

B ORDINANCE NO. C - _____

An ordinance relating to critical materials; amendment SMC sections 17A.020.030, 17A.020.160, 17E.010.010, 17E.010.040, 17E.010.050, 17E.010.060, 17E.010.090, 17E.010.095, 17E.010.120, 17E.010.140, 17E.010.150, 17E.010.190, 17E.010.200, 17E.010.210, 17E.010.220, 17E.010.230, 17E.010.270, 17E.010.290, 17E.010.300, 17E.010.320, 17E.010.340, 17E.010.400, 17E.010.410, 17E.010.420, 17E.010.430, 17E.010.440, 17E.010.470, 17E.010.490, 17E.010.510, 17E.010.530, 17E.010.560, and 17G.010.150; and repealing SMC sections 17E.010.250, 17E.010.310, 17E.010.330, 17E.010.450, 17E.010.500, and 17E.010.520.

The City of Spokane does ordain:

Section 1. That SMC section 17A.020.030 is amended to read as follows:

17A.020.030 “C” Definitions

AV. Critical Aquifer Recharge Areas (CARA).

Critical aquifer recharge areas (CARA) include locally identified aquifer sensitive areas (ASA) and wellhead protection areas.

A((V))W. Critical Areas.

Any areas of frequent flooding, geologic hazard, fish and wildlife habitat, aquifer sensitive areas, or wetlands as defined under chapter 17E.010 SMC, chapter 17E.020 SMC, chapter 17E.030 SMC, chapter 17E.040 SMC, and chapter 17E.070.SMC.

A((W))X. Critical Facility.

A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to:

1. schools;
2. nursing homes;
3. hospitals;
4. police;
5. fire;
6. emergency response installations; and
7. installations which produce, use, or store hazardous materials or hazardous waste.

A((X))Y. Critical Material.

1. A compound or substance, or class thereof, designated by the division director of ((public works and)) utilities which, by intentional or accidental release into the aquifer or ASA, could result in the impairment of one or

more of the beneficial uses of aquifer water and/or impair aquifer water quality indicator levels. Beneficial uses include, but are not limited to:

- a. domestic and industrial water supply,
- b. agricultural irrigation,
- c. stock water, and
- d. fish propagation.

Used herein, the designation is distinguished from state or other designation.

2. A list of critical materials is contained in the Critical Materials Handbook, including any City modifications thereto.

A((¥))Z. Critical Material Activity.

A land use or other activity designated by the manager of engineering services as involving or likely to involve critical materials.

A list of critical materials activities is contained in the Critical Materials Handbook.

((AZ))BA. Critical Materials Handbook.

1. The latest edition of a publication as approved and amended by the division director of ((public works and)) utilities from time to time to accomplish the purposes of this chapter. The handbook is based on the original prepared by the Spokane water quality management program ("208") coordination office, with the assistance of its technical advisory committee. It is on file with the director of engineering services and available for public inspection and purchase.
2. The handbook, as approved and modified by the division director of ((public works and)) utilities , contains:
 - a. a critical materials list,
 - b. a critical materials activities list, and
 - c. other technical specifications and information.
3. The handbook is incorporated herein by reference. Its provisions are deemed regulations authorized hereunder and a mandatory part of this chapter.

B((A))B. Critical Review.

The process of evaluating a land use permit request or other activity to determine whether critical materials or critical materials activities are involved and, if so, to determine what appropriate measures should be required for protection of the aquifer and/or implementation of the Spokane aquifer water quality management plan.

B((B))C. Critical Review Action.

1. An action by a municipal official or body upon an application as follows:

- a. Application for a building permit where plans and specifications are required, except for Group R and M occupancies (SMC 17G.010.140 and SMC 17G.010.150).
 - b. Application for a shoreline substantial development permit (SMC 17G.060.070(B)(1)).
 - c. Application for a certificate of occupancy (SMC 17G.010.170).
 - d. Application for a variance or a certificate of compliance (SMC 17G.060.070(A) or SMC 17G.060.070(B)(1)).
 - e. Application for rezoning (SMC 17G.060.070(A)).
 - f. Application for conditional permit (SMC 17G.060.070(A)).
 - g. Application for a business license (SMC 8.01.120).
 - h. Application for a permit under the Fire Code (SMC 17F.080.060).
 - i. Application for a permit or approval requiring environmental review in an environmentally sensitive area (SMC 17E.050.260).
 - j. Application for connection to the City sewer or water system.
 - k. Application for construction or continuing use of an onsite sewage disposal system (SMC 13.03.0149 and SMC 13.03.0304).
 - l. Application for sewer service with non-conforming or non-standard sewage (SMC 13.03.0145, SMC 13.03.0314, and SMC 13.03.0324).
 - m. Application involving a project identified in SMC 17E.010.120.
 - n. Issuance or renewal of franchise; franchisee use of cathodic protection also requires approval or a franchise affecting the City water supply or water system.
 - o. Application for an underground storage tank permit (SMC 17E.010.210); and
 - p. Application for permit to install or retrofit aboveground storage tank(s) (SMC 17E.010.060(A) and SMC 17E.010.400(D)).
2. Where a particular municipal action is requested involving a land use installation or other activity, and where said action is not specified as a critical review action, the City official or body responsible for approval may, considering the objectives of this chapter, designate such as a critical review action and condition its approval upon compliance with the result thereof.

~~B((G))~~D. Critical Review Applicant.
A person or entity seeking a critical review action.

~~B((D))~~E. Critical Review Officer – Authority.

1. The building official or other official designated by the division director (~~(of public works and)~~) utilities.
2. For matters relating to the fire code, the critical review officer is the fire official.

2. The critical review officer carries out and enforces the provisions of this chapter and may issue administrative and interpretive rulings.
3. The critical review officer imposes requirements based upon this chapter, regulations, and the critical materials handbook.
4. The officer may adopt or add to any requirement or grant specific exemptions, where deemed reasonably necessary, considering the purpose of this chapter.

