

ORDINANCE 64-___-2015

AN ORDINANCE TO AMEND CHAPTER 64, MOBILE CITY CODE, AS AMENDED, TO PROVIDE SUPPLEMENTARY REGULATION OF THE LOCATION AND CONSTRUCTION OF NEW ABOVE GROUND OIL STORAGE TANKS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA THAT CHAPTER 64 OF THE MOBILE CITY CODE, "ZONING," IS HEREBY AMENDED AS FOLLOWS:

Section 1. Section 64-4 "Supplementary Regulations" of the Mobile City Code, as amended, is hereby amended by the addition of Section 64-4. K reading in its entirety as follows:

K. Regulations Applicable To The Location and Construction Of Above Ground Oil Storage Tanks.

1. **Purpose.** These regulations shall provide procedures applicable to the location and construction of new above ground oil storage tanks on and after the effective date of the amendment adopting these regulations, in addition to the requirements otherwise applicable under other provisions of the Mobile City Code to such tanks. In the event of any conflict or inconsistency between the requirements of this Subsection K and the other requirements of the provisions of the Mobile City Code, the requirements of this Subsection K shall be controlling and shall govern.

2. **Definitions.** As used in this Section 64-4.K, the following terms shall have the following meanings:

a. Enhanced Scrutiny Area (ESA): (A) All properties located within an I-2 district and lying north of Bay Bridge Road and New Bay Bridge Road; and (B) all properties located within an I-2 district and lying south of Bay Bridge Road and New Bay Bridge Road, west of the Mobile River and Mobile Bay, east of a line extending southerly along St. Stephens Road to Broad Street to Interstate 10 to Michigan Avenue, and north of Avenue C as extended to Mobile Bay;

b. Oil: petroleum or petroleum product whose storage is regulated under National Fire Protection Association ("NFPA") 30;

c. Tank: An above-ground Oil storage tank having a capacity of 10,000 gallons or more to be located in an I-2 district;

d. Site: Land under common ownership or control located in an I-2 district being utilized in whole or in part on the effective date of the amendment adding this Subsection K for the purpose of the operation of one or more above ground Oil storage tanks.

e. Classification: The system used in section 4.3 of NFPA 30 for classifying liquids.

3. **Notice Procedures For Planning Approval Applications.** Each application for Planning Approval with respect to a Tank shall be subject to the following notice procedure requirements:

a. Each application for Planning Approval of a Tank, including all attachments to the application, shall be posted on the City's website at least fifteen (15) days prior to the initial hearing on the application scheduled by the Planning Commission.

b. Notice of the filing of an application for Planning Approval of a Tank advising of the time and date of the initial hearing on the application scheduled by the Planning Commission shall be deposited by the City Planning Department in the U.S. mail, ~~by certified mail~~ first class postage prepaid, not less than ~~fifteen (15)~~ thirty (30) days prior to the date of the initial hearing addressed to all owners of property located within ~~one thousand (1000) feet of the proposed Tank~~ one thousand five hundred (1500) feet of the property line of the proposed site as shown on the current ad valorem tax assessment records of Mobile County. The documented costs of such notice shall be paid by the applicant upon submission of the invoice of the City Planning Department.

c. Notice of the filing of an application for Planning Approval of a Tank advising of the time and date of the initial hearing on the application scheduled by the Planning Commission shall be published by the City Planning Department in a newspaper of general circulation in Mobile County once a week for two consecutive weeks prior the scheduled date of the initial hearing. The first such publication shall be not less than ~~fifteen (15)~~ thirty (30) days prior to the scheduled date of the initial hearing and the second such publication shall be not less than eight (8) days prior to the scheduled date of the initial hearing. The notice shall contain both a diagram of

the proposed Tank site location and directions to the entire application posted on the City's website. **The documented costs of such notice shall be paid by the applicant upon submission of the invoice of the City Planning Department.**

4. Required Content Of Application For Planning Approval And Application Fee

a. Applications For Tanks To Be Located In ESA. Each application for Planning Approval for a Tank to be located in the ESA shall include:

(I) A list of all permits and approvals required to complete the construction of the Tank and the status of each such permit and approval at the time the application is filed;

(II) A description of the type, maximum **capacity amount**, and NFPA Classification of the Oil to be stored;

(III) A description of the method or methods by which the Oil will be transported to the Tank site and the anticipated frequency of such transportation;

(IV) A description of all other materials being stored in bulk on the same Site as the proposed Tank.

