

CHAPTER LIII
UNDERGROUND PETROLEUM PRODUCT STORAGE
TANK SYSTEM BY-LAWⁱ

ARTICLE I
Preamble

53-1 PREAMBLE.

53-1.1 Purpose. The purpose of the Underground Petroleum Product Storage Tank System By-Law, hereinafter called the "By-Law", is to protect the safety and welfare of the inhabitants of Topsfield by minimizing the danger of explosion or fire from leaks or discharges of petroleum products from underground petroleum product storage tank systems and by ensuring that no such leakage or spillage is discharged into the groundwater thereby contaminating Topsfield's sole source of potable water. (Art. 25, 5/6/86 [A 1 ~ 1])

53-1.2 Authority. The adoption and administration of the By-Law is authorized pursuant to GLc 148 ~ 9 and 13 and to GLc 40 ~ 21 as amended. (Art. 25, 5/6/86 [A 1 ~ 2])

53-1.3 Applicability. The By-Law shall apply to all underground tank systems containing flammable petroleum products which are presently located within the jurisdiction of the By-Law and to all underground tank systems installed after the date of its adoption. Underground storage of liquefied petroleum gases such as propane or natural gas and nonflammable chemicals listed in the Massachusetts Substance List compiled under the applicable provisions of GLc 111F, as amended, shall not be permitted within the jurisdiction of the By-Law. (Art. 25, 5/6/86 [A 1 ~ 3])

ARTICLE II
Definitions

53-2 DEFINITIONS.

53-2.1 Abandoned. Abandoned shall mean out of service or operation for a continuous period in excess of six (6) months for underground tanks licensed under the provisions of GLc 148 ~ 13 and in excess of two (2) years for underground tanks exempt from above license. (Art. 25, 5/6/86 [A II])

53-2.2 Applicant. Applicant shall mean any person who submits an application for a permit to install and maintain, or to discontinue the operation of an underground tank in Topsfield. (Art. 25, 5/6/86 [A II])

53-2.3 Local Licensing Authority. Local Licensing Authority shall mean the Topsfield Fire Chief or his authorized deputy in his absence. (Art. 25, 5/6/86 [A II])

53-2.4 All Other Terms. All other terms used in the By-Law shall have the meaning as provided in 527 CMR 9.02 as amended. (Art. 25, 5/6/86 [A II])

ARTICLE III
Permit Procedure

53-3 PERMIT PROCEDURE.

Every person intending to install, maintain, or discontinue the operation of an underground petroleum product storage tank system, hereinafter called an "Underground Tank", shall secure the necessary permits from the Local Licensing Authority. (Art. 25, 5/6/86 [A III])

53-3.1 Permit to Maintain Underground Tanks.

a. Existing Underground Tanks. Permits granted to owners and operators of underground tanks prior to the date of adoption of this By-Law shall remain in effect provided, however, that:

1. The owner of every underground tank in Topsfield installed prior to May 9th, 1986 has complied with the provisions set forth in 527 CMR 9.24, (3)(a).

2. Owners and operators of underground tanks exempted from the reporting requirement under the provisions of 527 CMR 9.24 (d) shall have the underground tank tested for tightness in accordance with the provisions of 527 CMR 9.18, (2), (3), and (4) as applicable.

3. Underground tanks used exclusively for farm or residential purposes with a total capacity of less than 1100 gallons installed after the date of adoption of the By-Law shall be tested for tightness in accordance with the schedule contained in 527 CMR 9.18, (4), unless they are of the double wall type as set forth in 527 CMR 9.16, (3).