B((E))E. Critical Review Statement.

A checklist, disclosure form, or part of an application for a critical review action, disclosing the result of critical review. Where not otherwise provided as part of the application process, the critical review officer may provide forms and a time and place to file the statement.

B((F))G. Cumulative Impacts.

The combined, incremental effects of human activity on ecological or critical area functions and values. Cumulative impacts result when the effects of an action are added to or interact with other effects in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.

B((G))H. Curb Ramp.

A ramp constructed in the sidewalk to allow wheelchair access from the sidewalk to the street.

B((H))I. Cutbank.

The concave bank of a moving body of water that is maintained as a steep or even overhanging cliff by the actions of water at its base.

Section 2. That SMC section 17A.020.160 is amended to read as follows:

17A.020.160 “P” Definitions

AD. Pollutant.

Any substance which is prohibited or limited by applicable laws or regulations, which is released or discharged in conjunction with development. Any substance that causes or contributes to violation of air, land, or water quality standards, released or discharged.

AE. Pollution.

Contamination, or other alteration of the physical, chemical, or biological properties of air, land, water or wetlands, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into air, land, water, or wetlands as will or is likely to cause a nuisance or render such air, land, water, or wetlands

harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wildlife, fish, native vegetation, or other aquatic life.

Section 3. That SMC section 17E.010.010 is amended to read as follows:

17E.010.010 Title, Purpose and Applicability

- A. This chapter shall be known and may be cited as the "Aquifer Recharge Area Protection Code."
- B. ~~((This chapter is based on and implements the City of Spokane comprehensive plan and shoreline master program, as amended from time to time.))~~ The purpose of this chapter is to protect the public health, safety and welfare by providing protection for environmentally sensitive areas and their functions and values, and by preserving and protecting critical aquifer recharge areas through the regulation of development and other activities in critical aquifer recharge areas, and not to create or otherwise establish or designate any particular person, or class, or group of persons who will or should be especially protected or assisted by the terms or provisions of this chapter. It is expressly the purpose of this ordinance to protect the health, safety and welfare of the general public through protection of local groundwater resources and the public drinking water supply. It is further a general purpose to halt and reverse continued degradation of the Spokane aquifer, to improve the quality of the aquifer, to restrict or prohibit adverse land uses and other practices tending to degrade or negatively affect the purity and quality of the aquifer. It is also directed towards the purposes expressed in SMC 17A.010.020, with special emphasis upon the protection of the Spokane aquifer through implementation of the Spokane Aquifer Water Quality Management Plan.
- C. The requirements of this chapter apply to all activities and development occurring in critical aquifer recharge areas, as defined in this chapter. Critical aquifer recharge areas (CARA) include locally identified aquifer sensitive areas (ASA) and wellhead protection areas. All areas within the City ~~((meeting the definition of a critical aquifer recharge area, regardless of any formal identification,))~~ are hereby designated critical areas as regards the Spokane Aquifer and are subject to the provisions of this chapter. It is expressly the purpose of this ordinance ~~((to protect the health, safety and welfare of the general public through protection of local groundwater resources and the public drinking water supply. It is further a general purpose to halt and reverse continued degradation of the Spokane aquifer, to improve the quality of the aquifer, to restrict or prohibit adverse land uses and other practices tending to degrade or negatively affect the purity and quality of the aquifer, and))~~ to establish a regulatory program consistent with these purposes set forth above in section B, and the goals and policies of the City of Spokane comprehensive plan and shoreline master program or as

amended.

D. This chapter provides for:

1. identification of substances designated “critical materials”, which, in specified amounts, could create a hazard to the Spokane aquifer, and activities associated with them, designated “critical materials activities”;
2. development of standards for the handling, use, storage and transportation of such substances and precautions attendant to such activities; and
3. establishment of appropriate disclosure, monitoring and control procedures;
all as detailed in the Critical Materials Handbook, the Critical Materials List, and the Critical Materials Activities List.

~~((E.—It is not a purpose of this chapter to extend specific regulatory protection to any individual person or class of persons, and no duty shall be deemed created or implied to any individual, group or class by virtue of this chapter or any regulation, requirement, order, action or inaction of the City, its employees or agents.))~~

~~((F))~~E. Relationship to Other Regulations.

~~((1.—This chapter applies as an overlay to other laws, regulations and requirements, including, and in addition, but not limited to, zoning, land use standards, building standards and codes, stormwater management requirements, solid waste management requirements, wastewater management requirements, the shoreline management plan, critical area protection requirements, wellhead protection plans, and other regulations, presently in effect and as now adopted or hereafter amended from time to time.~~

~~((2 Any area constituting a critical aquifer recharge area under this chapter that individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When the provisions of this chapter vary from or are inconsistent with any other any provisions of the ordinance or any existing regulation, easement, covenant or deed restriction, conflicts with this chapter, the provision that at which provides the most protection to the critical area shall apply.))~~

~~((3))~~1. This chapter shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as locally adopted, SMC

17E.050.020. Any conditions required pursuant to this chapter shall be included in the SEPA review and threshold determination.

~~((4))2. ((The administrative procedures followed during the critical area review process shall conform to the standards and requirements of City development regulations. This shall include, but not be limited to, timing, appeals and fees associated with applications covered by this chapter.))~~
The City of Spokane is the authority having jurisdiction for critical material storage within the boundaries of the City. Depending on the circumstances and substances other local, State, and Federal regulations may also apply.

