



Larita Randolph, County Clerk & Recorder  
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**RESOLUTION NO. 7-18-03**

**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, held and convened on the 9<sup>th</sup> day of July, 2018, with the following persons:

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

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

**WHEREAS**, the Colorado Department of Public Health and Environment has adopted statewide revised OWTS 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 OWTS; and

**WHEREAS**, the Dolores County Board of Health is required to promulgate local regulations related to OWTS which must be at least as stringent as Regulation 43; and

**THEREFORE**, following review of the proposed local regulations and receipt 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 Dolores County OWTS regulations in place:

**I. TITLE AND AUTHORITY**

These requirements shall be known as the Dolores County On-site Wastewater Treatment Systems Regulations. 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**

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

**B. Purpose**

The purpose of these Regulations are to establish the minimum standards for the location, design, construction, performance, installation, alteration and use of OWTS with a design capacity less than or equal to 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. Applicability of Other Regulations

Other State or local land use regulations, including as related to floodplains, floodways, or subdivisions, may restrict or require more stringent requirements for OWTS placement or use.

F. 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 June 30, 2018", are made a part of these Regulations and shall apply except where identified as an option of the local public health agency in or are more stringent than Regulation 43, 5 CCR 1002-43, 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 and 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 AND FEES**

A. 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 in section 43.4(B)(3) of Regulation 43, including, but not limited to:
  - a. Owner name and contact information;
  - b. Property address;
  - c. Property legal description;
  - d. Type of permit sought;
  - e. Report from Site and Soil Evaluation;
  - f. System design with the Site Plan; and
  - g. Any other information, data, plans, specifications and tests as may be required by the designated Dolores County representative.
3. An OWTS permit expires one year after the date of issuance if construction has not commenced. After expiration, a new application shall be required to begin construction.
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.

#### B. Board of Health Review

When 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.

#### C. 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.

#### D. 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 twenty dollars must be transmitted to the state treasurer.

#### E. Inspections

1. An inspection by the designated Dolores County representative of all related components of the OWTS, including the septic tank, soil treatment area, and all related components, shall take place following installation, but prior to backfilling. The applicant must notify the designated Dolores County representative at least (10) ten days prior to the date sought for inspection. As-built drawings shall be provided to the inspector at the time of notice. Additional inspections may be required at the discretion of the designated Dolores County representative

2. Soil profile test pit excavations and percolation holes must remain open until after evaluation by the designated Dolores County representative.

### V. VARIANCES

#### A. Variations Allowed

1. The Dolores County Board of Health may approve a variance from a requirement of these Regulations. 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.

**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:

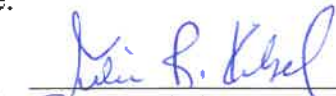
1. These Dolores County On-site Wastewater Treatment Systems Regulations are hereby adopted effective 45 days from this date.

DONE AND SIGNED this 9<sup>th</sup> day of July, 2018.

Commissioners voting aye in favor of this resolution were:

  
Steve Garchar, Chair

  
Floyd Cook

  
Julie R. Kibel

Deputy Clerk to the Board of County Commissioners

  
Jody Gardner