

# MINERAL COUNTY WASTEWATER TREATMENT SYSTEM REGULATIONS



Adopted by the Mineral County Board of Health  
Effective Date: June 1, 2016

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## **ARTICLE 1 GENERAL INFORMATION**

### **SECTION 1.1 Title**

These regulations shall be known and cited as the Mineral County Wastewater Treatment System Regulations.

### **SECTION 1.2 Purpose**

The Mineral County Board of Health understands the importance of proper treatment and disposal of sewage. Diseases such as dysentery, infectious hepatitis, typhoid, paratyphoid, and various types of diarrheal infections are transmitted from one person to another through fecal contamination of food, water, and other vectors. Contaminations can occur by the improper treatment and disposal of sewage. Every effort must be made to prevent such hazards. Important to this purpose is the proper treatment of sewage and not just the disposal of sewage.

Safe treatment and disposal of all sewage are necessary to protect the health of the individual and the community and to prevent the occurrence of public health nuisances. To accomplish satisfactory results such waste must be treated and disposed of so that it does not:

As per ARM 17.36.913 (1):

1. Contaminate any actual or potential drinking water supply;
2. Cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;
3. Cause a public health hazard by being accessible to persons or animals;
4. Violate any law or regulations governing water pollution or wastewater treatment and disposal;
5. Pollute or contaminate any state water in violation of 75-5-605, MCA;
6. Degrade state waters unless authorized pursuant to 75-5-303, MCA; or
7. Cause a nuisance due to odor, unsightly appearance or other aesthetic consideration.

The Mineral County Board of Health has developed the following regulations to ensure the proper design, installation, and operation of wastewater treatment systems and to alleviate possible public health hazards associated with improper treatment and disposal of sewage.

### **SECTION 1.3. Authority and Scope of Regulations**

- A. These regulations have been written pursuant to 50-2-116, M.C.A. – Powers and duties of Local Boards – (k.) "adopt necessary regulations and fees for the control and disposal of sewage from private and public buildings not currently connected to any municipal system (fees shall be deposited with the County Treasurer)."
- B. These regulations shall be applicable to all sewage treatment systems in Mineral County except "Municipal and Publicly owned Sewage Treatment Systems," as defined herein.
- C. The permit system established through these regulations governs the design, installation, and operation of sewage treatment systems. Operation shall mean the system is functioning properly in compliance with the regulations at the time the permit is issued. The permit is not to be construed as being a building permit or any other permit that may be required by other

agencies to erect a structure in Mineral County.

- D. The permit itself establishes the minimum criteria for the standards adopted in Mineral County. The Department does not design the systems and the recommendations set forth in the permit do not bind or obligate the county to guarantee the satisfactory operation of any system.
- E. At any time throughout this permit system process, the Mineral County Health Department may require the applicant to provide verification of compliance, or the ability to comply with other agencies', districts', or governmental entities' bylaws, ordinances, zoning laws, rules or regulations when deemed pertinent and appropriate by the Department.

#### **SECTION 1.4 Designation of Authority**

- A. The Mineral County Board of Health designates the Mineral County Health Officer and the Mineral County Environmental Health Department with the authority to administer and enforce these regulations. The Board reserves the right to hear any variance request or appeal to a determination or action of the Department or Health Officer.
- B. At any time, the Board may propose additions or revisions to these regulations.

#### **SECTION 1.5 Definitions**

Terms used in these regulations are defined as follows:

1. Abandonment - the proper abandonment of a system requires an owner to pump the system prior to abandonment and completes one of the following methods to prevent a safety hazard:
  - a. Completely remove the component;
  - b. Thoroughly crush the component in place; or
  - c. Fill the component with an inert material such as sand or gravel.
2. Absorption Bed - an absorption system that consists of excavations greater than three (3) feet in width where the distribution system is laid for the purpose of distributing pretreated waste effluent into the ground. Evapotranspiration absorption systems (ETA), as described in Chapter 18 of Circular DEQ-4, are excluded from this definition.
3. Absorption Trench - an absorption system that consists of excavations less than or equal to three (3) feet in width where the distribution system is laid for the purpose of distributing pretreated waste effluent into the ground.
4. Alteration - shall mean physically changing a sewage treatment system by lengthening, shortening, widening, building structures over or changing the flow into a system by changing use of a living unit. Changing the use of a living unit or commercial unit may include, but is not be limited to, adding living quarters, adding structures or changing the use in such a manner as to alter the wastewater characteristics for which the system was permitted. This shall not be construed to mean changing dwellings in a campground or a trailer court currently licensed by the State Department of Public Health and Human Services. Conversion of a campground to a mobile home park shall be considered an alteration requiring Department approval. Alteration shall also mean the conversion of an existing living unit into multiple units. The Department has the sole discretion to determine if an enlargement, change in use, or circumstance is an increase in use or alteration.