Section 4. That SMC section 17E.010.040 is amended to read as follows:

17E.010.040 Scope and Application

- A. This chapter applies to all properties in the City and to all activities and uses thereon as identified in SMC 17E.050.200.
- B. This chapter imposes requirements upon critical review applicants, owners, occupants and managing agents, or affected premises, and upon other persons responsible for the presence or use of critical materials or pursuit of critical materials activities at a specific site or premises.
- ~~((C. Except where specifically otherwise stated here or ordered by the critical review officer, this chapter does not apply to existing installations or land uses. It is the intent to develop a regulatory program for required modification, replacement and/or monitoring of such existing installations and/or uses in March of 1987.))~~

Section 5. That SMC section 17E.010.050 is amended to read as follows:

17E.010.050 Critical Review – Requirements

- A. Critical review and compliance with requirements established thereby are required for all critical review actions. Where applicable and practical, the requirements for compliance can be waived by the critical review officer.
- B. The critical review officer may require such protective measures as are deemed necessary to prevent and/or contain spills, including draw-out pumping, automatic shutdown devices, monitoring and metering equipment and periodic testing or other inspections.
- C. Costs of compliance are the responsibility of the party or entity seeking the installation or remodeling.

Section 6. That SMC section 17E.010.060 is amended to read as follows:

17E.010.060 New Storage Systems – Tanks – Associated Piping

~~((From and after March 10, 1986, n))~~ No new or replacement storage system, tank and/or associated piping for a petrochemical product or other critical material is permitted without a secondary containment system approved by the critical review officer. This provision does not apply to ordinary maintenance or repair activity.

Section 7. That SMC section 17E.010.090 is amended to read as follows:

17E.010.090 Enforcement Action ((Nuisance)) – Procedures

- A. Upon reasonable cause, the critical review officer may give, by mail or other reasonable means, twenty days' written notice to the legal owner, occupant or person responsible for the management or in control of the affected premises, installation or activity thereon of intent to declare the same as a ~~((public))~~ nuisance hereunder, specifying the basis therefore, any proposed preventative or protective measures which might eliminate the proposed nuisance declaration, and requesting said party or parties to show cause on or before a date certain why a declaration of ~~((public))~~ nuisance should not be made, and advising of an opportunity to request a hearing on said question, together with a form to request the hearing.
- B. If a hearing is requested, the critical review officer gives notice to the requesting parties, and such other persons the officer deems appropriate, of a specified time, date and place.
- C. Upon hearing, or if none is requested after the expiration of the notice period, the critical review officer may proceed to issue a final order determining whether a ~~((public))~~ nuisance exists. The order may specify any preventative or protective measures which, if taken, would alleviate the nuisance and time for compliance. The order shall specify an opportunity to appeal the same to a hearings officer and procedures for appeal.
- D. The provisions of this section are not intended to prescribe an exclusive procedure and all procedures and powers in statute and at common law to abate a ~~((public))~~ nuisance are specifically reserved. Time periods and any other provisions herein may ~~b((y))e~~ changed by the critical review officer in the interest of the public health and safety, considering the exigent circumstances and public convenience, health and safety.

Section 8. That SMC section 17E.010.095 is amended to read as follows:

17E.010.095 Standards for Uses

- A. When above-ground storage of critical materials is included in the design of any facility within the City boundaries or for the City, that facility shall be designed so that:

1. a secondary containment mechanism that will prevent any leak or spill from leaving the site/building or infiltrating into the ground below the site shall be included in the design.
 - a. Secondary containment shall be provided in areas of the facility where the critical materials are stored, used and along corridors where chemicals are moved within the facility.
 - b. The containment for the facility whether indoor or outdoor shall be capable of the largest of the following:
 - i. One hundred ten percent of the critical material volume.
 - ii. Given a number of small containers of critical materials:
Three times the volume of the single largest container or ten percent of the total volume (whichever is greater) ~~((of critical materials where there are a number of small containers))~~.
 - iii. Given a building with fire sprinklers and critical materials:
Twenty minutes of fire sprinklers plus the single largest container of critical material liquid or water soluble ~~((critical))~~ material ~~((s when the building is provided with fire sprinklers))~~. Where allowed by wastewater management, drainage to building floor drains can be considered with the containment capacity.
 - iv. Outdoor facilities shall make provision as above for containing the required volume of critical material and precipitation that occurs during a storm event equivalent to that required for storm drainage design.

~~((c. Outdoor facilities shall make provision for containing the required volume of spill and precipitation that occurs during a storm event equivalent to that required for storm drainage design.))~~
2. secondary containment facilities should facilitate the proper clean up and disposal of spills or leaks.
 - a. No secondary containment facility shall be connected to any sanitary or storm sewer system, including drywells and swales, without approval from City Engineering services in coordination with wastewater management, and could include approved ~~((pre))~~ treatment and removal facilities appropriate to the substances maintained on site installed between the containment facility and the discharge.
 - b. A spill cleanup plan shall be developed to define proper procedures for maintaining and cleaning containment facilities and to identify

proper disposal practices for any critical materials removed from the containment facilities.

3. permanent disposal of any waste containing critical materials shall not be allowed within the City of Spokane, except:
 - a. waste disposed of at a site approved as compliant with WAC 173-351 or similar applicable regulatory requirements by the Washington State department of ecology and permitted by the Spokane regional health district; and
 - b. any waste disposed as part of, and consistent with, a federal- or state-approved cleanup plan, where ~~((it also appears that))~~ the division director of ~~((public works and))~~ utilities has been given meaningful and actual individual-~~((written))~~ notice of the cleanup, proposed remedial action and an opportunity to comment and participate in such action.

Section 9. That SMC section 17E.010.120 is amended to read as follows:

17E.010.120 Other Activity Subject to Critical Review – Compliance with Chapter

- A. Excavations, drillings, mining or other land use activities which expose or enhance exposure of the aquifer to access by surface runoff or spills are subject to such aquifer protection, drainage and dispersion measures as provided by but not limited to chapter 17C.320 SMC. Such regulations shall be reasonably related to the purposes, intents and objectives of this chapter, whether or not related to a specific critical material or critical material activity, so long as the general requirement and objective of aquifer protection is met.
- B. Any project or development affecting surface water drainage where such project involves creation or expansion of pollutant generating impervious surface must comply with the City's stormwater standards and manual as ~~((revised))~~ required.

