



*Lakeville Board of Health
Regulation for Septic System Inspection
Upon Change in Use*

Adopted 7/18/2018, replacing regulations voted and adopted 6/18/13 (revised 7/2/13), Amended 4/17/19.

Purpose.

Whereas there is evidence that discharges from on-site septic systems are impairing the quality of the Town's groundwater and surface water bodies and that there is potential for significant increases in flow due to changes in use, particularly caused by conversion of seasonal properties to year-round use, the Board of Health of the Town of Lakeville hereby enacts this Regulation to protect public health, safety and the environment and to improve the quality of the Town's surface and ground waters by ensuring that on-site septic systems can adequately process increases in septic system flow resulting from changes in use of facilities served by the those systems.

Authority.

This regulation is enacted for the protection of public health, safety, welfare and the environment in accordance with the authority conferred upon the Lakeville Board of Health in accordance with Massachusetts General Laws, Chapter 111, Sections 31, 122 and 127A.

Definitions.

The terms used herein shall be as defined in Title 5 unless another meaning is prescribed in these Regulations or required by context.

- a. **Board of Health** - The Board of Health of the Town of Lakeville or its authorized Agent.
- b. **Change in Use** - Any alteration of the facility served by an on-site septic system; any change in the nature or amount of use of a facility served by an on-site septic system, including conversion from seasonal to year-round use; any change in the type of establishment served by an on-site septic system; or any change in use of property from one use category in the Town's Zoning Bylaws to another.
- c. **On-Site Septic System or System**- A system or series of systems for the treatment and disposal of sanitary sewage below the ground surface as defined in Title 5. For purposes of this regulation, the term on-site septic system shall also include non-conforming systems such as cesspools.
- d. **Private Well** – any non-public well serving less than 15 houses or serving fewer than 25 people as defined in 310 CMR 22.02
- e. **Seasonal Use**- Any facility which is used and/or occupied for a period of 120 days or less during the course of a calendar year.
- f. **System Inspector**- An individual authorized to inspect on-site septic systems as approved by the Massachusetts Department of Environmental Protection pursuant to 310 CMR 15.340.
- g. **Title 5**- Title 5 of the Massachusetts State Environmental Code, 310 CMR 15.000, et seq., as may be amended from time-to-time.

Regulation

No person shall take any action which may result in the change in use of a facility served by an on-site septic system without a Change in Use Permit issued by the Board. Activities requiring a permit include activities that may accommodate changes in use in the future, such as changes in building size, alterations in heating systems or insulation to accommodate year-round use, and connection to a public or community water supply.

Change in Use Permit

Prior to taking any action which may result in a change in use of a facility served by an on-site septic system, the owner of the facility shall apply, in writing, for a change in use permit on a form approved by the Board.

Upon receipt of a completed application and payment of applicable fees (\$50.00) the Board shall conduct a public hearing on the application. Notice of said hearing shall be provided, at the applicant's expense and by the applicant, to all direct abutters as well as across the street.

If the Board finds, based on the facts adduced at said hearing, that the permit may result in a nuisance or that it will otherwise create a risk of harm to public health, safety or welfare, the Board may deny the application.

In approving the issuance of a permit, the Board may impose reasonable conditions, designed to protect public health, safety and welfare.

Fees

The Board may adopt and may from time-to-time revise a schedule of reasonable fees to cover the costs associated with the administration of this Regulation.

System Inspection and Well Sample Reports

The application shall include the report of a Title V system inspector documenting the results of an inspection of the system conducted within two years prior to the date of the application. In lieu of system inspection, the owner of the facility may execute a system failure acknowledgment and agreement to upgrade on a form approved by the Board.

The application shall include analysis from a Massachusetts approved laboratory of samples taken from any drinking water well serving the facility and/or any drinking water wells within 100 feet of the system. No change in use permit shall be issued unless the well meets the following minimum acceptable standards:

Coliform Bacteria*	None Detected
Sodium (Na)	20 mg/l
Chloride (Cl)	250 mg/l
Nitrate Nitrogen* (N03)	10 mg/l
Nitrite Nitrogen*	0.001 mg/l
Iron (Fe)	0.3 mg/l
Lead	0.05 mg/l
Manganese (Mn)	0.05 mg/l
pH	6.5--8.5
Total Hardness	180 mg/l
Total Dissolved Solids	500 mg/l
Turbidity	1.0 units
Color	15 units
Volatile Organic Compounds (VOC)	

*No variance may be granted on these standards of the Safe Drinking Water Act and its amendments. See Manual of Individual Water Supply Systems, EPA-570/9-82-004 Oct. 1982, page 10.

