

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
ACTING IN THEIR CAPACITY AS THE BOARD OF HEALTH ESTABLISHING REGULATIONS FOR ON-SITE
WASTEWATER TREATMENT SYSTEMS**

WHEREAS, the Board of County Commissioners, either as the Board of County Commissioners or acting in its capacity as the Board of Health, has authority pursuant to Colorado law, including, but not limited to C.R.S. 30-11-101 and 25-10-101, et seq. to promulgate regulations pertaining to On-site Wastewater Treatment Systems (OWTS), enforce such regulations, and collect fees for the permitting of OWTS; and

WHEREAS, the Colorado Water Quality Control Commission (CWQCC) has adopted revisions to the OWTS regulations, effective June 30, 2017, and the County is required to update its Ordinance and regulations pertaining to OWTS to retain consistency with those regulations promulgated by the CWQCC; and

WHEREAS, the Board finds that the revised provisions of this Ordinance will protect the health, safety and welfare of residents and visitors to Ouray County,

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, ACTING AS THE OURAY COUNTY BOARD OF HEALTH:

Section 1. Title and Authority

These requirements will be known as the "Ouray County On-site Wastewater Treatment Systems Ordinance. These requirements have been adopted by the Ouray County Board of Health pursuant to and under authority contained in the On-site Wastewater Treatment System Act, 25-10-101, et seq. C.R.S. and has designated the Ouray County Land Use Department to implement this ordinance on behalf of the Board of Health. (Note: Information shown in [] refers to corresponding section(s) in the State CDPHE Regulation 43.)

Section 2. Scope and Purpose

A. Declaration

1. This regulation applies to On-site Wastewater Treatment Systems as defined in section 25-10-103(12), C.R.S.

B. Purpose

1. The purpose of this Ordinance is to establish the minimum standards for the location, design, construction, performance, installation, alteration and use of OWTS with a design less than or equal to 2,000 gallons per day within Ouray County.

C. Jurisdiction

1. This Ordinance applies to all OWTS in the unincorporated areas of the county, the Town of Ridgway, the City of Ouray (*limited to residences that cannot be served by a sanitation system*) but not over the Fairway Pines Sanitation District or the Cornerstone Metropolitan District.

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

1. An OWTS permit must not 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. **[43.4(B)(11)]**

Section 3. Incorporation of Regulation 43

A. Included By Reference

1. The requirements of the Colorado Water Quality Control Commission's (CWQCC) "On-site Wastewater Treatment System Regulation, Regulation 43, 5 CCR 1002-43, Effective date, June, 30, 2017", and such amendments to Regulation 43 as may be made by the CWQCC are adopted and incorporated by reference and made a part of this Ordinance and will apply except where identified as an option of the local public health agency or where this Ordinance is more stringent than Regulation 43, 5 CCR 1002-43. All aspects of an On-site Wastewater Treatment System including, but not limited to, permits, design, performance, location, construction, alteration, inspection, maintenance and use must be as provided in Regulation 43 and any additional requirements contained in this Ordinance.

2. Allowable local options identified in Regulation 43 and the designated local options are identified in the attached "Appendix A to OWTS Ordinance for Ouray County. Appendix A is made a part of this Ordinance.

B. Excluded

1. Reductions in soil treatment area size or separation distances, and wide beds with higher level treatment units are not allowed under this Ordinance. 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.

Section 4. Permits and Fees

A. Permits [43.4(B)]

1. Prior to installing, altering, expanding or repairing an OWTS, the applicant must obtain a permit from the Ouray County Land Use Department.
2. The permit application must include information identified in section 43.4(B)(3) of Regulation 43 and a completed Ouray County Septic Permit Application
3. All OWTS plans submitted must be stamped by a Colorado Licensed Professional Engineer.
4. An OWTS permit expires after one year after the date of issuance if construction has not commenced. After expiration, a new application must be required to begin construction.
5. 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 Ouray County Building Inspector. After a permit is invalidated, a new application and subsequent permit is required to begin construction.
6. Repair permits must identify a reasonable period of time in which the owner must make repairs prior to expiration of the permit.
7. Application for a product development permit may be approved by the Ouray County Land Use Department, consistent with requirements of section 43.4(I) of Regulation 43, and subsequent to approval of the proposed product or system by CDPHE.

