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SECTION 4.0

REGULATIONS FOR STORAGE TANKS

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4.1 Preamble

The purpose of these regulations is to prevent degradation of water resources and drinking water supplies by registering and testing tanks underground and aboveground which store oil or other hazardous materials and removing any leaking underground storage tanks.

4.2 Authority

The Oak Bluffs Board of Health has adopted these regulations pursuant to its authority under M.G.L. Chapter 111, Section 31.

4.3 Definitions

For the purpose of these regulations, the words and phrases herein shall have the following definitions:

- (a) “Board” means the Oak Bluffs Board of Health.
- (b) “Oil and Hazardous Materials” shall mean any petroleum product, hazardous or toxic substance, waste, or material present on the Property or emanating therefrom on or before the date of this Agreement and defined generally as such in the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), The Superfund Amendments and Reauthorization Act (SARA), the Emergency Planning and Community Right-To-Know Act (EPCRA or SARA Title III), the Resource Conservation and Recovery Act (RCRA), and regulations of the U.S. Environmental Protection Agency (EPA), and in G.L. Chapter 21E and regulations of the Department of Environmental Protection (DEP).
- © “Owner” is every person who alone or severally (1) has legal title to any developed property, (2) has care, charge, or control of the developed property in any capacity including but not limited to agent, executor/rix, administrator/rix trustee, or guardian of the estate of the holder of legal title, (3) mortgagee in possession, (4) agent, trustee, or other court-appointed persons, (5) any officer or trustee of the association of unit owners of condominium.
- (d) “State of the Art Tank Construction” includes double-walled tanks, fiberglass coatings, electrical insulation, cathodic protection, electronic monitoring systems, secondary containment, or any other construction approved in advance by the Board and the Fire Department.

- (e) “Watershed” means the land from which water drains into a particular stream, pond, or other water body.

4.4 Underground Storage Tank Registration

The following provisions shall apply to all underground hazardous materials storage systems with capacity of 55 gallons or greater:

4.4.1 Registration

Owners shall register with the Board the size, type, age and location of each existing tank, and the type of hazardous material stored in each, within 90 days of the effective date of these regulations. Evidence of the date of purchase and installation, including Department permit, if any, shall be included along with a sketch map showing the location of such tanks on the property.

Prior to the sale of a property containing an Underground Storage Tank, the Board must receive from the current owner a change in ownership form for the registration of the underground storage tank. Such form can be obtained from the Board.

4.4.2 Testing

- (a) Owners of tanks for which evidence of the installation date is not available shall, at the order of the Board, have such tank and piping systems tested. If either the Board or the Fire Department determines that the tank or piping is leaking, all material shall be removed from the tank or piping, the tank or piping shall be removed from the ground, and the tank or piping shall be disposed of under the direction of the Board or the Fire Department..
- (b) All steel tanks and piping or tanks constructed of concrete or other porous materials or of unknown or undocumented construction shall be subject to a test for tightness at the owner's expense 15 years after installation and annually thereafter. If evidence of the installation date is not available, the tank shall be presumed to be at least 15 years old and is hence subject to these provisions. A tank shall be tested by any precision test which can accurately and predictably detect leaks, and which has been approved in advance by the Board or the Fire Department.
- © All tests shall be administered by qualified persons, and any such persons shall notify the Board and the Fire Department prior to administering the test. The person performing the test shall promptly supply the owner of the tank, the Board and the Fire Department with certified copies of all test results for the tank and its piping. Any tanks failing the test shall be disposed of under the direction of the Board or the Fire Department.
- (d) If a tank or piping as described in Section 4.4.2(b) above is unprotected, it shall be retrofitted with cathodic protection, leak detection devices, spill containment manholes and overflow protection devices by July 1, 1996. Until these retrofits have been added, a semi-annual test for tightness shall be required. If an owner fails to retrofit his or her tank or piping system by the deadline, the Board or the Fire Department may order its removal.

4.4.3 Construction and Design

All newly installed tanks shall be designed and constructed to minimize the risk of corrosion and leakage. Tanks shall be protected from internal and external corrosion by utilizing “state-of-the-art tank construction”.

4.4.4 Exemptions

Fuel oil tanks utilized exclusively for residential consumptive use on the premises and located outside the Sensitive Resource Areas as defined in Section 2.0 of these regulations shall be exempt from the requirements of this regulation.

4.4.5 Tank Removal

All leaking tanks must be emptied by the owner or operator within 24 hours of leak detection and removed by the owner or operator in a time period to be determined by the Board or the Fire Department.

4.4.6 Tank Installation

No new tank installations shall be permitted within Sensitive Resource Areas as defined in Section 2.0 of these regulations unless such tank is a replacement.

4.5 Aboveground Storage Tanks

Above ground tanks containing hazardous materials shall be stored on a surface that is designed and at all times operated so that it is free of cracks and gaps and is sufficiently impervious to contain discharges and accumulated precipitation until the collected material is detected and removed. The surface of the containment system shall be sloped or otherwise designed, constructed, operated, and maintained to drain and remove liquids resulting from discharges or precipitation. The storage area shall form a retaining basin not less than the capacity of the largest tank plus 10% of the aggregate capacity of all other tanks within the enclosure. Above-ground containers within Sensitive Resource Areas (as described in section 2.0 of these regulations) for a public drinking water supply shall have secondary containment with interstitial space monitoring consisting of either a double wall, external liner system, or vault system. All above-ground containers shall utilize "state-of-the-art" tank construction, containment, monitoring and leak detection. Suitable fire control and toxic control facilities shall be maintained at all times.

4.6 Variance Procedures

The Board may vary the application of any provision of these regulations, unless otherwise required by regulation or law, in any case when, in its opinion, the applicant has demonstrated hardship and that an equivalent degree of environmental protection required under this regulation will still be achieved. The applicant at his/her own expense must notify all abutters by certified mail at least 10(ten) days before the Board meeting at which the variance request will be considered. The notification shall state the variance sought and the reasons therefore. Any variance granted by the Board shall be in writing. Any denial of a variance shall also be in writing and contain a statement of the reasons for the denial.

4.7 Enforcement

Failure to comply with these regulations shall be enforceable by a fine of \$300 in accordance with M.G.L. Chapter 111, Section 31 or civil action for injunctive relief and money damages, or both, in the Courts of the Commonwealth. Each day or portion thereof during which a violation continues shall constitute a separate offense

The Board may enter upon privately-owned property for the purposes of performing its duties under this regulation.

4.8 Severability

A determination that any portion or provision of this regulation is invalid shall not invalidate any or provision thereof, nor shall it invalidate any variance or certification previously issued thereunder.