5 Freeway to the south line of Section 30, Township 20 North, Range 3 East of the W.M.; thence west along said south line of Section 30 and the south line of Section 25, Township 20 North, Range 2 East of the W.M. to the point of beginning. The area described above is hereby designated as the South Tacoma Groundwater Protection District.

B. District Designated (Environmentally Sensitive Area). Pursuant to WAC 197-11-908 and Section 13.12.908 of this title, the area described above is hereby designated as an environmentally (geohydrologically) sensitive area. The following SEPA categorical exemptions shall not apply within said area: Section 13.12.801(2) and (3) of this title and the following subsections of WAC 197-11-800: (2)(e) and (g), (25)(h).

C. Development and Adoption of Technical Standards. The Health Department shall hereafter maintain a document entitled “General Guidance and Performance Standards for the South Tacoma Groundwater Protection District” (hereinafter referred to as the “General Guidance and Performance Standards”). These standards shall prescribe the minimum acceptable best management and design solutions which are consistent with the requirements of this chapter. This document, to the extent that it assists in meeting the purposes and intent of this chapter and the South Tacoma Plan, is incorporated herein as though fully set forth. Periodically, the Tacoma-Pierce County Board of Health and the City Council shall review these standards to assure that improvements in technology are considered and that the standards are consistent with this chapter.

D. Filing. Applications for permits as required in Section 13.09.070 shall be filed with the Health Department. Applications shall be on forms and shall contain information prescribed by the Health Department. At the time of filing such application, the applicant shall pay a fee in an amount sufficient to pay the costs of issuing permits and making inspections under this chapter. The 1993/1994 fees are set out below. Departments and divisions of the City of Tacoma and other public agencies regularly receiving funds from the City’s General Fund shall be exempt from payment of said fee.

**Groundwater Protection District Performance Standards:**

	<b>1993 Fee</b>	<b>1994 Fee</b>
New Underground Storage Tank	\$350 per tank	\$350 per tank
New Above-Ground Storage Tank	200 per tank	200 per tank
Annual Permit Fee:		245 per site
Reinspection Fee:	75 per hour	140
Spills	75 per hour	70 per hour
Remediation Reviews	75 per hour	70 per hour
Other/Miscellaneous	75 per hour	70 per hour

(Ord. 25473 § 1; passed Apr. 12, 1994: Ord. 25425 § 4; passed Jan. 11, 1994: Ord. 25298; passed May 4, 1993: Ord. 25225 § 4; passed Dec. 15, 1992: Ord. 25024 § 4; passed Dec. 10, 1991: Ord. 24807 § 4; passed Dec. 18, 1990: Ord. 24083 § 1; passed May 10, 1988)

**13.09.060 Prohibited uses – Discharges and disposal.**

A. The following “high-impact” uses of land shall hereafter be prohibited from locating within the boundaries of the South Tacoma Groundwater Protection District unless they comply with the provisions of subsection E below:

1. Chemical manufacture and reprocessing.
2. Creosote/asphalt manufacture or treatment.
3. Electroplating activities.
4. Manufacture of Class 1A or 1B flammable liquids as defined in the Fire Code.
5. Petroleum and petroleum products refinery, including reprocessing.
6. Wood products preserving.
7. Hazardous waste storage, treatment, and disposal facilities.

B. The above uses should be periodically revised, updated, and amended, as appropriate, in order to take into account other potential high impact uses or improvements in technology, pollution control, and management. The Land Use Administrator shall consult the Standard Industrial Classification (SIC) Manual for assistance in reviewing and making use interpretations pursuant to this subsection.

C. Permanent or temporary waste storage and disposal of hazardous substances on sites with permeable surfaces, including the disposal of solid waste other than brush and stumps, is prohibited, unless such discharge or disposal is specifically in accordance with a valid discharge permit or is approved for discharge into the City’s sewerage system pursuant to Chapter 12.08 of the Tacoma City Code.

D. Dry wells used to receive storm water from any street or paved parking area; provided, however, that if in the opinion of the Public Works Department no other reasonable alternative exists, then the Director of Public Works may approve such private disposal system subject to design by a licensed professional engineer.

