

ARTICLE 81

CHEMICAL STORAGE TANKS AND SYSTEMS

Section 1 Purpose

a. The purpose of this By-Law is to protect the public health, groundwater and surface water of the Town from contamination with liquid fuels, chemicals or hazardous materials from leaking underground fuel or chemical storage tanks and systems.

Section 2 Applicability

- a. This By-Law shall apply to all underground fuel or chemical storage tanks and systems.
- b. Storage systems in service at the time of the approval of this By-Law shall be brought into compliance with the terms of this By-Law within ninety days of its approval.

Section 3 Administrative and Enforcement Agent

- a. The administrative and enforcement agent of the provisions of this By-Law shall be the Board of Health. Approval of this By-Law shall not be deemed a waiver of the rights of any other Town entity, including, but not limited to: Public Works Department, Fire Department, Building Department, Conservation Commission or other Town entities having concurrent jurisdiction or licensing authority.
- b. The provisions of this By-Law are not intended to relieve compliance with any applicable state or federal law or regulation.

Section 4 Definitions

For the purpose of this By-Law, the following terms shall have the following meanings:

C.M.R. shall mean the Code of Massachusetts Regulations.

Hazardous material shall mean material, including but limited to, any material, in whatever form, which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed.

Owner shall mean every person who alone or severally with others

- (1) has legal title to any property on which is located an underground fuel or chemical storage tank and system subject to this By-Law; or
- (2) has care, charge or control of any such property, in any capacity including without limitation agent executor, administrator, trustee or guardian of the estate of the holder of legal title, or agent, trustee or a person appointed by a court of competent jurisdiction; or
- (3) is a mortgagee in possession of such property. Each such person is bound to comply with the provisions of this By-Law as if he were an owner.

Person shall mean every individual, partnership, corporation, firm, association, group or entity owning property or carrying on an activity regulated by this By-Law.

Underground tank shall mean any fuel storage or chemical storage containment system, the top of which is located below the ground.

Where applicable, other terms used in this By-Law are as defined in 527 C.M.R., Sections 5 and 9 of the Massachusetts Board of Fire Prevention Regulations.

Section 5 Tank Regulations

a. Every owner of an underground fuel or chemical storage tank and system shall file with the Board of Health, the size, type, age and location of each tank and/or system and the type of material stored, on or before ninety days after the approval of this By-Law.

(1) Thereafter, every owner of a tank and system installation shall comply with the provisions of Section 5A, hereof on or before January 1st of each succeeding year.

b. Owners of tanks for which evidence of installation date is not available shall at the order of the Board of Health have such tanks or systems tested or uncovered for inspection.

(1) Tanks or systems which fail to meet the test standards set forth in Section 9 below or are not air tight shall be removed.

Section 6 Inventory Control

a. Every underground storage tank and system shall have a method of accurately gauging the volume contained in the tank and a method of accurately metering the quantity of product removed during service. The metering device shall at all times be properly maintained in accurate calibration.

b. For tanks containing fuel, chemical or hazardous material for resale accurate daily inventories and records thereof shall be based on actual daily measurement and recording of actual sales, use and receipts of tank products and water levels as required by Massachusetts Fire Prevention Regulations 527 C.M.R. 5.05 (3).

(1) Inventory records shall include a daily computation of gain or loss.

(2) Recording of pump meter readings and product delivery shall not constitute adequate inventory records for the purposes of this By-Law.

c. For all tanks containing fuel, chemical or hazardous material not for re-sale a quarterly inventory and reconciliation is required. Such reconciliation shall include records of delivery, volume contained in the tank and flow through the metering device.

d. The owner and operator shall participate in a program of regularly scheduled inventory verification, said method to be determined by the Board of Health as follows:

(1) For systems for which less than 25,000 gallons per month of product is used or sold, annually.

(2) For systems from which 25,000-100,000 gallons per month of product is used or sold, semi-annually.

(3) For systems from which more than 100,000 gallons per month is used or sold, quarterly.

e. Owners shall submit annually to the Board of Health a certified statement that inventory records have been maintained and reconciled as required in subsection b, c and d of Section 6 and such records shall be made available to the Board of Health upon its request. Inventory verification of tanks shall be performed annually by a certified auditor or other independent qualified person approved by the Board of Health.

Section 7 Report of Leaks and Spills

a. Any owner or operator or his agent who is aware of a spill or abnormal loss of product stored shall report such spill or loss immediately to the head of the Fire Department and within two hours of leak detection to the Board of Health.

b. All leaking tanks must be emptied within twenty-four hours of leak detection and either repaired or removed within a time specified by the Board of Health and under the direction of the Fire Department.

c. Service companies shall report to tank owners and the Board of Health any unexplained increase in consumption of heating fuel, other fuel, chemicals or hazardous materials.

Section 8 New or Replacement Tank Selection and Installation

a. All tanks installed after the effective date of the By-Law shall be approved design and protected from internal and external corrosion.

