

TOWN OF CHELMSFORD  
GENERAL PROVISIONS, CHAPTER 201  
BOARD OF HEALTH  
ARTICLE III  
LIFEGUARD VARIANCE REGULATION

(Revised June 5, 2017, Amended February 11, 2019, September 13, 2021)

**§ 201.6 Authority and Purpose**

Pursuant to 105 CMR 435. “Minimum standards for swimming pools-State-Sanitary Code, Chapter V” – The Chelmsford Board of Health has determined that Lifeguards (105CMR 435.23) are necessary at all Facilities defined by this code.

**§ 201.7 Variance**

Pursuant to the Provisions of the Variance Section (105 CMR 435.46) the Chelmsford Board of Health will make available to applicants with Swimming Pools existing and in Operation on June 5, 2017, a Variance upon the following Terms:

**§ 201.8 The applicant must show the following:**

- 1.) Enforcement thereof would do manifest injustice. (Note: must show more than the burden of the cost)
- 2.) The applicant has to prove the same degree of protection can be achieved without strict application of the provision requiring lifeguards while the facility is open.

At a minimum, the applicant must demonstrate supervision which meets the following criteria:

A. During the operational days and times for the Lifeguard Variance, the pool water testing must be performed according to Section 435.29 “Chemical Standards” by a Certified Pool Operator (CPO) or a pool monitor. If pool water testing is to be performed by a pool monitor, such pool monitor must be trained by a Certified Pool Operator on the proper technique to perform water testing. The Certified Pool Operator must submit to the Board of Health written documentation that includes the date and names of each pool monitor trained in pool water testing and indicate that each individual trained is competent in performing pool water testing.

B. The Pool Monitor will have the following duties:

1. Supervises and monitors the bacteriological, chemical and clarity issues of the pool water to be in compliance with Section 435.29 “Chemical Standards”; includes 4X testing and bodily fluid accident control; the water testing must be spaced to include at least one peak usage time; failure in any of these areas requires immediate pool closure.
2. Maintain and sign a written log that includes chemical and clarity testing in accordance with MA law 105 CMR 435.00 Minimum Standards for Swimming Pools (State Sanitary Code: Chapter V). The information shall be set forth on the applicable MA form “Appendix A Swimming Pool Testing Records” as per Section 435.47 of the Pool Code.

C. The CPO will have the following duties:

1. Supervises and monitors the bacteriological, chemical and clarity issues of the pool water to be in compliance with Section 435.29 “Chemical Standards”; includes 4x testing and bodily fluid accident control; the water testing must be spaced to include at least one peak usage time; failure in any of these areas requires immediate pool closure.
  2. Balance pool water quality based on the chemical testing results.
  3. If performing Chemical Standards water testing, must maintain and sign a written log that that includes chemical and clarity testing in accordance with MA law 105 CMR 435.00 Minimum Standards for Swimming Pools (State Sanitary Code: Chapter V). The information shall be set forth on the applicable MA form “Appendix A Swimming Pool Testing Records” as per Section 435.47 of the Pool Code.
- 3.) If applying for a Variance not to have a Lifeguard (Mid-Week Only (Monday thru Friday) not including any Federal Holidays), the application must be accompanied by the following:
- a. A minimum of 8 weeks of records showing attendance within the pool area during posted hours. (Anyone inside the fence, on the deck, or in the pool) to set mid week average.
  - b. Above records must be certified by the individual making the request as true and accurate.
  - c. Documentation of the Certified Pool Operator who will perform all duties listed above
- 4.) In the case of any expected/scheduled high volume (>10 people) use of the pool during hours which this variance applies, Lifeguards will be required.
- 5.) Evidence of prior written notification to all owners/occupants/members about variance request must be documented.
- a. In the case of hotels/motels a posting of notice at the pool on or before February 25 for the upcoming season will be sufficient.

**§ 201.9 Re-Application:** A reapplication with no changes is \$100.00.

**§ 201.10 Grant of a Variance:**

The grant of a variance is at the discretion of the Board; the grant of a variance in one year is not a guarantee of the grant of a variance in any subsequent year. Without exception, a variance will be withheld if the Board identifies manifest error in the Application submitted or determines that the information being provided in support of the Application has been fabricated and/or does not evidence proper and timely maintenance and testing of the pool or reporting of the required information.

**§ 201.11 Variance Exclusions:**

This Variance will not be available to applicants with Swimming Pools Not Existing and in Operation on June 5, 2017; but not in Operation due to pending repairs or maintenance.

**§ 201.12 Effective Date:**

This Chelmsford Board of Health Lifeguard Variance Regulation was amended, voted on, and unanimously approved, at a regularly scheduled Board meeting on February 11, 2019, and will go into effect on February 11, 2019.

This regulation has been amended, voted on, and unanimously approved at a regularly scheduled Board of Health meeting on September 13, 2021, and will go into effect on September 13, 2021. The changes approved at the Board of Health’s September 13, 2021, meeting consisted of administrative re-numbering, no substantive changes to the regulation were made at this time.