



TOWN OF YARMOUTH

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BOARD OF HEALTH

BOARD OF HEALTH REGULATION

HANDLING AND STORAGE OF TOXIC OR HAZARDOUS MATERIALS FUEL STORAGE TANKS

Section 1. AUTHORITY

This regulation is promulgated by the Board of Health of the Town of Yarmouth, Massachusetts pursuant to authority established under the provisions of Chapter III, Section 31, Massachusetts General Laws.

Section 2. PURPOSE

- A. The purpose of this Board of Health Regulation is to safeguard the public health, safety and welfare by protecting the ground and surface waters of the Town of Yarmouth from direct or potential contamination by toxic or hazardous materials, which contamination there from could result from the improper handling or storage of such materials or from leaking fuel storage tanks, underground feeder lines, and pipe connections;
- B. The groundwater underlying this town is the sole source of its existing and future drinking water supply; further, the groundwater aquifer is integrally connected with, and flows into, the surface waters, lakes, streams and coastal estuaries which constitute significant recreational and economic resources of the town used for bathing and other water-related recreation, shellfishing and fishing;
- C. Accidental spills or discharges of petroleum products or other toxic or hazardous materials have repeatedly threatened the quality of such groundwater supplies and related water resources on Cape Cod and in other Massachusetts towns, posing potential public health and safety hazards and threatening economic losses to the affected communities;
- D. Unless preventive measures are adopted to prohibit discharge of toxic or hazardous materials and to control their storage within the town, further spills and discharges of such materials will predictably occur, and with greater frequency and degree of hazard by reason of increasing construction, commercial and industrial development, population, and vehicular traffic in the Town of Yarmouth and on Cape Cod;
- E. The foregoing conclusions are confirmed by findings set forth in the Environmental Impact Statement and Water Quality Management Plan for Cape Cod (September 1978), prepared by the Cape Cod Planning and Economic Development Commission, pursuant to Section 208 of the Federal Clean Waters Act; by the report entitled Chemical Contamination (September 1979), prepared by the Special Legislative Commission on Water Supply, Commonwealth of Massachusetts, and by the report, Chemical Quality of Groundwater, Cape Cod Massachusetts (1979), prepared by the U.S. Geological Survey.

Section 3. APPLICABILITY

The provisions of this regulation shall be applicable to owners or operators of aboveground and underground tank systems storing heating oil for consumptive use on property which are located within the Town of Yarmouth and as further defined under procedures below.

Section 4. DEFINITIONS

A. Aboveground Storage Tank:

Any fuel storage system, except in-house storage systems, which has all of its structure, contents, and piping on or above the surface of the ground.

B. In-house Storage System:

Any fuel storage system which exists in the confines of any house, barn, dwelling, or other building and is surrounded by impervious material (i.e., concrete, masonry, etc.) in such a way that a spill would be contained.

C. Toxic or Hazardous Materials:

- 1) Material including but not 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.
- 2) Any waste, material, product, or substance deemed hazardous under the Massachusetts Hazardous Waste Management Act, General Laws, Chapter 21C, the Massachusetts Superfund Act, General Laws, Chapter 21E, the Resource Conservation and Recovery Act (RCRA), 42 United States Code 6901 et seq., or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), known as "Superfund," 42 United States Code 6901 et seq., as these statutes may be amended, shall be deemed a hazardous waste for the purpose of this regulation.
- 3) Toxic or Hazardous Materials include, but are not limited to, organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies, and include products such as pesticide, herbicides, solvents, and thinners.
- 4) The sole authority with regard to determining whether or not a substance is considered a toxic or hazardous material shall rest with the Board of Health.

D. Operator:

Any person who is responsible for the operation of an fuel storage tank or fuel storage facility. In the case of an abandoned fuel storage tank or fuel storage facility, the term operator means any person who operated such fuel storage tank or fuel storage facility, immediately prior to such abandonment.

E. Owner:

Any person who has effective control or legal ownership of an fuel storage tank or fuel storage facility. In the case of an abandoned fuel storage tank or underground storage facility, the term owner means any person who owned such an underground storage tank or underground storage facility immediately prior to such abandonment. For the purpose this regulation, the Board of Health shall be entitled to rely on the most current list of owners in the records of the Town Board of Assessors as providing sufficient evidence of ownership under this regulation.

F. Person:

Any agency or political subdivision of the Federal Government or the Commonwealth, any state, public or private corporation or authority, individual, trust, firm, joint stock company, partnership, association, or other entity, and any officer, employee, or agent of such person, and any group of persons.

