



A BILL FOR AN ORDINANCE

RELATING TO UNDERGROUND STORAGE TANKS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The City and County of Honolulu ("City") has a public trust duty to protect the purity of O'ahu's groundwater. The U.S. Environmental Protection Agency has designated the Southern O'ahu Basal Aquifer, stretching from Schofield Barracks through urban Honolulu, as the "principal source of drinking water" for O'ahu that "if contaminated, would create a significant hazard to public health." Underground storage tanks containing petroleum products are a threat to O'ahu's groundwater. The State of Hawai'i Department of Health ("DOH") has determined that no underground storage tank or underground storage tank system in Hawai'i poses as great a threat to groundwater as the underground storage tanks at the Red Hill Bulk Fuel Storage Facility ("Facility"). The DOH has concluded that the storage of up to 187 million gallons of fuel, 100 feet above a drinking water resource, is inherently dangerous.

The U.S. Department of the Navy ("Navy") underground storage tanks at the Facility have a long history of leaking. Navy reports reveal that the tanks have contaminated groundwater beneath the Facility. A Quantitative Risk and Vulnerability Assessment of the Facility prepared for the Navy in 2018 concluded that the probability of an acute leak of between 1,000 and 30,000 gallons (independent of any earthquake risk) over the next year is 27.6 percent; over the next five years, the risk is 80.1 percent; and over the next ten years, the risk is 96.0 percent. Eight of the currently operating tanks at the Facility have not been inspected pursuant to modern standards in more than two decades and are overdue for inspection. Corrosion from the back of the Facility's tanks, at times creating through-holes, is a significant problem. Other large capacity underground storage tank systems at the Facility also pose a risk to groundwater.

United States Code Title 42, Section 6991f(a), gives the City the legal authority to enact underground storage tank requirements that all federal agencies must comply with. Section 342L-20, Hawaii Revised Statutes ("HRS"), allows the City to adopt ordinances and rules governing any matter relating to underground storage tanks, provided that they are not inconsistent with the DOH's underground storage tank rules.



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The City Council finds that no underground storage tank or tank system that contains a large volume of petroleum product should be allowed to operate above a sole source aquifer on O'ahu unless it can be established that the tank will not release any regulated substance during its operating life. Such a requirement is consistent with HRS Section 342L-32 and the public trust doctrine.

SECTION 2. Chapter 41, Revised Ordinances of Honolulu 1990, is amended by adding a new article to read as follows:

"Article 45. Underground Storage Tanks

Sec. 41-45.1 Underground storage tank permit.

- (a) All terms used in this article are to be interpreted in a manner consistent with HRS Section 342-1 and HAR Section 11-280.1-12.
- (b) No person shall operate an underground storage tank or tank system that has a capacity to store more than 100,000 gallons of any regulated substance without first obtaining a permit from the director of _____.
- (c) No permit shall be granted unless the applicant demonstrates that the tank or tank system will not leak any regulated substance into the environment during its operating life.
- (d) The director may adopt rules in accordance with HRS Chapter 91 to implement this article."



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 48(2021)

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SECTION 3. This ordinance takes effect on _____.

INTRODUCED BY:

Richard Iwano
Tony Wai

DATE OF INTRODUCTION:

DEC 1 2021

Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20_____.

RICK BLANGIARDI, Mayor
City and County of Honolulu