E. A prohibited land use, except as described in subsection C, above, may be considered for location within the South Tacoma Groundwater Protection District only upon conclusive demonstration that application of new or improved technology will result in no greater threat to the groundwater resource than that posed by a nonprohibited use. (Ord. 26934 §

17; passed Mar 5, 2002: Ord. 24083 § 1; passed May 10, 1988)

**13.09.070 Permits – Construction, modification, operation, change in use.**

A. It is a violation of this chapter for any person to construct, install, substantially modify, or change the use of a facility as defined herein, or part thereof, without a valid permit or authorization issued by or acceptable to the Health Department. The Fire Department also specifically regulates and authorizes permits for underground storage tanks, pursuant to the Fire Code and this chapter. A permit issued for a facility may include appropriate conditions and limitations as may be deemed necessary to implement the requirements of this chapter.

B. It is a violation of this chapter for any person to use, cause to be used, maintain, fill, or cause to be filled any facility as defined herein, or part thereof, with a hazardous substance without having registered the facility on forms provided by the Health Department and without having obtained a valid permit issued by the Health Department to operate such facility or part thereof.

C. No permit or authorization to operate a facility as required herein shall be issued by the Health Department or shall be satisfactory to the Health Department unless and until the prospective permittee, at a minimum:

1. Has provided a listing to the Health Department of all of the hazardous substances to be stored, used, or handled at the facility; and
2. Has demonstrated that said facility complies with all the provisions of this chapter and the standards set forth in the General Guidance and Performance Standards.

D. It is a violation of this chapter for any person in possession of or acting pursuant to a permit or authorization issued hereunder to act, or to allow or cause another person to act, in any matter contrary to any provision of said permit. (Ord. 24083 § 1; passed May 10, 1988)

**13.09.080 Exemptions.**

The following facilities shall be exempt from all provisions of this chapter:

A. Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.

B. Existing on-site tanks of 1,100 gallons or less capacity which store heating oil, motor diesel, or new (non-waste) lubricating oils subject to documentation that the tank meets the integrity standards contained in the General Guidance and Performance Standards and Underwriters Laboratories or other nationally recognized independent testing organization.

C. Gasoline or diesel tanks attached to private or commercial motor vehicles and used directly in the propulsion of that vehicle, including tank trucks in transit.

D. All petroleum tanks and/or other containers of 660 gallons or less capacity per tank, or 1,100 gallons total, which are privately stored and intended for personal use.



E. A pipeline facility (including gathering lines) regulated under: (1) the Natural Gas Pipeline Safety Act of 1968, or (2) the Hazardous Liquid Pipeline Safety Act of 1979; or which is an interstate pipeline facility regulated under State laws comparable to the provisions of law referred to in (1) and (2) above.

F. The City's municipal sewer system, in accordance with Chapter 12.08 of Tacoma City Ordinances.

G. Any sanitary landfill, when operated in compliance with RCW 173-304, RCRA and Chapter 90.48 RCW.

H. The application of fertilizer, plant growth retardants, and pesticides in accordance with accepted agronomic practices.

I. A retail business use, as defined in Section 13.09.040, unless otherwise included as a regulated facility, with aboveground tanks, underground tanks, bulk storage, or incidental processing that involves the use of hazardous substances.

J. The term "underground tank" as defined in subsection 13.09.040.V shall not include any pipes connected to any tank which is described in subsections A through E of this section.

K. Any handling, storing, disposing, or generating of 220 pounds (100 kilograms) or less of a hazardous substance per month or batch, unless specifically ruled otherwise by the Health Department on a case-by-case basis.

L. Any small quantity of hazardous substance intended solely for personal use, unless specifically ruled otherwise by the Health Department on a case-by-case basis, in accordance with the General Guidance and Performance Standards. (Ord. 24083 § 1; passed May 10, 1988)

### **13.09.090 Facilities with underground tanks.**

#### **A. New Underground Tanks.**

1. All new underground storage facilities used or to be used for the underground storage of hazardous substances shall be designed and constructed so as to:

- a. Prevent releases due to corrosion or structural failure for the operational life of the tank;
- b. Be cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of any stored substance; and
- c. Use material in the construction or lining of the tank which is compatible with the substance to be stored.

2. Design, construction, installation, repair, monitoring, release detection, corrosion, and compatibility standards for new underground storage tanks, including piping, shall be in accordance with the requirements and standards set forth in the General Guidance and Performance Standards adopted pursuant to this chapter, and the rules of the Environmental Protection Agency pursuant to 40 CFR 280, whichever is more stringent, including all applicable permit requirements of the Fire Department.

