

RESOLUTION 04152021B OF THE
Larimer County Department of Health and Environment
BOARD OF HEALTH

**REQUEST FOR HEARING ON AMENDMENTS TO THE LARIMER COUNTY ON-SITE
WASTEWATER TREATMENT SYSTEM REGULATIONS**

WHEREAS, pursuant to Section 25-1-506(3)(b)(XI), C.R.S., the Larimer County Board of Health (“Board of Health”) has the power and the duty to initiate and carry out health programs consistent with state law that are necessary or desirable to protect public health and the environment; and

WHEREAS, pursuant to Section 25-10-104(2), C.R.S., every local board of health in the state shall develop and adopt detailed rules for on-site wastewater treatment systems within its area of jurisdiction.

WHEREAS, pursuant to Section 25-10-104(2), C.R.S., before finally adopting such rules or any amendment to the rules, the local board of health shall hold a public hearing on the proposed rules or amendments.

WHEREAS, Larimer County Department of Health and Environment (“Public Health”) has recommended that the Board of Health amend the Larimer County On-Site Wastewater Treatment System Regulations as indicated in Attachment “A” hereto, and incorporated by reference; and

WHEREAS, the Board of Health has determined that it is appropriate to conduct a public hearing to consider adoption of said amendments to the on-site wastewater treatment system regulations, and to adopt such regulations, as it deems appropriate, following the public hearing.

NOW, THEREFORE, BE IT RESOLVED BY THE LARIMER COUNTY BOARD OF HEALTH:

1. That the Board of Health shall conduct a public hearing on May 20, 2021, commencing at about 6:00 pm virtually at their regular meeting to adopt amendments to the Larimer County On-Site Wastewater Treatment System Regulations indicated in Attachment “A” hereto and incorporated herein by reference.
2. That Public Health shall advertise said public hearing as provided by law.

MOVED, SECONDED AND ADOPTED BY THE LARIMER COUNTY BOARD OF HEALTH AT ITS REGULAR MEETING APRIL 15, 2021.

LARIMER COUNTY BOARD OF HEALTH

BY: _____

PRESIDENT

ATTEST: _____

SECRETARY

Attachment A

Larimer County On-Site Wastewater Treatment System Regulations

43.4.P Transfer of Title

1. Beginning July 1, 2021, property owners of a residence or other building or facility served by an OWTS shall have an inspection performed to demonstrate that the system is functioning according to design prior to the sale or transfer of title of the property.

2. Prior to the sale or transfer of title of the property, the owners of the property shall obtain an Acceptance Document from this Department, unless exempt or waived as noted below.

3. Transfer of Title inspections must be completed by a Certified Inspector who has been certified under the National Sanitation Foundation (NSF) Onsite Wastewater Inspector Accreditation Program, the National Association of Wastewater Transporters (NAWT) Onsite Wastewater Inspector Program, or equivalent level of training and experience as established by the Department.

a. The Department shall provide and maintain a list of Certified Inspectors to the general public through the Department's website. A fee not to exceed actual costs may be charged by the Department for the initial license of a Certified Inspector. A fee not to exceed actual costs may be charged by the Department for a renewal of the license. Licenses shall be valid for a period of two years from the date of issuance.

b. The Department may decertify any Certified Inspector under any of the following circumstances:

(1) The Certified Inspector submits false or misleading information.

(2) The Certified Inspector does not maintain the required certification as required by these regulations.

(3) Any situation that is determined by the Department which does not comply with the intent of this section.

4. The following properties and situations are exempt from the requirement to obtain a Transfer of Title Acceptance Document:

a. The property is served by an OWTS that was installed and given final approval by this Department less than three years of the current closing date of the property.

b. The change in ownership is not an arm's length transaction. Examples of non-arm's length transactions include, but are not limited to, transfers between family members, parents and children and estate transactions between a spouse, parent, or child.

c. The change in ownership is creating or ending a joint ownership if at least one person is an original owner of the property and/or the spouse, parent or child of an original property owner.

- d. The transfer of property is to a trust in the same name as the original owner, or to a limited liability company, if the original owner is one of the directors of the limited liability company.
- e. The transfer of property is a result of foreclosure or forfeiture of real property. However, the subsequent transfer of the property from the foreclosing entity to a new buyer would require inspection of the system and an Acceptance Document.
- f. The property owner has obtained a repair or remodel permit for the OWTS which has not expired, the requirement to complete the repairs has been disclosed to the person acquiring title to the property, and they have agreed to assume the original applicant's responsibilities to complete the necessary repair or construction within the timeframe dictated by the permit.