Section 10. That SMC section 17E.010.140 is amended to read as follows:

17E.010.140 Appeals

- A. Any written final order or decision issued pursuant to this chapter may be appealed to the hearing ~~((officer))~~ examiner by filing a copy of the order and notice of appeal with the hearing ~~((officer))~~ examiner within twenty days of date of mailing or delivery of the order or decision. Failure to reduce a final order or decision to writing does not affect its validity, but the appeal time is tolled until such is in writing and deposited for mailing or delivered.
- B. A final order or decision is:
 1. a dispositive determination of the critical review officer with respect to any permit, license or application; or

2. an order of the critical review officer which deals with affected land or premises.
- C. The effect of any order or decision, and the obligation to comply, is not stayed pending an appeal unless so ordered by the critical review officer or the hearing ~~((officer))~~ examiner, upon such conditions as the order may impose.
 - D. These appeals procedures are not intended to replace otherwise applicable procedures for any specific order or action, but govern in the absence of another available method or where deemed appropriate and necessary by the critical review officer.

Section 11. That SMC section 17E.010.150 is amended to read as follows:

17E.010.150 Regulations

- ~~((A))~~ The division director of ~~((public works and))~~ utilities is authorized to adopt and promulgate regulations to enforce the provisions of this chapter in cooperation with the critical review officer(s). ~~((Unless declared immediately effective because of emergent circumstances, regulations are effective thirty days after promulgation.~~
- ~~B. Except as otherwise provided, promulgation occurs by publication in the *Official Gazette* of the City of Spokane or in the critical materials handbook. Amendments or changes are accomplished in the same way.))~~

Section 12. That SMC section 17E.010.190 is amended to read as follows:

17E.010.190 Purpose and Application

- A. This article addresses specific municipal regulatory requirements applicable to underground storage tanks, the underground portion of in-ground tanks and associated piping and installations. It is supplemental to SMC 17F.080 ~~((the))~~ (Fire Code) and any other requirements of this chapter or applicable local, state or federal requirements.
- B. These provisions are intended to apply to all underground storage tanks and the underground portion of in-ground storage tanks. ~~((The exclusion of existing structures in SMC 17E.010.040(C) is specifically inapplicable.))~~
- C. This article supplements the fire code of the City of Spokane (SMC 17F.080).

Section 13. That SMC section 17E.010.200 is amended to read as follows:

17E.010.200 Definitions

See chapter 17A.020 SMC for definitions relating to this article. Where chapter 17A.020 SMC does not provide a definition, the currently adopted International Fire Code published by the International Code Council will be used.

Section 14. That SMC section 17E.010.210 is amended to read as follows:

17E.010.210 Permit Required

- A. No person may own or maintain an underground storage tank (UST) unless the tank is registered with the Spokane Fire Department and approved pursuant to a permit issued under the authority of this article and it otherwise complies with this chapter.

~~((B. The permit shall be displayed at the site of the tank in a location as approved by the fire department.))~~

Section 15. That SMC section 17E.010.220 is amended to read as follows:

17E.010.220 Permit Issuance – Duration

- A. The fire official issues all permits required ~~((by the fire code))~~ under this article.
- B. Operational permits shall be effective for one year after the date of issuance. The fire official may adjust the date of issuance and length of a permit to accommodate inspection schedules and administrative convenience.

Section 16. That SMC section 17E.010.230 is amended to read as follows:

17E.010.230 Permit Conditions – Fees – Testing

- A. To obtain an operational UST permit the owner/operator must:
1. pay to the fire official the fees specified in SMC 8.02.034(A);
 2. demonstrate that the UST passes an annual tightness test by using a precision leak test, automatic tank gauge (ATG) test, or other method as approved by the fire official to the fire official's satisfaction. To be considered, leak test results must be less than six months old.
~~((a. A leak test must be capable of statistically reliable measurement, down to one-tenth of a gallon per hour, including temperature compensation, in accordance with the latest recommendations of the National Fire Protection Association.
b. To be considered, leak test results must be less than six months old.))~~
- B. ~~((In addition to permit and approval fees, t))~~ The fire official has authority to set additional ((inspection)) fees related to enforcement of this article ~~((and fees for other services, return trips, and additional administrative, personnel, or~~

equipment charges, and to recover expenses related to permit issuance and other enforcement of this article)).

- C. Permit transfer requests are determined in writing by the fire official and may be approved if the transferee ~~((shows a))~~ is willing~~((ness))~~ and ~~((ability))~~ able to comply with the conditions imposed and accepts the responsibilities of the permit holder.
- D. ~~((For administrative convenience and the public convenience, t))~~ The fire official may establish a list of qualified persons to serve as leak test inspectors ((, approved to certify to the City the results of any leak test or other technical testing required under this chapter)).

Section 17. That SMC section 17E.010.270 is amended to read as follows:

17E.010.270 Reporting Failures, Leaks and Leak Risks

- A. The discovery of a leak or circumstances indicating possibility of a leak of a UST shall immediately be reported to the fire official and the department of ecology. The lead agency for handling the cleanup will be the department of ecology.
- B. The requirements of WAC 173.360.360 shall apply.
- C. This obligation is not limited to permittees, and shall include product vendors and repair or testing personnel.

Section 18. That SMC section 17E.010.290 is amended to read as follows:

17E.010.290 Single-wall USTs ~~((Maximum Useful Life))~~

- A. ~~((All existing single-walled UST installations (tanks and associated piping) without secondary containment are conclusively presumed to have a maximum useful life of forty years unless the tank was properly upgraded in accordance with the federal/state and local requirements.))~~ New single-walled USTs for critical materials are not allowed to be installed.
~~((1. Single-walled USTs are not allowed to be installed.))~~
- B. Permitted ~~((Any))~~ single-walled USTs are to be removed at the established end of their useful life. No repair or upgrade of single walled USTs is permitted. ~~((that has not been properly upgraded, or has reached its maximum useful life, shall be withdrawn from operation and either physically removed or converted to satisfy abandoned status, according to the fire official's requirements.))~~
Repair or replacement of cathodic rectifier or anodes will be considered a repair.
- C. Non-permitted single walled USTs for critical materials are required to be removed.

