

CHAPTER 61
HAZARDOUS MATERIALS STORAGE BYLAW

(Proposed Changes)

Q. What are the primary changes in the bylaw and why are they so important?

A. The revised bylaw will require all owners of underground fuel tanks and any above ground chemical or hazardous waste storage containers that hold more than 50 gallons to register and apply for a permit with the Westford Board of Health. It also requires owners of these tanks and containers to provide information about their contents and age to the Board of Health. The revised bylaw requires all hazardous waste storage areas (facilities) to have secondary containment structures, and it requires owners of underground fuel storage tanks more than 15 years old to test the tanks after 15 years. In addition, annual inspections of the commercial and retail facilities in town that meet the permit requirements will be conducted.

This is important as the consequence is potential contamination of the soils and groundwater which surround and feed our local drinking water supply wells, both public and private.

A media campaign via our Town website, local newspaper and cable TV is planned.

Q. Will inspections be conducted by the Westford Board of Health and/or the Fire Department?

A. Yes. For the first time, annual inspections will be conducted jointly by both the Westford Health Department and the Westford Fire Department for all commercial and retail facilities that meet the permit requirements. Home residences will not be inspected unless there is a threat to safety or to the environment. The existing regulations have not been as effective as desired in this regard.

Q. Why inspect commercial and retail facilities?

A. The Westford Board of Health and the Fire Department want to make sure that the commercial and retail businesses in town that store, generate, and/or use Hazardous Materials in Westford have:

- Written emergency plans on file that employees are aware of and trained on.
- Written plans for spill contingencies and safe cleanup procedures.
- A process for maintaining written records and/or manifests of stored chemicals.
- Proper storage and secondary containment measures for their Hazardous Materials

Q. What are the Board of Health's motivations for requiring inspections?

- To protect our ground, storm, and surface water supplies from chemical contamination.
- Through these inspections, we will help prevent explosions, fires, and contamination to our environment while educating the owners/operators of the above-mentioned facilities about chemical safety for their employees.

Q. How do I know if I have an underground oil tank?

A. Any house built prior to 1975 is suspected of having or having had an underground oil tank. If you periodically receive an oil bill, you are on oil and have an oil tank on your property somewhere. If it isn't in your basement or a nearby out building, it is likely buried. Your oil provider typically performs a "new client" inspection to any residence they have not delivered oil to previously. You may also ask them to determine the location of your oil tank for you.

Q. What about an oil tank in a basement?

A. Basement tanks are considered “aboveground” tanks and do not have to be registered if they are used to store fuel oil used for heating and hot water. Oil tanks kept in a shed or garage also do not have to be registered. It is important that these tanks be checked regularly to make sure that they are not leaking. It is also important to make sure that the fuel line complies with the Massachusetts Fuel Line Law regarding the buried portion of the fuel delivery line. Your oil dealer will be able to determine if you are in compliance.

A business that stores oil in aboveground tanks to provide power for manufacturing equipment or other processing equipment is not exempt and must register the tanks.

Q. Are any other tanks exempt?

A. Yes. Tanks used to store propane or liquefied natural gas, whether aboveground or underground do not have to be registered. These tanks must be installed following fire safety regulations.

Q. Why is this change necessary?

A. Leaks from underground fuel tanks threaten ground and surface water supplies and can contaminate private drinking water wells. Oil leaking into the ground can also flow under a house or other building and cause indoor air quality problems in the building. Mitigating and cleaning up after such leaks is very costly and labor intensive (see “What does this type of cleanup cost?”, below).

Q. When does a tank have to be tightness tested?

A. The bylaw requires commercial underground steel tanks to be tested beginning 15 years after installation under the ground. The tank owner can obtain a variance if s/he can show that the tank is made of fiberglass, is a double-walled tank, or has self-contained monitoring. In these cases, the tank does not have to be first tested until 20 years after installation under the ground. Residential tanks must first be tested 20 years after installation under the ground. Commercial tanks must be tested annually after the first inspection; residential tanks must be tested every three years after the first inspection.

Q. What does tank tightness testing cost?

A. The cost of testing varies with the size of the tank and the location of fuel lines. Testing costs in the area range from \$400-\$500 to around \$1,500 for larger tanks.

Q. What happens if a tank is leaking?

A. Leaking tanks must be removed and the soil under the tank must be tested. The Massachusetts Contingency Plan (310 CMR 40.0000, commonly referred to as the MCP) provides regulations for management of leaking tanks.

Q. What happens if the soil is contaminated?

A. Contaminated soil will have to be excavated and taken to a landfill or treatment facility. This may involve removal of part of a foundation wall or floor. Groundwater will have to be tested, along with soil vapor under the building if there is evidence that oil has migrated there. These cleanup activities are required to be performed under the direction of a MA Licensed Site Professional (LSP), who will fill out, file, and submit all the State required paperwork.

Q. What does this type of cleanup cost?

A. According to the MassDEP, which oversees cleanup of oil in the environment, the range of costs when soil was contaminated is between \$20,000 and \$50,000, but the cost ranges to over \$90,000 when groundwater is involved. MassDEP reported that some residential cleanup activities have cost more than \$300,000 when oil migrated to a drinking water well.

Q. Will homeowner's insurance cover this cost?

A. Most homeowner's policies include environmental cleanup, but also require the homeowner to carry a rider for the tank. Some policies have a "pollution exclusion" clause, and may not cover all remedial activities. You may also have a deductible which could need to be paid before your insurance starts to kick in.

Q. Should I remove my underground tank?

A. The bylaw does not require anyone to remove a tank that is not leaking. However, over time, removal will end up costing less than repeated testing. An uncomplicated removal – when a tank is not partially under a building – can cost up to \$1,000. The cost can be between \$1,000-\$2,500 when the removal is more complicated. These costs do not include the cost of buying a new tank and having it installed in the basement. If there is a standard 285-gallon steel tank – the same kind of tank found in a basement – buried in a yard it is best to remove it because these tanks were never intended to be buried and eventually will leak.

Q. Why do underground tanks leak?

A. Underground tanks leak for many reasons. Tanks can corrode over time if they are exposed to moisture in the soil. Rainwater is slightly acidic, and can cause corrosion of steel tanks. Fiberglass tanks are protected from corrosion. Underground tanks can also leak because they fail structurally. Over time the steel weakens and bends and that can lead to leaking. Tanks commonly leak at welds where the vent pipe and fill pipe enter the tank. These are weak spots and can bend and twist.

Q. What aboveground tanks are covered in this bylaw?

A. Aboveground tanks and containers such as drums that hold more than 50 gallons of chemicals or hazardous waste are included. These tanks and containers do not have to be tested, but they must be registered with the Board of Health and they must have a containment structure surrounding them to contain anything that leaks or spills from the tank. Only tanks or containers that individually hold more than 50 gallons are included. For example, a retail store that sells swimming pool chemicals in 25-gallon containers does not have to register, no matter how many containers are present in the store. A business that uses solvent to clean metal parts and stores the used solvent in 55-gallon drums prior to its being transported to a treatment facility must register and must have containment around the drums.

Q: Are there any financial costs to the Town as a result of this revised bylaw?

A. The revised bylaw with its inspectional requirements has no added cost to the Town over the existing version. The commercial and retail permits both require a fee be paid which will cover the associated costs making it a cost neutral program.