



RESOLUTION NO. \$10-22-06

**A RESOLUTION CONTAINING AND ADOPTING REVISED ON-SITE
WASTEWATER TREATMENT SYSTEM REGULATIONS**

At a regular meeting of the Board of County Commissioners of Dolores County, Dove Creek, Colorado acting as the local Board of Health, and held and convened on the 17th day of October, 2022, with the following persons:

Commissioners present:	Steve Garchar, Julie Kibel, Floyd Cook
Commissioners absent:	None
County Attorney:	Dennis R. Golbright
Deputy Clerk to the BOCC:	Shayla Oliver

A public hearing took place regarding the adoption of revised On-site Wastewater Treatment System Regulations. Following that hearing, this Resolution was passed:

WHEREAS, the Colorado Department of Public Health and Environment has adopted statewide revised On-Site Wastewater Treatment System Regulations codified as 5 CCR 1002-43 as amended 2017 and also simply known as Regulation 43; and

WHEREAS, Regulation 43 contains certain minimum standards related to on-site wastewater treatment systems; and

WHEREAS, the Dolores County Board of Health is required to promulgate local regulations related to on-site wastewater treatment systems which must be at least as stringent as Regulation 43; and

THEREFORE, following review of the current County Regulations adopted in 2018 by Resolution 7-18-03, as well as the proposed revised regulations set forth herein, and following review and consideration of any information received during the public hearing on this issue, the following regulations are hereby adopted by the Dolores County Board of County Commissioners acting as the Dolores County Board of Health. Except where expressly specified, these regulations shall replace any prior or current OWTS regulations in place:

I. TITLE AND AUTHORITY

These requirements shall be known as the Dolores County On-site Wastewater Treatment Systems Regulations as Revised 2022. These Regulations have been adopted by the Dolores County Board of County Commissioners acting as a Board of Health pursuant to and under authority contained in the On-site Wastewater Treatment System Act, 25-10-101, et seq., CRS.

II. SCOPE AND PURPOSE

A. Declaration

These Regulations shall apply to On-site Wastewater Treatment Systems (OWTS) as defined in 25-10-103(12), CRS.

B. Purpose

The purpose of these Regulations is to establish the minimum standards for the location, design, construction, performance, installation, alteration and use of OWTS with a design capacity less than 2,000 gallons per day within Dolores County.

C. Jurisdiction

These Regulations apply to all OWTS in the unincorporated areas of the County and over all municipal corporations within the territorial limits of Dolores County, but not over the territory of any municipal corporation that maintains its own public health agency to oversee on-site wastewater treatment systems permitting and inspection, including the Town of Rico. *See*, Dolores County Resolution 06-14-01, recognizing the Town of Rico as the Local Public Health Agency for such purposes.

D. Prohibition of OWTS Where Public Sewer Service is Available and Feasible

No OWTS permit shall be issued to any person when the subject property is located within a municipality or special district that provides public sewer service, except where such sewer service to the property is not feasible in the determination of the municipality or special district, or the permit is otherwise authorized by the municipality or special district.

E. Severability

Should any section, clause, or provision of these Regulations be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of these Regulations as a whole, or any part thereof other than the part declared to be invalid.

III. INCORPORATION OF REGULATION 43

A. Included By Reference

1. The requirements of the Colorado Water Quality Control Commission's "On-site Wastewater Treatment System Regulation, Regulation 43, 5 CCR 1002-43," effective date April 30, 2018, are made a part of these Regulations and shall apply except where options of the local public health agency are identified herein, or regulations more stringent than Regulation 43, 5 CCR 1002-43, are identified and included in these Regulations. All aspects of an On-site Wastewater Treatment System, including, but not limited to, permits, design, performance, location, construction, alteration, inspection, maintenance, and use shall be as provided in Regulation 43 as well as any additional requirements contained in these Regulations.

2. Allowable local options identified in Regulation 43 but not identified in this text and the designated decisions for these Regulations are identified in the attached "Appendix A to OWTS Regulations for Dolores County". Appendix A is made a part of these Regulations.

3. In addition to local options set forth in Appendix A, Regulation 43 is amended to be more stringent as follows:

§43.9 Design Criteria – Components

D. Pipe Standards and Bedding Requirements:

1. Pipe Standards

b. *Where unperforated plastic pipe and fittings are used for gravity flow, a minimum of schedule 40 or pipe of equivalent or greater strength shall be utilized.*

B. Excluded

Reductions in soil treatment area size or separation distances, and wide beds with higher level treatment units are not allowed under these Regulations. All designs must be based on TL-1 parameters as defined in Regulation 43. Area or separation distance reductions and wider beds for higher level treatment can only be allowed in the future if these Regulations are amended to include a program of oversight for inspection and maintenance of higher-level treatment units, and this amendment is accepted by the Division.

IV. PERMITS INSPECTIONS AND FEES

A. Professional Engineer

Any new OWTS, as well as any, expansions, repairs or alterations to an OWTS shall require a Professional Engineer (as defined by Regulation 43), for site inspection, soil evaluation, and design. The engineer shall be retained by the applicant. The engineer shall stamp all design drawings for a new OWTS, as well as design drawings for expansion, repairs or alterations. The engineer, prior to the applicant backfilling the work, shall provide written certification that the OWTS, expansion, repair or alteration has been completed to the specifications of the engineer design. Digital photographs of the uncovered OWTS, expansion, repair or alteration shall be provided by the engineer at the time of the written certification. GPS locations for the major system components shall also be included.