~~(V) A detailed site plan, drawn to a standard engineering scale, illustrating the location of any and all improvements on the site, including but not limited to: existing and proposed tanks; existing and proposed structures, existing and proposed access drives and circulation drives; existing and proposed piers, docks, or other mooring facilities; existing and proposed berms, dams, or any other containment devices or methods. Dimensions of the site, dimensions and capacity of each tank, dimensions from property line to tank(s), from containment to tank, from tank to tank, and dimensions of access and circulation drives.~~

b. Description of Any Applicable Vapor, Emissions, or Odor Regulations. If the proposed Tank is subject to federal or state best management practices regulations with respect to vapor, emissions, and/or odor control, the application for Planning Approval shall include a statement as to the relevant regulatory authority or authorities and a summary of any equipment and technology being implemented to comply with such regulatory requirements.

c. Tank Planning Approval Application Fee. The application fee for Planning Approval of a Tank shall be \$1500.00 per Tank, ~~plus all costs of notice and publication.~~

5. Siting and Design Requirements.

a. Setback in ESA. The minimum setback for a Tank to be constructed in the ESA shall be one thousand (1000) feet measured from the Tank to the property line of the nearest habitable residential structure, church, or school existing on the date of the submission of the application for Planning Approval, **with the Planning Commission having the authority to increase the said setback on a case by case basis should specific circumstances or factors warrant.**

b. Plan Review. Prior to the issuance of a building permit for any Tank, all construction plans for the Tank shall be reviewed by an independent professional engineer experienced in the design and construction of above ground oil storage tanks engaged by the City of Mobile who must certify in writing to the Building Department that the plans comply with all applicable construction standards and code requirements. The cost of such review as invoiced to the City shall be paid by the applicant as a condition to the issuance of the building permit. As a further condition to the issuance of a Tank building permit, at the time construction drawings are submitted, the applicant shall also submit its Facility Response Plan (FRP) to the City of Mobile and Fire Department prior to the issuance of the building permit. Any portions of the FRP that contain information that the Department of Homeland Security restricts the disclosure of, or which the applicant otherwise considers potentially sensitive, shall be redacted.

6. **Change in Oil Product Classification.** Applicant may only store an Oil product with a different NFPA 30 Classification than the NFPA Classification listed in the application for planning approval for the Tank after providing written notice to the City of Mobile's Planning Department of the change and engineering verification that the Tank complies with the NFPA 30 requirements for the new product Classification.

7. Limited Application Of Subsection K.

a. Applicable Only To Tanks As Defined. This subsection shall have application only to above ground

tanks for the storage of petroleum and petroleum products regulated under NFPA 30. Above ground tanks for the storage of other substances shall be regulated by the otherwise applicable provisions of the Mobile City Code and state and federal law. No Tank subject to this Subsection K may be converted to use for the storage of a substance other than petroleum and petroleum products regulated under NFPA 30 without first obtaining the approvals otherwise required under the Mobile City Code and Zoning Ordinance for the storage of such other substance.

b. Inapplicable To Existing Tanks. This subsection 64.4. K shall have application only to new Tanks constructed after the effective date of this subsection. Sites with one or more above-ground Oil storage tanks having a capacity of 10,000 gallons or more located in an I-2 district on the effective date of this subsection are confirmed in their entirety for purposes of the Zoning Ordinance as conforming permitted uses with respect to all such existing above-ground Oil storage tanks. The above-ground Oil storage tanks existing on such Sites on the effective date of this subsection are confirmed for purposes of the Zoning Ordinance as conforming structures. An above-ground Oil storage tank existing on the effective date of this subsection may be repaired, replaced, or reconstructed on the same Site without compliance with this subsection and without the need for any further Planning Commission approval. The replacement for a tank existing on the effective date of this subsection need not have the identical footprint or configuration as the tank it replaces provided the capacity of the replacement is not greater than the tank it replaces.

Section 2. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 3. This Ordinance shall be in full force and effect from and after its adoption and publication as required by law.

Adopted: _____
Lisa C. Lambert, City Clerk