G. Underground Storage Tank:

Any one or combination of tanks, including underground pipes connected thereto, used to contain an accumulation of toxic or hazardous materials and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground.

H. Underground Storage Facility:

Any one or combination of tanks and their associated ancillary equipment and containment systems.

I. Zone of Contribution:

- 1) Designated area contributing to public supply wells, defined on a map entitled "Town of Yarmouth, Public Supply Wells Zones of Contribution," dated July 1988 and prepared by IEP, Inc.

- 2) Zones of Contribution include those land areas which contribute recharge (precipitation which has percolated to the water table) to public water supply wells. The boundaries of Zones of Contribution shall be determined by the Yarmouth Board of Health.

Section 5. GENERAL REQUIREMENTS

- A. All aboveground storage systems must have a clearance of at least twelve (12) inches between any portion of the system and any adjacent structure and/or the earth's surface. The area beneath the system shall be a 4" thick continuous concrete slab; it shall extend 8" beyond the tank on all sides.
- B. Aboveground storage systems must be maintained to protect them from the elements in such a way that satisfies the Board of Health and Fire Department.
- C. All fuel storage systems shall comply with 527 CMR 4.00 and/or 527 CMR 9.00.
- D. All aboveground storage systems shall be installed in such a manner as to facilitate the securing of the tank or tanks to a permanent structure to prevent tip-over. The method of installation shall comply with 527 CMR 4.00 and/or 527 CMR 9.00.

Section 6. TANK REGISTRATION

- A. Owners or operators of all aboveground and underground storage tanks storing heating oil for consumptive use on property not currently covered under 527 CMR 9.00 shall:
 - 1) File with the Yarmouth Board of Health, not later than ninety (90) days following the effective date of this regulation, the size, type, age and location of each tank, and the type of fuel or chemical stored in them.
 - 2) File evidence of date of purchase and installation, including fire department permit, and a sketch map showing the location of such tanks on the property.
 - 3) Upon registering the tank with the Yarmouth Board of Health, receive a permanent metal or plastic tag, embossed with a registration number unique to that tank. This registration tag must be affixed to the fill pipe in such a location as to be visible to any distributor when filling the tank and to any inspector authorized by the Town of Yarmouth.
- B. Commercial suppliers of fuels or other toxic or hazardous materials, when filling an aboveground or underground tank storing heating oil for consumptive use on property, shall note on the invoice or bill for the product delivered, the registration number appearing on the tag affixed to the tank which was filled. Every commercial supplier of fuels or other toxic or hazardous materials for consumptive use on property shall notify the Yarmouth Board of Health of any unregistered or untagged aboveground or underground storage tank which they are requested to fill. Such notification must be completed within five (5) working days of the time the supplier discovers that the tank registration tag is not affixed to the fill pipe.

- C. In-house storage systems, as defined above, are exempt from this section: In-house storage systems which are located on earthen floors or other pervious surfaces are considered aboveground systems and must be registered and shall have installed a suitable continuous concrete slab extending eight (8) inches beyond the tank in all directions.

Section 7. TESTING

- A. The underground storage tank owner or operator shall have each tank and its piping tested for tightness fifteen (15) years after installation and annually after twenty (20) years.
- B. An underground storage tank shall be tested by any final or precision test, not involving air pressure, that can accurately detect a leak of 0.05 gallons/hour, after adjustment for relevant variables, such as temperature change and tank end deflection, or by any other testing system approved by the Yarmouth Board of Health, as providing equivalent safety and effectiveness. Piping shall be tested hydrostatically to 150 percent of the maximum anticipated pressure of the system.
- C. Certification of the testing shall be submitted to the Yarmouth Board of Health by the owner or operator, at the owner's or operator's expense. Those tanks subject to the testing requirements of this regulation shall submit the certification of testing to the Yarmouth Board of Health within ninety (90) days of enactment of this regulation. For purposes of this section, underground storage tanks of unknown age are assumed to be twenty (20) years of age.
- D. Tanks which are currently tested under the provisions of 527 CMR 9.00 are exempt from this section. The Yarmouth Board of Health reserves the right to order any tank tested at any time for cause shown.

Section 8. REPORTS OF SPILLS OR LEAKS

- A. Every owner or operator, as soon as he has knowledge of a spill, loss of product, or an unaccounted for increase in consumption, which may indicate a leak from a toxic or hazardous materials storage tank, shall immediately report such information and circumstances as may be known, to the Yarmouth Fire Department and Yarmouth Board of Health. Initial reports shall contain, as a minimum, information as to the type and estimated amount of material believed to have leaked.
- B. Commercial suppliers of fuels or other toxic or hazardous materials to fuel storage tanks who believe greater than normal usage is occurring or become aware that a defective fuel storage tank exists shall report such facts and circumstance immediately to the Chief, Yarmouth Fire Department and the Yarmouth Board of Health.