All tanks shall be made of the following materials:

(1) All fiberglass construction (equipped with a striker plate); steel with bonded fiberglass or enamel coating and noncorrosive lining; the Steel Tank Institute 3-Way Protective System; any other system which can be shown to provide equivalent protection at the discretion of the Board of Health.

(2) All other underground storage of chemicals, or hazardous materials other than gasoline and fuels, shall be contained in tanks approved by the Board of Health as "best available technology".

b. All tanks shall be properly installed as per Massachusetts Fire Prevention Regulations in force at the time of installation and according to manufacturers' specifications.

(1) Installation shall be under the direction of the head of the Fire Department or his duly-appointed designee within said Department.

c. All tank installation within four (4) feet of high water table or within one hundred feet of a surface-water body shall be of fiberglass construction and located in a water-tight vault. Tanks so located shall be monitored by an approved leak detection system, the design and number of devices subject to Board of Health approval.

d.

(1) The owner or operator shall notify the Fire Department to the commencement of any tank installation.

(2) Upon the receipt of said notice of installation, the head of the Fire Department or the Board of Health may require repair of protective coatings prior to installation or final cover, and additional requirements may be required to satisfy terms of "best available technology".

e. When it is necessary to replace or interior coat an underground steel tank which has developed a corrosion-induced leak, all other steel tanks at the facility of the same age or older shall be interior coated or replaced with tanks that meet the requirements of Section 8b.1.

f. Where a cathodic protection system is installed, an ongoing monitory and maintenance program shall be conducted.

(1) Where sacrificial anodes have been installed, their proper operation shall be confirmed by a qualified person at least once a year.

g. If a tank is taken out of service temporarily or permanently, the Board of Health shall be notified. The final disposition of the tank and produce shall be in accordance with Massachusetts Board of Fire Prevention Regulations, 525 C.M.R., and as approved by the Board of Health.

h. Any existing tank may be replaced subject to the provisions of Section 8.

Section 9 Tank Testing and Removal

a. All steel fuel or chemical storage tanks and systems shall be subject to a Petro-Tite (Kent-Moore) Pressure Test or any other acceptable pressure test providing equivalent safety and effectiveness fifteen years after installation and annually thereafter.

(1) No test shall be conducted by the PSI air pressure test for leak detection. This By-Law recognizes that this test is a method of leak detection but specifically excludes it as a method because of a probability that such test can cause an explosion.

b. All tanks not in conformance with Section 8 supra and 527 C.M.R. 9.04, installed prior to the effective date of this By-Law shall be removed when twenty years old or shall be tested by a method to be determined by the Board of Health and shall be removed upon failure to meet such testing standards.

(1) At such time that a tank is exhumed for removal, it shall be examined for leaks by the Board of Health. If a leak exists, the Board of Health shall immediately cause an investigation to be made of the amount and the location of spilled substance, the same to be undertaken at the expense of the owner. The spilled substance shall be removed immediately by the owner.

Section 10 Proximity to Water Supplies and Other Sensitive Areas

a. No new installation of underground fuel or chemical storage tanks and systems shall be allowed within two thousand feet of a public water supply well except as provided in Section 13 below.

b. Where fuel, gasoline or other chemicals stored underground are located within two thousand feet of a public water supply well or other sensitive areas, the Board of Health may require the installation of an approved leak detection system, the design and number of devices to be subject to the Board of Health approval.

Section 11 Costs

a. The owner shall assume all costs incurred to comply with this By-Law.

Section 12 Penalties

a. Whoever violates any provision of this By-Law shall be subject to a fine of two hundred dollars (\$200.00) for each violation. Each day that such violation continues shall constitute a separate offense.

Section 13 Variances

a. The Board of Health may grant a variance from the provisions of Section 10a herein upon the following conditions and in accordance with requirements of the Massachusetts Board of Fire Prevention Regulations, 527 C.M.R.

(1) At a public hearing the applicant shall establish that the proposed location of an underground storage tank will not threaten or adversely affect public or private water sources.

(2) In granting said variance the Board of Health shall take into consideration the direction of the groundwater flow, soil conditions, depth to groundwater, size, shape and slope of the lot and existing and known future water supplies.

(3) Notice of any public hearing shall be given by placing notification in a local newspaper regularly circulated within said Town of Natick, and at least fourteen (14) days before said hearing.

(4) The Board of Health shall refer the application for a variance to the Conservation Commission, Planning Board, Department of Public Works and Zoning Board of Appeals for their review and comments. No final decision of the Board of Health relative to such application shall be issued less than twenty-one (21) days following the receipt of such application by the aforementioned agencies.

(5) Persons aggrieved by a decision of the Board of Health as to the denial of a variance may appeal said decision under any applicable law.

Section 14 Severability

A conflict of one part or provision of this By-Law with any law shall not affect the validity or applicability of any other part of provision of this By-Law.