3. All new underground tanks must use release detection method(s) specified in the General Guidance and Performance Standards. B. Existing Underground Tanks. All existing underground tanks must comply with the release detection requirements, including the compliance schedule, in the General Guidance and Performance Standards.

#### C. Facility Closures.

1. No person shall abandon or close an underground tank, temporarily or otherwise, except as provided in this subsection and in compliance with the General Guidance and Performance Standards.

2. An underground 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, corrosion protection, and release detection requirements of this chapter and those established pursuant to the General Guidance and Performance Standards.

3. No person shall close or abandon an underground storage tank unless the person undertakes all of the following actions:

a. Notifies the Health Department and other appropriate agencies at least 60 days in advance of any closing and obtains the proper authorization or permit.

b. Demonstrates to the Health Department that all residual amounts of the hazardous substance which were stored in the tank prior to its closure have been removed, properly disposed of, and neutralized.

c. Permanently removes the tank to minimize any threat to the public safety and health and the possibility of water intrusion into, or runoff from, the tank.

d. Demonstrates to the Health Department that there has been no significant soil contamination resulting from a release in the area surrounding the underground storage tank or facility. (Ord. 24083 § 1; passed May 10, 1988)

#### **13.09.100 Inspections and testing.**

A. Any owner or operator of existing underground tank(s) shall, upon request of any representative of the Health, Fire, or Public Utilities Department whose duties entail enforcing the provisions of this chapter, furnish information relating to such tanks, their associated equipment, their contents, conduct monitoring or testing, and permit such representative at all reasonable times to have access to and to copy all records relating to

such tanks. For the purpose of implementing this subsection, representatives of the above referenced departments are hereby authorized:

1. To enter at reasonable times any establishment or other place where an underground tank is located;
2. To inspect and obtain samples from any person of any hazardous substances contained in such tank; and
3. To conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding soils, air, surface water, or groundwater.

B. Each inspection shall be commenced and completed with reasonable promptness. If the departmental representative obtains any samples prior to leaving the premises, he or she shall give to the owner or operator a receipt describing the sample obtained and, if requested, a portion of each sample equal in volume or weight to the portion retained. If any analysis is made of the samples, a copy of the results of the analysis shall be furnished promptly to the owner or operator.

C. In addition to, or instead of, the inspections specified in subsection A above, the Health Department may require the owner or operator of an underground tank to employ, periodically, special inspectors to conduct an audit or assessment of the underground tank to determine whether the facility complies with the design and construction standards of subsection 13.09.090.A, whether the owner or operator has monitored and tested the tank as may have been required by his permit, and whether the tank is in a safe operating condition. The inspector shall prepare a special inspection report with recommendations concerning the safe storage of hazardous substances 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 Health Department at the same time the inspector submits the report to the owner or operator. Within 30 days after receiving this report, the owner or operator shall file with the Health Department a plan to implement all recommendations contained in the report or shall demonstrate, to the satisfaction of the Health Department, why these recommendations should not be implemented. (Ord. 24083 § 1; passed May 10, 1988)

**13.09.110 Release reporting, investigation, corrective action.**

A. Release Reporting. All owners and operators of underground tanks must report within 24 hours to the Health Department any of the following conditions:

1. Test, sampling, or monitoring results from a release detection method specified under 13.09.090.A.1 which indicate a release may have occurred.
2. Unusual operating conditions, such as the erratic behavior of product-dispensing equipment, the sudden loss of product from the underground tank, an unexplained presence of water in the tank, or the physical presence of the regulated substance or an unusual level of vapors on the site that are of unknown origin.

3. Impacts in the surrounding area, such as evidence of regulated substances or resulting vapors in soils, basements, sewer and utility lines, and nearby surface water.

4. Other conditions as may be established by the Health Department and incorporated into the General Guidance and Performance Standards.

B. Release Investigation and Confirmation. Unless corrective action is initiated by the owner or operator under subsection 13.09.110.C, or is otherwise directed by the Health Department, all suspected releases requiring reporting, as set forth above, must be immediately investigated by the owner or operator using an appropriate procedure as set forth by the Health Department in accordance with the General Guidance and Performance Standards. Such procedures may include, but shall not be limited to, the following:

1. A site-specific investigation of surrounding soils and groundwater.

2. An investigation of the secondary containment area, if applicable.

3. Testing of the tanks and piping for tightness or structural soundness. Confirmation of a release by one of these methods will require the owner and operator to comply with the requirements for corrective action as set forth below.