5. Obtaining a Transfer of Title Acceptance Document

- a. Transfer of Title Acceptance Documents will only be issued for properties served by a permitted OWTS, unless the OWTS on the property clearly predates the requirements to obtain a permit adopted by the Board of Health in 1973.
- b. Property owners with an unpermitted OWTS installed after 1973 must apply for a repair permit to verify system components and that it is functioning, or have it replaced. A Transfer of Title Acceptance Document would not be necessary in these situations as the system will be repaired or replaced under separate permit.
- c. Applications for Transfer of Title Acceptance Documents, and inspection reports for such a purpose, must be submitted using the electronic reporting system provided by this Department. The inspection report cannot be dated more than twelve (12) months prior to the date of the Acceptance Document application and must contain the following:
 - (1) Owner's name and contact information;
 - (2) Physical address of property;
 - (3) Legal description of property;
 - (4) Name of Inspector, Inspector's NAWT or other applicable certification number;
 - (5) Date and time of the inspection(s);
 - (6) A record drawing showing the layout of the OWTS and all relevant setbacks. This requirement is waived if such a drawing is already on file with the department and the system as inspected matches the plan on file.
 - (7) An inspection report for the OWTS which states whether each component is in good repair and proper working order;
 - (8) If the property is unoccupied, a statement of when the vacancy occurred.

(9) A non-refundable transfer of title fee in the amount established by the Board of Health, as amended from time to time. The fee will be payable to the Department at the time the application is made.

6. Minimum Criteria

a. Items noted in the inspection report that do not comply with the following criteria and conditions must be corrected along with the appropriate repair permit and inspections, if necessary, prior to the issuance of a final acceptance document:

- (1) All systems must have a tank that is structurally sound, in good working order, and provided with safe and secure lids. Systems without tanks, such as cesspools, must have a tank installed to meet this requirement;
- (2) All internal devices and appurtenances such as tees, effluent screens and baffles that were originally provided with the tank or added later must be intact and in working order;
- (3) Alarms, control devices, and components necessary for the operation of the system are present and in good working order;
- (4) A soil treatment area, or other means of subsurface wastewater treatment, must not be in a state of failure;
- (5) There are no unapproved wastewater discharges from the system or structure; and
- (6) Any items meeting the conditions of a "Failure" as defined in this regulation have been corrected to the acceptance of the local public health agency.

7. If the system meets the minimum criteria set forth above a Transfer of Title Acceptance Document will be issued by the department. The acceptance document will remain valid until the date of real estate closing or for a maximum period of twelve months, whichever comes first. The acceptance document will include;

- a. Statement of the size, type and capacity of the system and a record drawing, either from the Department's records (verified by the inspector) or from the inspection reports;
- b. If the inspection of the system reveals a discrepancy in the number of bedrooms currently in the residence and the permit record currently on file with the Department, the acceptance document will indicate the discrepancy, but the purchaser may choose to forego expansion of the OWTS.
- c. Evidence of past system failures as shown in the Department's records;
- d. Circumstances or factors that may have affected the ability of the inspector to evaluate the system;
- e. Whether the system meets the permitting requirements of the Department; and

f. Other information the Department may require.

8. Conditional Transfer of Title Acceptance Document

If the Department determines that the OWTS does not meet the requirements for issuance of a Transfer of Title Acceptance Document, and snow cover, or other site conditions prevent access to the property for performing an inspection, a Conditional Transfer of Title Acceptance Document may be issued if the person acquiring title to the property agrees in writing to have the inspection completed when conditions allow and, if needed, to obtain a repair or alteration permit within 180 days of the inspection.

9. Agreement to Repair

If the department determines that the OWTS does not meet the requirements for issuance of a Transfer of Title Acceptance Document, the person acquiring title to the property may agree in writing through an Agreement to Repair to obtain a repair or alteration permit and complete all necessary repairs within 180 days of the inspection.

10. Revocation of a Transfer of Title Acceptance Document

a. The department shall revoke a Transfer of Title Acceptance Document if it is determined that the system is no longer functioning in accordance with this regulation or that false or misleading material statements were made on the application or inspection reports.

b. Upon revoking a Transfer of Title Acceptance Document, the department shall notify the current property owner of the revocation.