B. Board of Health Review [43.4(B)(9)]

1. When an application is denied by the Land Use Department, an applicant may request review by the local Board of Health. Requests for review of permit denial by the local Board of Health must be submitted to the Land Use Department within 14-days from the date of denial.

C. Fees [43.4(B)(4)]

1. Permit fees and fees for other services and tests associated with OWTS will be set by the 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 [43.4(B)(5)]

1. A surcharge of \$23.00 will be collected for each permit issued by the Land Use Department. Of that fee, the Land Use Department will retain three dollars to cover administrative costs and twenty dollars must be transmitted to the state treasurer.

Section 5. Inspections [43.4(E)]

A. Septic Tank [43.9(B)(3)(c)]

1. The applicant must notify the Ouray County Land Use Department at least 48 hours prior to inspection so they can conduct a field inspection of the septic tank before backfilling to confirm size and manufacturer certification.

B. Soil Treatment Area and Related Components [43.4(F)(3)]

1. The applicant must notify the Ouray County Land Use Department at least 48 hours prior to inspection so they can conduct a final field inspection of the soil treatment area and all related components of the OWTS before backfilling.

C. Inspections by Engineer

1. The design engineer must complete inspections of the entire OWTS prior to backfilling and submit a record drawing to the Ouray County Land Use Department.

Section 6. Variances [43.4(N)]

A. Variances Allowed

1. The Board of Health may approve a variance from a requirement of this Regulation. Variances cannot be granted by staff.
2. Approval of a variance must be based upon evidence presented by the applicant, or their designee, showing that the variance would prevent a substantial hardship on the Applicant and would not be injurious to the public health, water quality, or environment.
3. Variances must not be granted under the items identified in section 43.4(N)(5) of Regulation 43.

B. Variance Procedure

1. Variance requests must be provided in writing to the Land Use Department and will be scheduled on the next available agenda for the County Board of Health.
2. Variance requests must include all items identified in section 43.4(N)(2)(d) of Regulation 43.
3. 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 must determine if this item has been addressed prior to granting a variance.
4. The Board of Health has the authority to impose site-specific requirements and conditions on any variance granted.

Section 7. Violations.

It shall be unlawful for any person to violate any provision of this Ordinance.

Section 8. Enforcement and Penalties.

The Board may seek an injunction or other equitable relief in court to enjoin any violation of this Ordinance and may recover the costs of such actions, including reasonable attorneys' fees. The County may seek such criminal or civil penalties as are authorized by Colorado law, including, but not limited to, C.R.S. 25-10-110 and 113. Each day of violation may be considered a separate violation. Each violation may result in a fine of up to \$50.00.

The Ouray County Land Use department may issue a notice of violation for any violation of this Ordinance. The Ouray County Sheriff shall enforce any criminal penalties as may be authorized under Colorado law. Except as may be otherwise provided under Colorado law, all prosecutions for violations of this Ordinance shall be by the District Attorney for the Seventh (7th) Judicial District.

The remedies under Colorado law for violation of this Ordinance shall be cumulative, and in addition to any other remedy which may be available to the Board of the County. Nothing contained herein shall be construed to preclude the Board from seeking such other remedies in addition to, or in lieu of, the legal remedies granted herein.

Except as otherwise provided by law, all penalties and fines for the violation of this Ordinance shall be paid into the treasury of Ouray County.

Section 9. Severability.

If a Court of competent jurisdiction shall hold any part of this Ordinance void or unconstitutional, such part shall be deemed severable, and the invalidity thereof shall not affect the remaining provisions of the Ordinance.

Section 10. Interpretation.

This Ordinance shall be interpreted and construed so as to effectuate its general purpose. Section headings of this Ordinance shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.

Section 11. Effective Date.