C. Corrective Action. All owners or operators of an underground storage facility containing hazardous substances shall, in response to a suspected or confirmed release, comply with the directives and requirements of the Health Department in accordance with the General Guidance and Performance Standards and 40 CFR 280.

D. The Health Department, in administering and enforcing this section, may, if appropriate, take into account types, classes, and ages of underground tanks. In making such distinctions, the Health Officer may take into consideration factors including, but not limited to: location of the tanks, soil conditions, use of the tanks, history of maintenance, age of the tanks, current industry-recommended practices, hydrogeology, water table, size of the tanks, quantity of hazardous substance periodically deposited in or dispensed from the facility, the technical capability of the owners and operators, the compatibility of the regulated substance, and the materials of which the tank is fabricated. (Ord. 24083 § 1; passed May 10, 1988)

### **13.09.120 Aboveground tanks.**

A. New Aboveground Tanks.

1. No new aboveground storage facility or part thereof shall be fabricated, constructed, installed, used, or maintained in any manner which may allow the release of a hazardous substance to the ground, groundwaters, or surface waters of South Tacoma within the boundaries of this district.

2. No new aboveground tank or part thereof shall be fabricated, constructed, installed, used, or maintained without having constructed around and under it an impervious containment

area enclosing or underlying the tank or part thereof, conforming to the requirements set forth in the General Guidance and Performance Standards.

**B. Existing Aboveground Tanks.**

1. It shall be a violation of this chapter to substantially modify or cause the substantial modification of any existing aboveground storage facility or part thereof without obtaining a permit or authorization from the Health Department and Fire Department and without complying with the provisions of this section and the General Guidance and Performance Standards.

2. Inspections, release detection, and corrective action requirements for aboveground tanks shall be substantially as set forth in Sections 13.09.100 and 13.09.110 of this chapter.

**C. Facility Closures.** No person shall abandon or close an aboveground tank, temporarily or otherwise, except as provided in this subsection and in compliance with the General Guidance and Performance Standards. (Ord. 24083 § 1; passed May 10, 1988)

**13.09.130 Spill prevention and management.**

**A.** Owners and operators of facilities handling hazardous substances, including retail facilities, wholesale distributors, processors, manufacturers, and home occupations must adopt and comply with appropriate spill or leak prevention and management practices in accordance with the General Guidance and Performance Standards. Facilities will be evaluated on an individual basis to determine what requirements are necessary to comply with an appropriate spill prevention and management procedure.

**B. Spill Prevention Requirements.** Owners and operators of facilities handling hazardous substances must prepare and follow a schedule for the following activities as set forth in the General Guidance and Performance Standards:

1. Inspection
2. Loading, unloading, and transfer areas
3. Employee or resident training
4. Recordkeeping and inventory
5. Notification and labeling
6. Container storage, handling, and integrity
7. Drainage control
8. Bulk storage.

C. Spill Management Requirements. Owners and operators of facilities handling hazardous substances must prepare and submit a written spill management plan which explains the procedures that will be followed in response to an unanticipated release. The spill management plan must contain facility characterization information, response equipment, and response procedures, all in accordance with the General Guidance and Performance Standards.

(Ord. 24083 § 1; passed May 10, 1988)

**13.09.140 Reporting and recordkeeping.**

A. Reporting. For purposes of reporting under Section 13.09.110, the owners and operators of a facility containing hazardous substances shall report:

1. All below-ground releases in any quantity.
2. All above-ground releases of petroleum to land in excess of 25 gallons, or less than 25 gallons if the owners and operators are unable to contain or clean up the release within 24 hours.
3. All above-ground releases which result in a sheen on the water.
4. All above-ground releases to land or surface waters of hazardous substances other than petroleum in excess of the reportable quantity established under 40 CFR 302 for the released substance (report immediately).
5. The owners and operators shall provide any additional information on corrective action as may be required by the Health Department and the Environmental Protection Agency pursuant to 40 CFR 280.