- ((1. ~~the age of the tank at the date of upgrade plus the length of the installer's warranty on the liner and/or cathodic protection, or~~
2. ~~forty years.~~))

((D. ~~A tank may be lined or upgraded once only. The following shall result in the tank being withdrawn from operation and either physically removed or converted to satisfy abandoned status, according to the fire official's requirements:~~

1. ~~Failure of the lining at any time.~~
2. ~~Expiration of the extended useful life of the tank.~~
3. ~~Failure at any time of prior approved upgrades whether federal, state or local.~~))

Section 19. That SMC section 17E.010.300 is amended to read as follows:

17E.010.300 Categories of Use

- A. Active Use UST.
An UST in actual use for receipt, storage, or delivery of substances, as a UST, within any ninety-day period.
- B. Out of Service for Ninety Days UST.
An UST not in active use within any ninety-day period. USTs in this category must be safeguarded as required under ((~~SMC 17E.010.310~~)) IFC 5704.2.13.1.2.
- C. Out of Service for One Year UST.
An UST not in active use within any one-year period or longer. USTs in this category must satisfy the requirements under ((~~SMC 17E.010.330~~)) IFC 5704.2.13.1.3.
- D. Abandoned in Place UST.
An UST permanently prepared for non-use and left in place. USTs in this category must satisfy requirements under ((~~SMC 17E.010.330~~)) IFC 5704.2.13.1.4.
- E. Monitored Out of Service UST.
An UST not in active use, but the leak monitoring (and cathodic protection where applicable) system is still in operation and maintained. The tank will be required to have a permit renewed each year.
- F. For purposes of this article, aggregates of tanks hydraulically connected including the piping are considered as one tank.

Section 20. That SMC section 17E.010.320 is amended to read as follows:

17E.010.320 Change in Use Category – Approval – Exemptions

- A. USTs accrue a use category upon fulfillment of the conditions set forth in SMC 17E.010.300.
- B. A permit is required for USTs where such USTs are approved as “out of service for one year.”
- C. USTs "abandoned in place" (~~under SMC 17E.010.330~~) do not require additional permits beyond the decommissioning work, so long as conditions of approval remain satisfied.
- D. Additionally, where approval is required (~~under SMC 17E.010.330~~), a permittee may apply to the fire official for a change in use category.

Section 21. That SMC section 17E.010.340 is amended to read as follows:

17E.010.340 Authority of Fire Official

- A. The fire official of the City of Spokane, as provided in SMC 3.01.031 and SMC 17F.080.040, interprets and enforces this article. Any approval, action, permit or other item accomplished under the authority of this article is subject to modification, or imposition of additional conditions or exemption from conditions, all in the fire official's reasonable discretion, guided by the purpose of this article and chapter.
- B. Fees and expenses of compliance shall be the obligation of the parties required to comply, but in specific circumstances the fire official may designate another responsible party or may apportion expenses and responsibilities among parties determined to be at fault.
- C. Any final written order issued by the fire official under the authority of this article may be appealed under the provisions of SMC 17E.010.140, or as specified by the fire official, who shall have the authority of the critical review officer for purposes of this article.
- D. This article shall not limit any municipal right or remedy pursuant to contract, statute or common law.

Section 22. That SMC section 17E.010.400 is amended to read as follows:

17E.010.400 Purpose and Application

- A. This article addresses specific municipal regulatory requirements applicable to aboveground storage tanks and associated piping and installations used for the storage of critical materials. It is supplemental to SMC 17F.080 (~~(the)~~) (Spokane Fire Code) and any other requirements of this chapter or applicable local, state or

federal requirements.

- B. These provisions apply to aboveground storage tanks with more than sixty gallons of capacity.
- C. This article supplements the fire code of the City of Spokane (~~((fire code))~~).

Section 23. That SMC section 17E.010.410 is amended to read as follows:

17E.010.410 Aboveground Storage Tank Defined

- A. Fire See chapter 17A.020 SMC for definitions relating to this article. Where chapter 17A.020 SMC does not provide a definition, the currently adopted International Fire Code published by the International Code Council will be used.
- B. For this article, a bulk tank shall be considered to have a capacity of one hundred thousand gallons or more.

Section 24. That SMC section 17E.010.420 is amended to read as follows:

17E.010.420 Permit Required

- A. No person may own or maintain an aboveground storage tank (AST) containing critical materials unless the tank is registered with the Spokane Fire Department and approved pursuant to a permit issued under the authority of this article and it otherwise complies with this chapter.
- ~~((B. The permit shall be displayed at the site of the tank in a location as approved by the fire department.))~~

Section 25. That SMC section 17E.010.430 is amended to read as follows:

17E.010.430 Permit Issuance – Duration

- A. The fire official issues all permits required (~~((by the fire code))~~) under this article.
- B. Operational permits shall be effective for one year after the date of issuance. The fire official may adjust the date of issuance and length of a permit to accommodate inspection schedules and administrative convenience.

Section 26. That SMC section 17E.010.440 is amended to read as follows:

17E.010.440 Permit Conditions – Fees –Testing

- A. ~~((In addition to permit and approval fees, t))~~ The fire official has authority to set additional ((inspection)) fees related to enforcement of this article ~~((and fees for other services, return trips, and additional administrative, personnel or equipment charges, and to recover expenses related to permit issuance and other enforcement of this article))~~.

- B. Permit transfer requests are determined in writing by the fire official and may be approved if the transferee ~~((demonstrates))~~ is ~~((a))~~ willing~~((ness))~~ and ~~((ability))~~ able to comply with the conditions imposed and accepts the responsibilities of the permit holder.

