

**TOWN OF CUMMINGTON
BOARD OF HEALTH
REGULATION**

**Controlling the Installation and Use Of
Outdoor Hydronic Heaters (OHH)**

Adopted May 1, 2009

A Regulation providing for the control and permitting of Outdoor Hydronic Heaters, hereafter referred to as OHH, in the Town of Cummington.

A. Authority

This regulation shall be effective on May 1, 2009, and remain in effect until modified or amended by the Cummington Board of Health. It is enacted under authority granted by, but not limited to, Massachusetts General Laws (MGL), Chapter 111, Section 31, 31C, 122, 142A through 142M and Department of Environmental Protection Regulations, 310 CMR 7.26. These MGL may be found at the following web address <http://www.mass.gov/legis/laws/mgl/>.

B. Purpose

This purpose of this regulation is to put into place additional requirements above those listed in 310 CMR 7.26 pertaining to the installation and use of OHH in the Town of Cummington.

C. Definitions

A full list of definitions regarding this regulation can be found in 310 CMR 7.26(51).

D. Requirements

1. Applications and Permits

A. A permit is required from the Building Inspector to install and operate any new OHH. The Building inspector shall set the application requirements.

1. All OHH installed prior to December 26, 2008, must be registered with the Board of Health (BOH) prior to June 1, 2009 for a fee of \$10.00.

B. A copy of the OHH certificate provided by the manufacturer must accompany the application.

C. The Board of Health shall also sign the application before any permit is issued.

2. No OHH shall be installed within the village districts of Cummington and West Cummington.
3. A site review of topography and elevation needs to be done before installation of any OHH. The Board of Health will approve and sign the building permit application for the installation of any OHH. This site review would consider the effects of nuisance of OHH on neighboring parties. This review would require a detailed site plan that clearly shows the proposed location and distance of the unit relative to the topography and elevation and the distances to all occupied buildings and dwellings within 500 feet of the unit. The unit will not be placed in such a manner that it will cause a nuisance to others.
4. All OHH installed prior to December 26, 2008, will be inspected according to the requirements of 310 CMR 7.26(b) by the BoH.
 - A. Initial inspections of existing OHH shall take place after June 1, 2009. Any OHH not registered with the BOH by this date, shall be fined \$25.00.
 - B. Any OHH not meeting the requirements of 310 CMR 7.26, will have until August 31, 2009 to meet these requirements. Between the dates of September 1, 2009 and September 25, 2009, the BOH will again inspect these OHH. Any OHH not meeting the requirements will be fined \$100.00 plus \$25.00 per visit for any further inspections. A cease and desist order will also be issued to prohibit the use of the OHH in question until all requirements of this regulation are met.

D. Enforcement and Remedies

1. If an inspection or examination reveals an OHH is installed or operated in a manner that is not compliant with this regulation or any applicable MGL, the BOH, Building Inspector or any other authorities as specified by MGL, may issue notices of violation, cease and desist orders, and other administrative enforcement orders to compel compliance with this regulation and the MGL.
2. The BOH may take enforcement action deemed appropriate and lawful, included but not limited to criminal prosecution, civil action for injunction relief or money damages, or both. The BOH may levy fines of \$50.00 for the first offense. Any subsequent offense may be punishable by a penalty of \$100.00 for each penalty.

Town of Cummington, Board of Health

Theodore Lynds, Chairperson, Judy Bogart, Member, Jack Earls, Member

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