B. Recordkeeping. An owner or operator of any underground or above-ground facility storing hazardous substances must maintain a written record of the following:

1. Release Detection Method. Records for a period of five years indicating how well the equipment manufacturer or installer's leak detection devices will perform. All monitoring or sampling results must be maintained for at least one year. Tank tightness test results must be kept until the facility is tested again.
2. Corrosion Protection System. Reporting periods for corrosion protection systems must be for a minimum of one year or as proposed by the Environmental Protection Agency pursuant to 40 CFR 280.
3. Tank Repair. Records must be kept which show that the tank was properly repaired and passed ultrasonic and vacuum tests.
4. Facility Closure. Records showing what impact the facility has had on the surrounding area must be kept for one year in the case of a temporary closure and three years in the case of a

permanent closure.

5. Any other recordkeeping requirement that may be required by an owner or operator's permit or as established in the General Guidance and Performance Standards.

6. All records required by this subsection must be maintained:

a. On-site and be immediately available for inspection; or

b. At a readily available alternative site and be provided for inspection within 24 hours to the Health Department.

C. A report to the Health Department shall not be deemed compliance with any reporting requirements of any Federal or State law.

D. Any records, reports, or information obtained from any persons under this chapter shall be made available to the public, except that upon a showing satisfactory to the Health Department by any person that records, reports, or information, or a particular part thereof, to which the Health Department has access under this section if made public, would divulge information entitled to protection under Section 1905 of Title 18 of the United States Code, or any applicable State law such information or particular portion thereof shall be considered and kept confidential, except for the use and purpose of the Health Department or other agency or department in the enforcement of this chapter. In submitting data under this subsection, a person required to provide such data may:

1. Designate the data which such person believes is entitled to protection under this subsection, and

2. Submit such designated data separately from other data submitted under this subsection. A designation under this subsection shall be made in writing and in such manner as the Health Department may prescribe. (Ord. 24083 § 1; passed May 10, 1988)

### **13.09.150 Waivers.**

Any person may apply to the Health Department for a waiver of any requirement imposed by this chapter or any regulation, standard, or ruling generated hereunder; provided, that the waiver request does not conflict with any other local, State, or Federal requirement. In determining whether a waiver is appropriate, the Health Department shall require an applicant to demonstrate by clear and convincing evidence that, because of special circumstances not generally applicable to other property or facilities, including size, shape, design, topography, location, or surroundings, the strict application of the standards of this chapter would be unnecessary to adequately protect the soil and groundwaters of South Tacoma from an unauthorized release, or that strict application would create practical difficulties not generally applicable to other facilities or property, and that the proposed alternative method or process will still adequately protect the soil and groundwaters of South Tacoma. This section is not intended to waive any applicable requirements of the Fire Code. (Ord. 24083 § 1; passed May 10, 1988)

**13.09.160 Excavation operations.**

Excavation operations within the boundaries of this district shall be subject to the permit requirements and standards contained in Section 3.06.040 or 2.02.480 of the City Code as considered appropriate. (Ord. 24083 § 1; passed May 10, 1988)

**13.09.170 Enforcement.**

It shall be the duty of the Director of Health to enforce and administer the provisions of this chapter, except those that shall be the responsibility of the Tacoma Fire Department. It shall be the duty of the Land Use Administrator of the City of Tacoma to enforce the specific provisions of Section 13.09.060 of this chapter. (Ord. 24083 § 1; passed May 10, 1988)

**13.09.180 Appeals.**

Procedures for appeals to the Hearing Examiner or Board of Health from any ruling or decision of the Health Department shall be taken in accordance with Sections 5.02.160 and 5.02.180 of the Official Code of the City of Tacoma. (Ord. 24083 § 1; passed May 10, 1988)

**13.09.190 Severability.**

In the event that any section, paragraph, or part of this chapter is for any reason declared invalid or held unconstitutional by any court of last resort, every other section, paragraph, or part shall continue in full force and effect. (Ord. 24083 § 1; passed May 10, 1988)

**13.09.200 Violations – Penalties.**

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of, this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in any sum not exceeding \$5,000.00, or by imprisonment in the Pierce County Jail for a term not exceeding one year, or by both such fine and imprisonment. Each day that such person violates any of the provisions of this chapter or refuses or neglects to obey any of the rules or regulations issued by the Health Department shall constitute a separate offense and be punished as such. Other violations or penalties of law may be available pursuant to various Federal and State statutes. (Ord. 24083 § 1; passed May 10, 1988)