Section 27. That SMC section 17E.010.470 is amended to read as follows:

Section 17E.010.470 Reporting Failures, Leaks, and Leak Risks

- A. The discovery of a leak, circumstances indicating possibility of a leak, spills, or overfills that may be harmful to the public or the environment shall immediately be reported to the fire official and the Washington state department of ecology. For leaks and failures, the lead agency will be the Washington state department of ecology.
- B. The requirements of WAC 173.303.145 shall apply.
- C. This obligation is not limited to permittees, and shall include product vendors and repair or testing personnel.

Section 28. That SMC section 17E.010.490 is amended to read as follows:

17E.010.490 Categories of Use

- A. "Active Use" AST.
An AST in actual use for receipt, storage, or delivery of substances, as an AST, within any ninety-day period.
- B. "Out of service for Ninety Days" AST.
1. An AST not in active use within any ninety-day period. ASTs in this category must be safeguarded as required under IFC 5704.2.13.2.2.
 - ~~((2. ASTs in this category must be safeguarded as required under SMC 17E.010.500.))~~
- C. "Out of service for one year" AST.
1. An AST not in active use within any one-year period or longer. ASTs in this category must satisfy the requirements under IFC 5704.2.13.2.3.
 - ~~((2. ASTs in this category must satisfy the requirements under SMC 17E.010.520.))~~
- E.D. For purposes of this article, aggregates of tanks hydraulically connected including the piping are considered as one tank.

Section 29. That SMC section 17E.010.510 is amended to read as follows:

17E.010.510 Change in Use Category – Approval – Exemptions

ASTs accrue a use category upon fulfillment of the conditions set forth in SMC 17E.010.490. Additionally, where approval is required under SMC 17E.010.520, a permittee may apply to the fire official for a change in use category.

Section 30. That SMC section 17E.010.530 is amended to read as follows:

17E.010.530 Authority of Fire Official

- A. The fire official of the City of Spokane, as provided in SMC 3.01.031 and SMC 17F.080.040, interprets and enforces this article. Any approval, action, permit or other item accomplished under the authority of this article is subject to modification, or imposition of additional conditions or exemption from conditions, in the fire official's reasonable discretion, guided by the purpose of this article and chapter.
- B. Fees and expenses of compliance shall be the obligation of the parties required to comply, but in specific circumstances the fire official may designate another responsible party or may apportion expenses and responsibilities among parties determined to be at fault.
- C. Any final written order issued by the fire official under the authority of this article may be appealed under the provisions of SMC 17E.010.140, or as specified by the fire official, who shall have the authority of the critical review officer for purposes of this article.
- D. This article shall not limit any municipal right or remedy pursuant to contract, statute or common law.

Section 31. That SMC section 17E.010.560 is amended to read as follows:

17E.010.560 Aboveground Bulk Storage of Critical Materials

- A. In addition to the containment prescribed in SMC 17E.010.095 and the requirements of WAC 173.180A, new facilities with aboveground tanks having an individual net storage capacity of one hundred thousand gallons or more of critical materials shall include special provisions to insure that the facilities will meet API Standard 2610 for design, construction, operation, maintenance and inspection of terminal and tank facilities and that such facilities shall include provisions for containment for the following:
 - 1. Pipes, pumps and valves associated with carrying critical materials to or from the storage facility. Insofar as possible these facilities will be located aboveground.
 - 2. Areas where critical materials are transferred from conveyances, such as trucks, rail cars and pipelines, to the bulk storage facilities.

3. New aboveground tanks for the storage of critical materials with an individual net storage capacity of one hundred thousand gallons or more shall meet the secondary containment requirements outlined in SMC 17E.010.095 and, where applicable, WAC 173.180((A-080))320. In addition, the following requirements shall apply:
- a. Any new tank installed to store critical materials shall be equipped with a multiple containment system and leak detection.
 - b. Any new single-bottom tank constructed of steel or similar material shall have secondary containment, leak detection and cathodic protection installed as an integral part of the tank structure.
 - i. “Secondary containment” means a double bottom with interstitial monitoring or an equivalent system of tank liners and leak detection.
 - c. Any new tank system installed in compliance with this section shall be within new diked areas totally lined by a multiple containment system composed of material resistant to the chemical stored in the facility having hydraulic conductivity less than 1×10^{-6} centimeters per second at the anticipated hydrostatic loads. Interstitial monitoring shall be provided between the containment layers when appropriate. (Note for interpretation: This means that the secondarily contained tank described in subsection (A)(3)(b) of this section lies within a secondary containment berm creating a multiple containment system.)
 - d. Uncovered diked areas shall be constructed to contain one hundred ten percent of the volume of the largest tank within the containment area. Stormwater management for runoff generated within the diked areas shall conform to the department of ecology’s state general permit and City of Spokane guidelines for stormwater management prior to disposal.
 - e. When used for emergency containment of tank contents, dikes shall be designed and constructed to comply with the requirements of NFPA 30.
 - f. For any new tank, a tank leak detection system shall be installed and monitored for leakage by visual, mechanical or electronic leak detection methods.
 - i. Monitoring reports shall be kept on file for a period of five years and shall be available for review at the request of the ((director)) critical review officer or designee.