This Ordinance shall be effective on MARCH 30, 2018 and shall remain in effect until such time as this Ordinance is amended, temporarily suspended, or repealed.

Section 12. Repeal of Prior Ordinance.

As of the effective date of this Ordinance, the provisions of any prior and or conflicting ordinance or resolution pertaining to OWTS, septic systems or individual sewage disposal systems are hereby repealed and replaced by this Ordinance.

Section 13. Certification.

The Ouray County Clerk and Recorder shall certify as to the passage of this Ordinance and make not less than three copies of the adopted Ordinance available for inspection by the public during regular business hours.

INTRODUCED AND FIRST READING on and on such date ordered published in the *OURAY COUNTY PLAINDEALER*. Published on January 23, 2018.

**Board of County Commissioners
Ouray County, Colorado**



Don Batchelder, Chair



John E. Peters, Vice-Chair



Ben Tisdel, Commissioner Member

ADOPTED ON SECOND AND FINAL READING on February 13, 2018.

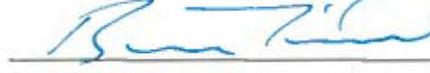
**Board of County Commissioners
Ouray County, Colorado**



Don Batchelder, Chair



John E. Peters, Vice-Chair



Ben Tisdel, Commissioner Member

CERTIFICATION BY OURAY COUNTY CLERK AND RECORDER:

I, Michelle Nauer, Clerk and Recorder of Ouray County and Clerk to the Board of County Commissioners, do hereby attest and certify that this Ordinance was

INTRODUCED AND READ ON January 23, 2018 AND CONTINUED TO February 13, 2018 AND READ AND ORDERED PUBLISHED AT SUCH REGULAR MEETING OF THE BOARD OF COUNTY COMMISSIONERS.

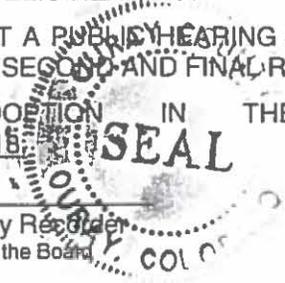
THE ORDINANCE WAS PUBLISHED IN FULL IN THE *OURAY COUNTY PLAINDEALER* ON January 25, 2018 ALONG WITH A NOTICE OF PUBLIC HEARING.

ADOPTED AND APPROVED AT A PUBLIC HEARING OF THE BOARD OF COUNTY COMMISSIONERS ON February 13, 2018, AFTER THE SECOND AND FINAL READING OF THE ORDINANCE.

PUBLISHED AFTER ADOPTION IN THE *OURAY COUNTY PLAINDEALER* ON THE 15th DAY OF February, 2018.



Michelle Nauer, Clerk and County Recorder
By: Hannah Hollenbeck, Deputy Clerk of the Board