4. The Local Licensing Authority may require the installation of observation wells at underground tank sites which are located in areas of high environmental risk as a result of the presence of sole-source aquifers or surface water supplies. (Art. 25, 5/6/86 [A III ~ 1])

53-3.2 Permit to New Underground Tanks.

a. Plans. An applicant who wishes to obtain a permit to install an underground tank shall submit to the Local Licensing Authority the following information in addition to that required under the provisions of 527 CMR 9.24, (2):

1. A site plan drawn at a scale of no larger than one (1) inch equals twenty (20) feet.

2. A locus map drawn at a scale of one (1) inch equals six-hundred (600) feet.

3. A cross-sectional representation of the underground tank (or tanks) inclusive of its bedding, piping, and leak detection system. The plan shall show the location of all man made features inclusive of buildings, parking lots, driveways or other permanent structures within two hundred (200) feet of the underground tank site. The plan shall also show natural features such as brooks, wetlands, ponds, or open water within five-hundred (500) feet of the underground tank site. The plan shall show all sources of potable water within three-hundred (300) feet of the tank site.

4. The plan shall be stamped with the seal of a registered civil engineer licensed to practice in the Commonwealth of Massachusetts and shall bear his signature. The plan shall bear the engineer's certificate that the design of the underground tank installation is in compliance with the recommendations of its manufacturer and all applicable provisions of 527 CMR 9.00 as amended.

5. The plan shall show that the underground tank is secured to a reinforced concrete foundation by means or devices that do not break or abrade the outer coating of the tank.

6. Where the underground tank is to be installed within three-hundred (300) feet of the border of land under the jurisdiction of the Topsfield Board of Water Commissioners or within three hundred (300) feet of a private potable water well or other source of potable water, the plan shall show the installation to consist of approved double-walled tanks with an interstitial monitoring system and a liquid removal port.

b. Submission of Plans. Copies of the above plan together with form T, which shall be available at the Town Clerk's office and appended to the By-Law, shall be sent to the Board of Health, the Conservation Commission, the Inspector of Buildings, and the Board of Water Commissioners.

The application for a permit to install and maintain an underground tank shall be sent to the Local Licensing Authority together with a copy of the aforementioned plan and certificate that the respondent boards, commission, and agent have received form T and copies of said plan.

The Board of Health, the Conservation Commission, the Board of Water Commissioners, and the Inspector of Buildings shall review the plan and indicate on form T approval or disapproval of said plan. In the event of disapproval, the Boards, Commission or Agent shall cite wherein the plan is in violation of local By-Laws, rules and regulatory codes.

Form T containing the Boards', Commissions' or Agents' approval or disapproval shall be returned to the Local Licensing Authority within thirty-five (35) days of receipt of form T. Failure to return form T within thirty-five (35) days of receipt of the form and plans shall constitute constructive approval of the plan.

c. Public Hearing. In the event of a disapproval by anyone of the plan review respondents, the Local Licensing Authority shall hold a public hearing at a time and date which is subject to advertisement in a newspaper of substantial local circulation at least one (1) week prior to the hearing date. At that hearing the reasons for the disapproval shall be reviewed and proposed remedies examined.

The disapproving Board, Commission or Agent shall determine within twenty (20) days of the closing of the above said hearing whether or not the proposed remedies will eliminate the reasons for the disapproval of the proposed installation. The Board, Commission, or Agent may approve or disapprove the proposed plan on the basis of the above determination only no other reasons for a subsequent disapproval of the plan may be considered by the Local Licensing Authority.

d. Issuance of Permit. The Local Licensing Authority shall issue a permit to the applicant for the construction of an underground tank within forty-five (45) days of the receipt of the application in the event that no Board, Commission or Agent has disapproved the plan. The Local Licensing Authority shall issue or deny issuance of the permit within thirty-five (35) days of the close of the public hearing. The Local Licensing Authority may not issue a permit for the installation of the proposed Underground Tank unless it has obtained approval from all respondent Boards, Commissions, and Agents.

e. Certificate of Compliance. Upon completion of construction and prior to the commencement of service, the applicant shall submit a certificate signed and sealed by the design engineer that the underground tank has been installed in accordance with the approved plans.

f. Tightness Tests. All new underground tanks shall be tested for tightness in accordance with the applicable provisions of 527 CMR 9.18 as amended.