- C. Upon evidence or determination by the Agent of the Yarmouth Board of Health or the Chief, Yarmouth Fire Department, that a toxic or hazardous materials storage tank is considered to be not product-tight or indicates extensive deterioration, said storage tank shall be emptied and removed within twenty-four (24) hours from the time of such order.

Section 9. TANK REMOVAL

- A. All underground toxic or hazardous materials storage tanks, not regulated under 527 CMR 9.00, in service on the effective date of this regulation shall be removed thirty (30) years after the date of installation. If the date of installation is unknown, the tank shall be assumed to be twenty (20) years of age.
- B. All underground toxic or hazardous materials storage tanks, not regulated by 527 CMR 9.00 and in Zones of Contribution to Town of Yarmouth Public Supply Wells, shall be removed twenty (20) years after the date of installation. If the date of installation is unknown, the tank shall be assumed to be twenty (20) years of age and removed forthwith.
- C. Prior to the removal of an underground storage tank governed by this regulation, the owner or operator shall first obtain a permit from the head of the Yarmouth Fire Department, pursuant to Massachusetts General Laws, Chapter 148.
- D. Any person granted a permit by the State Fire Marshal or the head of the Yarmouth Fire Department to remove a tank under the provisions of Massachusetts General Laws, Chapter 148 or 527 CMR 9.00, shall, within seventy-two (72) hours, provide the permit granting authority with a receipt for delivery of said tank to the site designated on the permit.
- E. Removal of a fuel storage tank shall be performed under the supervision of the Fire Chief in compliance with the removal provisions of the Code. The Fire Chief may approve decommissioning of a tank instead of removal where permitted by the code, provided that, immediately prior to decommissioning, the tank shall be tested for leakage of a hazardous substance using a method acceptable to the Fire Chief and that no leakage is detected by such testing.
- F. Before any person is granted a permit by the State Fire Marshal or the head of the Yarmouth Fire Department to remove a tank, under the provisions of Massachusetts General Laws, Chapter 148 or 527 CMR 9.00, and said tank is not being transported to an approved tank yard, the person requesting the permit shall provide the permit granting authority with written approval from the owner/manager of the disposal site. (Reference: 502 CMR 3.00 for tank removal and disposal procedure.)
- G. No fuel storage tank shall be allowed to be disposed of or stored in the Town of Yarmouth Landfill.
- H. No failed fuel storage tank shall be relined, repaired or in any way reused.

Section 10. DESIGN AND INSTALLATION OF FUEL STORAGE TANK FACILITIES

- A. Following the effective date of this regulation, the installation of all underground toxic or hazardous materials storage tanks shall conform with the following: In that the United States Environmental Protection Agency designated the Town of Yarmouth as overlying a sole source aquifer, secondary containment and an approved in-tank or interstitial space monitoring system shall be required for new or replacement commercial or residential underground storage tanks and their piping systems.
- B. Plans and specifications for underground storage tanks, commercial or residential, intended to store toxic or hazardous materials, whether an original or replacement installation, shall be required to be submitted to the Yarmouth Board of Health. Plans and specifications of said underground storage facility and its appurtenant parts shall be submitted in six (6) copies, with the application for installation of the storage tank; said plans and specifications shall be drawn and certified by a registered professional engineer, who has been trained in the discipline of civil, mechanical, or sanitary engineering. After said installation is made, the Yarmouth Board of Health may require that the installation of said tank be certified to the Yarmouth Board of Health by a registered professional engineer, who has been trained in the discipline of civil, mechanical, or sanitary engineering, that the said installation was installed properly and correctly or in compliance with the installation plans.
- C. The installation of underground storage tanks, commercial or residential, intended to store toxic or hazardous materials, whether an original or replacement installation, shall be governed under the Massachusetts Board of Fire Prevention Regulations, 527 CMR 9.00. Said underground storage tanks shall be installed according to the manufacturers' specifications and under the direction of the Chief, Yarmouth Fire Department, or designee.
- D. All tanks shall be designed and constructed to minimize the risk of corrosion and leakage. The following tank construction shall be approved:
- 1) UL-listed double walled steel tank with cathodic protection or bonded fiberglass coating and with electrical isolation, a vacuum or air pressure in the interstitial space with continuous monitoring of the vacuum or air pressure in the interstitial space with continuous monitoring of the vacuum or air pressure.
 - 2) UL-listed fiberglass reinforced plastic (FRP) double walled with a hydrostatic pressure monitoring system approved by the Yarmouth Board of Health and the Chief, Yarmouth Fire Department. The tank must be constructed using materials compatible with the Product stored therein.
 - 3) Any other "state of the art" type of tank construction with an approved continuous interstitial space monitor and providing equal or better protection against leakage than the above-mentioned tanks and approved by the Chief, Yarmouth Fire Department and Yarmouth Board of Health.
- E. No new installation of underground toxic or hazardous materials storage tanks shall be allowed within a 2,500 foot radius of a public or private water supply well.