Appendix A to OWTS Ordinance No. 2018-001

Local Public Health Agency: OURAY COUNTY

CROSSWALK

ITEM	REQUIREMENTS See Check Box for Decision Chosen.		Citation Reg #43	Citation Local Reg
Occupancy – Residential	Bedrooms 1 through 3: 2 people per bedroom All additional Bedrooms: 1 person per bedroom	<input checked="" type="checkbox"/>	43.6.A.2e	N/A
	All bedrooms: 2 persons per bedroom	<input type="checkbox"/>	43.6.A.2.f	
How the number of bedrooms in a home will be defined for flow requirements	Bedrooms: flow estimates will be determined from the number of bedrooms originally finished.	<input checked="" type="checkbox"/>		N/A
	If unfinished area is present in house, system must also be sized for 1 or 2 more bedrooms based on an assumption that 150 square feet of unfinished space can be converted into a bedroom, if the space can meet applicable code requirements for a bedroom.	<input type="checkbox"/>	43.6.A.2.h	
Effluent Screen	May be used (owner's option)	<input checked="" type="checkbox"/>	43.9.J.1	N/A
	Required in all new septic tanks	<input type="checkbox"/>	43.9.J.1	
Length of Distribution Laterals (e.g., trenches or beds)	Limit the length of distribution lines to a maximum of 100 feet.	<input type="checkbox"/>	43.10.E.2.c	
	100 feet maximum for gravity fed from one end, and up to 150 feet if pressure dosed or effluent applied at center of lateral or chamber	<input checked="" type="checkbox"/>	43.10.E.2.b & c	N/A
Inspection ports at initial (front) end of distribution line (e.g., lateral or chamber)	Not required	<input type="checkbox"/>		
	Required	<input checked="" type="checkbox"/>	43.10.F.6.d	N/A
Vault Privies – new	Allow new vault privies	<input type="checkbox"/>	43.12.D.1.a	
	Prohibit new vault privies	<input checked="" type="checkbox"/>	43.12.D.1.a	N/A
Vault Privies - existing	Allow continued use of existing vault privies	<input checked="" type="checkbox"/>	43.12.D.1.b	
	Require abandonment of existing vault privies	<input type="checkbox"/>	43.12.D.1.b	N/A
Pit Privies - new	Allow new pit privies	<input type="checkbox"/>	43.12.D.2.c	
	Prohibit new pit privies	<input checked="" type="checkbox"/>	43.12.D.2.a	N/A
Pit Privies - existing	Allow continued use of existing pit privies	<input checked="" type="checkbox"/>	43.12.D.2.c	
	Require abandonment of existing pit privies	<input type="checkbox"/>	43.12.D.2.b	N/A
Slit trenches	Allow slit trenches	<input type="checkbox"/>	43.12.F	
	Prohibit slit trenches	<input checked="" type="checkbox"/>	43.12.F	N/A
Reductions in STA size or separation distances for higher level treatment systems; OWTS O/M and LPHA oversight required	Allow reductions for higher level treatment.	<input type="checkbox"/>	43.14.D.2	
	Reductions for higher level treatment not allowed	<input checked="" type="checkbox"/>	43.14.D.3	N/A
Transfer of Title inspections	Inspection of OWTS required prior to transfer of title	<input type="checkbox"/>	43.4.L.1	
	Inspection of OWTS NOT required	<input checked="" type="checkbox"/>	43.4.L.1	N/A



COLORADO
Water Quality Control Division
Department of Public Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

March 16, 2018

Mark Castrodale, Planning Director
Ouray County Land Use
P.O. Box 28
Ridgway, CO 81432

Subject: Post-Local Adoption Review of Proposed Regulation - Acceptance
On-site Wastewater Treatment System Regulations,
Ouray County

Dear Mr. Castrodale:

The Water Quality Control Division (Division) has received and reviewed the proposed revisions to Ouray County On-site Wastewater Treatment System Ordinance (local regulation) received February 15, 2018. The Division's review of this document was conducted pursuant to section 43.4(A)(2)(a) of the On-site Wastewater Treatment System Regulation 5 CCR 1002-43 (Regulation 43).

The Division found no inconsistencies or conflicts in the proposed revisions to the local regulation with regard to the On-site Wastewater Treatment Systems Act (Act) Article 10 of Title 25, C.R.S. or Regulation 43. The Division has no objections to the local regulation on that basis.

Should the local board of health make any changes or revisions to the local regulations in the future, please send the revisions to the Division for review. Only after the Division has determined that the local board of health's revised regulations comply with the OWTS Act and Regulation 43 may the local board of health's revised regulations take effect and be published [Section 43.4(A)(3)(e)].

If you have any questions regarding the Division's review or findings, please contact me at (303) 692-2366 or chuck.cousino@state.co.us.

Sincerely,


Digitally signed by Chuck Cousino,
REHS
DN: cn=Chuck Cousino, REHS,
o=Engineering Section, ou=Water
Quality Control Division,
email=chuck.cousino@state.co.us,
c=US
Date: 2018.03.16 08:18:43 -0600

Charles J. Cousino, REHS
On-site Wastewater Treatment System Coordinator
Engineering Section | Water Quality Control Division
Colorado Department of Public Health and Environment

cc: Files