g. Approval to Commence Service. The Local Licensing Authority shall approve the commencement of service of the new underground tank provided that the provisions of subsections 53-3.3e and 53-3.3f have been met to the satisfaction of the Local Licensing Authority. (Art. 25, 5/6/86 [A III ~ 2.0])

53-3.3 Permit to Reinstate Service of Underground Tanks.

a. Underground Tanks Temporarily Removed from Service. Prior to the restoration of service of a tank removed from service in accordance with the provisions of 527 CMR 9.21, (3) as amended, the owner or operator of said tank shall have it tested for tightness in accordance with all applicable provisions of 527 CMR 9.18 as amended, except that the Local Licensing Authority may waive the above requirement where in their opinion such a test is not required. (Art. 25, 5/6/86 [A III ~ 3a])

53-4 ENFORCEMENT AND ADMINISTRATION.

53-4.1 Fines. Any owner or operator who violates any provision of the By-Law shall be subject to a fine not to exceed three hundred (\$300.00) dollars for each offense. Each day during which such violations continue shall constitute a separate offense. (Art. 25, 5/6/86 [A IV ~ 1.0])

53-4.2 Legal Action. This By-Law may be enforced, pursuant to GLc 40 ~ 21D, by a Police Officer or any other Officer with Police power. The penalty for such noncriminal enforcement shall be fifty (\$50.00) dollars per violation. Upon request by the Local Licensing Authority, the Board of Selectmen shall take such legal action as may be necessary to enforce the provisions of the By-Law. (Art. 25, 5/6/86 [A IV ~ 2.0])

53-4.3 Revocation of Permit. In the event of any violation of the provisions of the By-Law, the Local Licensing Authority may instead of or in addition to the fines and legal action prescribed in subsections 53-4.1 and 53-4.2 revoke or suspend the permit to maintain the underground tank. An underground tank installed and maintained or maintained without required permits may be ordered to be removed at the owner's expense by the Local Licensing Authority.

In the event of an order to remove a tank, the Local Licensing Authority shall hold a public hearing on the proposed order and give the owner notice of such at least ten (10) days in advance of the date of the hearing by certified mail, and shall record its decision in writing with a statement of the reasons for it. (Art. 25, 5/6/86 [A IV ~ 3.0])

53-4.4 Rules and Regulations. The Local Licensing Authority may issue rules and regulations relative to the administration of the By-Law. All rules and regulations in effect on the date of the adoption of the By-Law and not inconsistent with same or with 527 CMR 9.00 shall remain in effect unless amended by the Local Licensing Authority. (Art. 25, 5/6/86 [A IV ~ 4.0])

53-5 SEVERABILITY.

The invalidity of any provision of the By-Law shall not affect the validity of the remainder. (Art. 25, 5/6/86 [A V])

APPENDIX TO CHAPTER LIII

FORM T

Departmental Review of Underground Tank Installation Plan

TO: Board of Health
Conservation Commission
Inspector of Buildings
Board of Water Commissioners
Topsfield, MA _____, 19

FROM: _____
Applicant's Name, Address

SUBJECT: _____
Description of Plan, Date

1. The subject name's plan herewith attached has been submitted to the Local Licensing Authority for a permit to install an Underground Tank.
2. Please review said plan to determine if proposed installation conforms with applicable State and local requirements and if additional safety installations are required by virtue of the tank's location - e.g.; proximity to wells, watercourses, presence of corrosive soil types, clay strata, etc. Please note you have thirty-five (35) days from the above date to review the plan and report to the Fire Chief's office.

TO: Local Licensing Authority (Topsfield Fire Chief)

DATE: _____

SUBJECT: _____
Description of Plan, Date

The undersigned hereby

_____ approves said plan

_____ disapproves said plan*

This plan has been disapproved for the following reasons:

Signed _____
Board, Commission, or Agent

* A disapproval requires a statement of reasons for same. A disapproval without a statement of reasons for same will be deemed as a constructive approval.

ⁱ Editor's Note: This By-Law has an effective date of April 13, 1987.