- ii. Inspection reports prepared for compliance with ((Chapter)) WAC173.180D ((WAC)) shall be considered adequate for compliance with this section.
- B. Any individual aboveground tank with a net storage capacity of one hundred thousand gallons or more in bulk storage facilities in existence at the time of adoption of the ordinance codified in this section shall be required to meet the following requirements:
 - 1. Be inspected and repaired as required by API Standard 653; and
 - 2. Meet the compliance schedule as required by the existing United States department of transportation, United States environmental protection agency and Washington department of ecology regulations.
 - a. Tanks inspected and upgraded in compliance prior to the adoption of this regulation shall be reinspected and upgraded in accordance with this section within ten years of the initial inspection; and
 - 3. Be upgraded, when the tank is emptied for inspection and repair in accordance with the applicable compliance schedule (SMC 17E.010.560 B (1) and (2)), to include a coated, cathodically protected single bottom and undertank leak detection, a double bottom and with interstitial monitoring or an equivalent system of tank bottom lining, leak detection and interstitial monitoring; and
 - 4. When the tank is upgraded, the bermed area around the tank shall also be upgraded.
 - a. The bermed area outside the footprint of the tank shall be equipped with a multiple containment system composed of two or more layers of material with a hydraulic conductivity less than 1×10^{-6} centimeters per second at the anticipated hydrostatic loads.
 - b. The multiple containment layers of the bermed areas shall be sealed to the tank to prevent any spilled or leaked material from migrating under the tank; and
 - 5. Uncovered diked areas shall be constructed to contain one hundred ten percent of the volume of the largest tank within the containment area. Stormwater management for runoff generated within the diked areas shall conform to the department of ecology's state general permit and City of Spokane guidelines for stormwater management prior to disposal; and
 - 6. When upgraded, pumps, pipes and other facilities associated with tanks shall be placed aboveground within bermed containment areas as described in subsection (B)(4) of this section or be replaced with double-

walled units with interstitial monitoring at the time the tank containment is upgraded.

- a. Aboveground facilities shall be protected from impact with vehicles and machinery by protective walls or bollards.
 - b. Pumps, pipes and other facilities not within secondary containment areas shall be pressure tested at least once a year.
 - c. Records of pressure testing shall be kept on file for at least five years ~~((;or))~~.
7. The facility shall be upgraded to multiple containment standards described above if such tank is relocated.
- C. Retrofitting an aboveground tank with an individual net storage capacity of one hundred thousand gallons or more with multiple containment shall require a permit from the fire department.
- D. Annual inspection of aboveground tanks with an individual net storage capacity of one hundred thousand gallons or more shall be conducted to verify that:
1. required secondary containment facilities are maintained,
 2. clean-up materials and equipment needed to implement clean-up plans are available, and
 3. proper notification of leaks and spills occurs.
- Inspection reports shall be kept on file for a period of five years and shall be made available for review at the request of the fire department. Inspection reports prepared for compliance with ~~((chapter))~~ WAC 173.180((D)).035 ((WAG)) shall be considered adequate for compliance with this section.

Section 32. That SMC section 17G.010.150 is amended to read as follows:

17G.010.150 Special Application Requirements for Commercial Building Permits

- A. General.
- An owner, or the owner's architect, engineer or other agent, should consult with the departments of building services, engineering services and planning services prior to submitting an application for a commercial building permit for the purpose of identifying any peculiar considerations and discussing any special requirements. The owner, or the owner's architect, engineer or other agent must submit ten prints of the site plan, and three each of the architectural plan, structural plan, and mechanical plan stamped by an

architect or engineer licensed in the State of Washington, to the department of building services. The department of building services transmits copies of the print to other departments and agencies as appropriate. The following information is required for a complete application for a commercial building permit. The information needs to be provided on the site plan or front sheet of plans in the numbered order given. The building official may waive or modify specific submittal requirements determined to be unnecessary for review of an application.

1. Name of project and date of application.
2. Official street address. If an official street address has not been assigned, it must be obtained from the engineering services department.
3. Name, address and phone number of the architect.
4. Name, address and phone number of the owner and agent.
5. Name, address and phone number of the tenant.
6. Name, address and phone number of the engineer(s).
7. Name, address and phone number of the consultant(s).
8. Name, address and phone number of the contractor(s).
9. Name, address and phone number of the contact person.
10. Project type, new, remodel, addition or alteration.
11. Existing use of lot and/or building.
12. Proposed use(s).
13. Number of dwelling units.
14. Occupancy group and division.
15. Construction type required.
16. Building allowable height and area.
17. Building height (both in feet and number of stories).
18. Basement floor area and occupant load.
19. Ground floor area and occupant load.
20. Floor area of each story above ground floor and occupant load (list each story individually).
21. Total floor area, including basements and occupied roofs.
22. Valuation.
23. SEPA checklist, if required.
24. Critical materials, if ~~((involved))~~ required.
25. HMMP plan submitted, if required.

26. Floodplain designation, elevation of first habitable floor and certification of flood proofing measures, if applicable.
- B. The following zoning information is to be included on plan cover sheet or site plan:
1. List dates of hearings during which any of the following were granted:
 - a. Zone change to construct a specific plan including "L" agreements.
 - b. Conditional use permit.
 - c. Variance (list) or certificate of compliance.
 - d. Plans-in-lieu of compliance.
 - e. Planned unit development or manufactured home park; or
 - f. Binding site plan.
 2. Special Regulations.
Note any of the following permits, approvals or restrictions:
 - a. Design zones.
 - b. Shoreline/Riverfront district.
 - c. Height district.
 - d. Historic district or building on the local, state or national register.
 - e. Any hazard areas (airport, critical area).
 - f. Any previous environmental declarations on project; or
 - g. Design review.
 3. Use zone of lot(s).
 4. Use zones of adjacent lots to the north, south, east and west of the site.
 5. Lot area (square feet).
 6. Percent of lot covered by building(s).
 7. Area of lot covered by hard surfacing of any kind.
 8. Parking and loading stalls, number required and number provided, number of barrier-free parking spaces required and provided according to WAC 51-40-005, number of van stalls required and provided.
 9. Setbacks and yards: List of required and provided yards for each building shown on plan, and special setbacks required by an approved final plat, binding site plan or zoning agreement.
 10. Easements, vacations, agreements related to property.
- C. The following information is required on the architectural site plan, even though it may duplicate other site plans.
1. Vicinity map to show area location. Key plan for partial site work.