B. Permits

1. Prior to installing, altering, expanding or repairing an OWTS, the applicant must obtain a permit from the designated Dolores County representative.

2. The permit application must include all information identified below, as well as identified in sections 43.4(B)(3), 43.5(F) and 43.5(G) of Regulation 43:

- a. Owner name and contact information;
- b. Sufficient evidence of property ownership by the applicant;
- c. Engineer name and contact information;
- d. Property address;
- e. Property legal description;
- f. Type of permit sought;

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- g. Professional Engineer generated Site Evaluation, including Soils Evaluation, including a location drawing of the system in relation to property boundaries, water sources, utilities, dwellings, outbuildings and other structures;
- h. Engineer stamped plans for the OWTS, expansion, repair or alteration;
- i. Any other information, data, plans, specifications, and tests as may be required by the designated Dolores County representative.

LOCATION OF THE SYSTEM ON THE PROPERTY AS TO NOT ENCROACH UPON ADJACENT PROPERTIES, IMPACT WELLS, OR OTHERWISE NEGATIVELY IMPACT THE SUBJECT OR ADJACENT PROPERTIES IS THE RESPONSIBILITY OF THE APPLICANT. APPLICANTS ARE ENCOURAGED TO AND MAY BE REQUIRED TO OBTAIN CURRENT PROPERTY SURVEYS IF ENCROACHMENT IS IN QUESTION.

- 3. An OWTS permit expires one year after the date of issuance if construction has not substantially commenced. After expiration, a new application shall be required to begin construction. No OWTS shall be used in any manner until completed and fully approved.
- 4. Any change in plans or specifications of the OWTS after the permit has been issued invalidates the permit unless the permittee receives written approval from the designated Dolores County representative. After a permit is invalidated, a new application shall be required to begin construction.
- 5. Repair permits must identify a reasonable period of time in which the owner must make repairs.
- 6. Application for a product development permit may be approved by Dolores County Board of Health consistent with requirements of section 43.4(I) of Regulation 43.

C. County Inspection Prior to Backfilling

Following County receipt of written certification by the engineer that the OWTS, expansion, repair or alteration has been completed to the specifications of the engineer design, together with digital photographs of the uncovered OWTS, expansion, repair or alteration, and GPS locations for the major system components, an inspection by the designated Dolores County representative of all related components of the OWTS, including the septic tank, shall take place. Said inspection and approval received prior to backfilling. The applicant must notify the designated Dolores County representative at least (10) ten days prior to the date sought for inspection. Soil profile test pit excavations and percolation holes must remain open until after final inspection.

D. Board of Health Review

If an application is denied by the designated Dolores County representative, an applicant may request review by the Dolores County Board of Health upon written request within thirty (30) days of denial. The review shall be noticed and follow the same procedures as set forth in Section V below.

E. Fees

Permit fees and fees for other services and tests associated with OWTS will be set by the Dolores County Board of Health, in conformance with section 43.4(B)(4) and (5) of Regulation 43 and 25-10-107, C.R.S.

E. Surcharge

A Surcharge of \$23.00 will be collected for each permit issued by Dolores County. Of that fee, Dolores County will retain three dollars to cover administrative costs and \$20.00 must be transmitted to the Colorado Department of Public Health for use in funding the State OWTS program.

V. **VARIANCES**

A. Variations Allowed

1. An applicant may request the Dolores County Board of Health to approve a variance from any requirement of these Regulations that is either more stringent than or not addressed by Regulation 43. Variances cannot be granted by staff.
2. Approval of a variance shall be based upon evidence presented by the applicant showing that the variance: a) would not be injurious to the public health, water quality, or environment; and b) would prevent a substantial hardship to the applicant.
3. Variances shall not be granted under the items identified in section 43.4(N)(5) of Regulation 43.

B. Variance Procedure

1. The applicant shall notify the designated Dolores County representative of the variance request in writing. The Dolores County Board of Health shall schedule a public hearing on the variance to take place at a regularly scheduled Dolores County Board of County Commissioner meeting. At least (21) twenty-one days prior to the scheduled hearing, the applicant shall provide to each adjacent landowner the variance request and notice of hearing via first class certified mail, return receipt requested. Proof of said mailing shall be provided to the Dolores County Board of Health prior to commencement of the variance hearing. Variance requests shall include all items identified in section 43.4(O)(2)(d) of Regulation 43.
2. The applicant has the burden of proof to demonstrate that the variance is justified and will pose no greater risk to public health and the environment than would a system meeting these Regulations. The Board of Health has the authority to impose site-specific requirements and conditions on any variance granted.
3. The Dolores County Board of Health shall render its decision on the variance request following the closing of the public hearing on the variance.

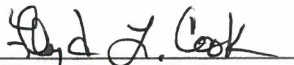
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THEREFORE, FOLLOWING A MOTION AND A SECOND AND A VOTE BE IT RESOLVED, by the Board of County Commissioners of the County of Dolores, acting as the Dolores County Board of Health, that:

1. These Dolores County On-site Wastewater Treatment Systems Regulations are hereby adopted effective 45 days from this date.

DONE AND SIGNED this 17th day of October, 2022.

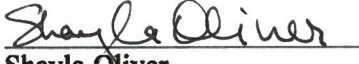
Commissioners voting aye in favor of this resolution were:


Floyd Cook, Chair


Julie Kibel


Steve Garchar

Deputy Clerk to the Board of County Commissioners


Shayla Oliver