System Upgrade

If the system is a non-conforming system such as a cesspool, or if the system is failing as set forth in Title 5 and/or the Board's regulations or is a significant threat to public health, safety, welfare and the environment, then the system shall be upgraded.

If the activity will result in an increase in the design flow above the existing approved capacity of the system, the system shall be upgraded.

System upgrades shall be completed prior to the activity triggering the need for the change in use or within such time as required by the Board.

All system upgrades shall be in accordance with Title 5 and the Board's regulations.

Variance

1. The Board of Health may vary the application of any provision of these regulations with respect to any particular case when, in the Board's opinion, both of the following conditions are fulfilled:

a. The applicant shall justify, in writing, that the enforcement thereof would do manifest injustice.

b. The applicant has proved that the same degree of environmental protection, and protection of the public health, safety and welfare can be achieved without strict

application of the particular provision. The alternative means of protection shall be detailed and documented by the applicant to the satisfaction of the Board.

2. Every request for a variance shall be made in writing and shall state the specific variance sought and reasons therefore and have a certified list of all abutters to said site.
3. Any variance granted by the Board shall be in writing. Any denial of a variance shall also be in writing and shall contain a brief statement of the reason(s) for denial. A copy of each variance shall be conspicuously posted at the Town Hall for thirty (30) days following its issuance and shall be available to the public at all reasonable hours.
4. Any variance may be subject to such reasonable conditions as the Board deems necessary for the protection of public health, safety and the environment.

Enforcement

The Board may modify, suspend or revoke any permit issued pursuant to this regulation for any violation of this regulation, regulations of the Board adopted pursuant thereto or any conditions imposed by the Board. Such modification, revocation or suspension may take place after a hearing held by the Board of which the permit holder is given seven (7) days written notice. Such notice shall be deemed given upon mailing same, certified mail, return receipt requested, to the address listed on the permit application.

This regulation may be enforced by the Town's Building Commissioner or his designee. Whoever violates any provision of this regulation may be penalized by a noncriminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition regulation. If noncriminal disposition is elected, then the non-criminal fine for each such violation, if not otherwise specified, shall be:

First Offense:	\$100
Second Offense:	\$200
Third and Subsequent Offenses:	\$300

Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

Whoever violates any provision of this regulation may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided regulation and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars (\$300). Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

The Board may enforce this regulation or enjoin violations thereof through any lawful process, and the election of one remedy by the Board shall not preclude enforcement through any other lawful means.

Severability

The invalidity of any section or provision of this regulation shall not invalidate any other section or provision thereof.

Amendment to Change in Use Regulations from the 4/17/19 Board of Health meeting.

Change in Use applications (due to public water service only) can be reviewed and approved by the Health Agent. A public hearing and abutter notification are not required. See attached meeting minutes.

Review and discuss "Change in Use Application" - Agent Bernardo said that at the last meeting, it was decided that to get a plumbing permit (for change of use), would require a Certificate of Compliance, Completed Title V (pass or fail), or record a seasonal deed restriction. That is what was voted at the last meeting, but during conversation, it was mentioned that a letter of failure from a Title V inspector or engineer would be accepted. The Change in Use Application was updated to be a Certificate of Compliance (within 2 years), and a letter of failure is acceptable. Agent Bernardo said that the Change in Use Regulations states that a public hearing would be held to notify abutters that there would be a change in use. However, since it was voted that he can approve the Change in Use Applications, is a public hearing needed. Member Poillucci said he was fine with removing the public hearing from the regulations. It was discussed that this project could be exempt from the public hearing since the advertising could cause too much lag time for people waiting for year-round water. It was also decided that the letter of failure could be from the homeowner, acknowledging that he/she has two years to upgrade the system.