- F. The Yarmouth Board of Health may require the installation of one or more groundwater monitoring wells at any new or existing site where toxic or hazardous materials are stored underground. Water samples from such monitoring wells may be required by the Yarmouth Board of Health and shall be analyzed at the expense of the owner(s) or operator(s).
- G. Aboveground or underground toxic or hazardous materials storage tanks which have been installed prior to the effective date of this regulation shall comply with all applicable provisions of this regulation.

Section 11. STORAGE SYSTEMS ABANDONED

- A. Any person having knowledge of a fuel storage system that is abandoned shall notify the Fire Department or the Board of Health.
- B. All tanks taken out of service or no longer used for the storage of fuel, as defined in this regulation, shall be removed within (6) months from the date of abandonment.

Section 12. COSTS

In every case, the owner or operator shall assume responsibility for costs incurred necessary to comply with this regulation.

Section 13. VARIANCES

The Yarmouth Board of Health may vary the application of any provision of this regulation, unless otherwise required by law, in any case where the Board deems it appropriate, upon a demonstration by the applicant for a variance, in writing, on the public record, that an equivalent or higher degree of regulation, will be achieved. The applicant, at his own expense, shall notify all abutters by Certified Mail, Return Receipt Requested, at least ten (10) calendar days before the Board meeting at which the variance request is to be considered. Said notice shall state the variance sought, the reasons therefor, and where copies of the variance may be obtained, without charge.

Any variance granted by the Board shall be in writing and shall include findings of fact and conclusions of law necessary to support the variance. Any denial of a variance by the Board shall be in writing and shall contain a brief statement of the reasons for the denial.

Section 14. ENFORCEMENT

- A. The Yarmouth Board of Health may issue administrative orders, enforcement orders, violation notices, requests for compliance, and other documents and correspondence to enforce provisions of this regulation.
- B. The Yarmouth Board of Health may pursue criminal prosecution or civil litigation or both in the courts of the Commonwealth of Massachusetts to enforce the provisions of this regulation.

Section 15. PENALTY

Failure to comply with any or all of the provisions of this regulation or upon established evidence of violations hereof could result in a criminal prosecution and a fine governed under Massachusetts General Laws, Chapter III, Section 31. Each day or portion thereof that a violation continues shall be deemed a separate offense.

Section 16. SEVERABILITY

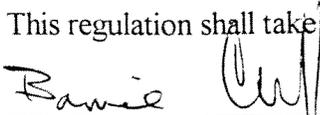
If any section, paragraph, sentence, clause, phrase, or word of this regulation shall be judged invalid for any reason whatsoever, that decision shall not affect any other portion of the regulation herein which shall remain in full force and effect; and to this end, the provisions of this regulation are hereby declared severable.

Section 17. ADDITIONAL REGULATIONS

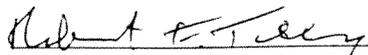
The Yarmouth Board of Health reserves the right to adopt additional regulations, as deemed necessary, or restrict or delete any of the herein-mentioned provisions of this regulation in the best interest of the Town of Yarmouth.

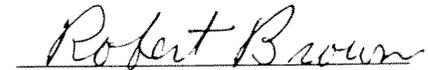
Section 18. EFFECTIVE DATE

This regulation shall take effect on July 1, 1997, after publication of this notice in a local newspaper.


Barrie Cliff, Chairman


Ed Fettes, Vice Chairman


Robert F. Tilley, M.D., Clerk


Robert Brown

Joan E. Sullivan, RN

Public Hearing Date: APRIL 28, 1997

Publication Date: MAY 8, 1997 Newspaper: YARMOUTH REGISTER

Effective Date of Regulation: JULY 1, 1997

Certified to D.E.P. Lakeville, Date: JULY 23, 1997 TO PAUL TAURASI, DIRECTOR

Certification #: P 264 080 493

Certified to DEP/DWPC: Boston/7th Floor - Central Register/B.O.H. Regulation,
Date: JULY 23, 1997

Certification#: P 264 080 494