2. Complete finished grading of entire site and outlines of all structures. Provide topographic lines on sloping sites and affected adjacent sites giving new and existing grades.
3. Lay out all information to standard architectural or engineering scales. Establish north point.
4. Show utility service lines with all mains and branches from streets to each unit or device served. Show sizes and materials on each sewer, water and gas line on plan, and each meter, shut-off, disconnect, connection box or vault, panel, check valve, cleanout and related device to utility services. Locate all required fire hydrants, building pumper connections and standpipe connections at building on street side. Show electric utility and phone line overhead or underground.
5. Relate grade elevations and floor lines to nearest City benchmark. Reference to an established point of elevation may be used on existing buildings.
6. Show on site plan all outline dimensions of building and distance to property lines. Show on site plan location and dimensions and show angles in degrees for the following:
 - a. Property lines and adjacent zoning of property (N, S, E, W). Show any changes in zoning along property lines.
 - b. Streets, alleys, curb breaks, adjacent property curb breaks (must be minimum of five feet from property lines), street lights, signs, meters or planting on sidewalk or parking strips, on-site curbing.
 - c. Driveways, paving, curbing, sidewalks and street corner curb ramp (WAC 236-60-060), each City standard catch basin, depressed lawns. Show fire department apparatus access to within one hundred fifty feet of any structure. 1:48 maximum side slope on sidewalks.
 - d. Parking layouts: Parking stalls and number each stall, or number blocks of stalls and give total. Locate off-street loading.
 - e. Front, side and rear yards, and special setbacks for zoning and minimum clearances to property line required for wall openings or construction type.
 - f. Recreation areas, planting strips, lawns.
 - g. Ornamental masonry and lightproof walls, landscaping buffers, and screening of outdoor storage of materials, wastes, equipment or trash receptacles.
 - h. Location of outdoor lighting on building and in yards.
 - i. Identification or outdoor advertising signs. Note size and exact location.

- j. Indicate rainwater disposal from building and from all property areas, to City-standard catch basins on the property. Give catch basin depths (in feet) and necessary site grading, contours and slopes to insure disposal of water to on-site drains. Paved parking areas require drainage swales. See the department of engineering services for the procedure before completing drainage plan.
 - k. Maximum one hundred fifty foot distance to nearest fire hydrant from building perimeter (all points).
 - l. Additional information necessary for presentation, interpretation, or review of the project may be submitted or required in special cases.
7. The format of the plans shall be as follows:
- a. Plan drawings, elevations, sections and details of architectural, structural, mechanical and electrical plans shall be drawn to standard architectural scales (one-sixteenth inch, one-eighth inch, one-fourth inch, one-half inch, one inch, one and one-half inch, three-inch; please do not use three-eighth-inch or three-quarter-inch scales for code compliance), and standard engineer scales (one inch equals ten feet, twenty feet, thirty feet, forty feet, fifty feet). Plans should be oriented with north at the top of the sheet. Plans must have printing and lettering clear, distinct and suitable for microfilm.
 - b. All plans, elevations, sections and details shall be fully dimensioned so that conformance to codes can be confirmed. Overall dimensions of buildings shall be shown on site plans and floor plans.
 - c. On each sheet, provide the name and official address of project, the Washington State seals of architect and engineers, the date each sheet and each revision was made including flagging of each revision.
 - d. On revisions, date each sheet, provide control number, flag revisions on drawings and in specifications.
 - e. Provide a list of the codes which apply to the project.
8. Detail Plans.
- The following information shall be shown on architectural/engineering drawings or in specifications:
- a. Landscaping plan, including a detailed plan with elevations and slope arrows, lawns, on-site storm sewer (OSSW) and City-standard catch basins, sprinkler system piping, heads, flows and coverages with approved backflow prevention for OSSW swales and zoning landscape areas.
 - b. Foundation plans, including excavation and fill details.
 - c. Floor plans for each level.

- d. Roof and weather protection details.
- e. Exterior elevations and opening protection.
- f. Interior elevations and finishes.
- g. Typical and detailed sections.
- h. Door assemblies.
- i. Windows and glass.
- j. Exits.
- k. Standpipes and sprinklers.
- l. Fire ratings.
- m. Special details.
- n. Barrier free design.
- o. Thermal regulations.
- p. Elevators, dumbwaiters, escalators and moving walks.
- q. Structural details including:
 - i. calculations;
 - ii. clarifying notes;
 - iii. list special inspections and names of special inspectors for: concrete, ductile moment/resisting concrete frame, reinforcing steel and pre-stressing steel, welding, high strength bolting, structural masonry, reinforced gypsum concrete, insulating concrete fill, spray applied fireproofing, piling, drilled piers, caissons, special grading, excavation, filling, NER reports and special cases;
 - iv. layout of framing system including horizontal and vertical members;
 - v. lateral load resisting elements;
 - vi. continuity of system;
 - vii. detail and schedule special connections and conditions;
 - viii. schedule, specify, list or detail on drawings: structural design criteria, concrete, masonry, wood, structural metals.
- r. Mechanical details including layout, size and identification of components on plans and riser diagrams for:
 - i. general;
 - ii. plumbing;
 - iii. heating;
 - iv. cooling;

- v. refrigeration;
 - vi. ventilation;
 - vii. controls;
 - viii. special equipment;
 - ix. roof overflow drains;
 - x. OSSW area drainage;
 - xi. water;
 - xii. gas;
 - xiii. waste system;
 - xiv. vents;
 - xv. chimneys;
 - xvi. ducts;
 - xvii. boiler and pressure vessel;
 - xviii. special piping;
 - xix. fire lines, special suppression systems, extinguishers.
- s. Electrical details including location, size and identification of components of distribution on plans and riser diagrams for:
- i. light;
 - ii. heat;
 - iii. power;
 - iv. radio;
 - v. television;
 - vi. signal;
 - vii. alarm systems;
 - viii. grounding;
 - ix. exit signs;
 - x. smoke detectors.

Section 33. That SMC sections 17E.010.250, 17E.010.310, 17E.010.330, 17E.010.450, 17E.010.500 and 17E.010.520 are repealed.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date