5. Alteration Permit - a written authorization issued by the Department for the alteration of a wastewater treatment system.
6. Applicant - shall mean any person, institution, public or private corporation, partnership or other entity that submits an application for a permit to install, alter, construct or repair a sewage treatment system.
7. Approved - consent given in writing by the Board or its authorized agent under these regulations or any prior wastewater treatment system regulations adopted by the Board.
8. Authorized Agents of the Mineral County Board of Health - the Mineral County Health Officer and registered sanitarian employed in the Mineral County Environmental Health Department.
9. Authorized Installer - an individual who has been authorized by the Department to install, alter, repair, or replace a wastewater treatment system on his/her own property under the terms of these regulations.
10. Bedrock - material that cannot be readily excavated by hand tools, or material that does not allow water to pass through or that has insufficient quantities of fines to provide for the adequate treatment and disposal of wastewater. The term does not include gravel and other rock fragments as defined in Montana Department of Environmental Quality Circular DEQ-4, Appendix B.
11. Bedroom - any room that is or may be used for sleeping. An unfinished basement is considered as one (1) additional bedroom for initial system sizing. A separate building without plumbing or running water may be considered as one or more additional bedrooms to a structure with plumbing or running water. The Department has the sole discretion to determine if a room may be considered a bedroom.
12. Board - the legally designated Board of Health of Mineral County, Montana, organized as defined in 50-2-104, MCA.
13. Cesspool - a seepage pit without a septic tank to pre-treat the wastewater.
14. Circular DEQ 4 - The latest edition of the technical document *Montana Standards for Subsurface Wastewater Treatment Systems*.
15. Cistern - a watertight receptacle of non-toxic material that is designed for storage of potable water.
16. Commercial Unit - the area under one roof that is occupied by a business or other nonresidential use. A building housing two businesses is considered two commercial units.
17. Department - the Environmental Health Department of Mineral County, Montana.
18. Effluent - partially treated sewage from a septic tank or other treatment facility.
19. Experimental System - a wastewater treatment system for which specific design standards are not provided in these regulations or Circular DEQ-4.
20. Failing Sewage Treatment System - shall mean any sewage treatment system not properly functioning, that no longer provides the treatment and/or disposal for which it was intended, or violates any of the requirements of ARM 17.36.914 and shall include but not be limited to:
  - a. Sewage treatment systems whose sewage or effluent flows or enters surface waters or groundwater without adequate treatment or removal of bacteria, virus, and other contaminants of danger to public health or the environment.
  - b. Systems that have sewage or effluent overflow from any of their component parts that ponds or flows on the ground surface.
  - c. Systems that back sewage or effluent into any portion of the building or plumbing

system.

21. Floodplain - the area adjoining the watercourse or drainage that would be covered by a flood that is expected to recur on the average of once every 100 years or by a flood that has a one percent chance of occurring in any given year. The floodplain consists of the floodway and the flood fringe as defined in ARM Title 36, chapter 15.
22. Gray Water - wastewater that is collected separately from a sewage flow and that does not contain industrial chemicals, hazardous wastes, or wastewater from toilets.
23. Ground Water Observation Well - a well installed for the purpose of measuring the depth from the natural ground surface to the seasonally high ground water.
24. Health Officer - an individual designated by the Mineral County Board of Health who is a physician, a person with a master's degree in public health, or a person with equivalent education and experience as determined by the Montana Department of Public Health and Human Services 50-2-116, MCA.
25. Holding Tank - a watertight receptacle that receives wastewater for retention and does not, as part of its normal operation, dispose or treat the wastewater. The term does not include surge tanks used in a gray water irrigation system if the system meets the requirements of ARM 17.36.919.
26. Impervious Layer - any layer of material in the soil profile that has a percolation rate slower than 240 minutes per inch.
27. Individual Wastewater System - a wastewater system that serves one living unit or commercial unit. The term does not include a public sewage system as defined in 75-6-102, MCA.
28. Installation Permit - a written authorization issued by the Department for the installation, alteration, repair, or replacement of a wastewater treatment system.
29. Licensed Septic Tank Pumper - a person licensed under state law to remove and dispose of septage in an approved manner at a site approved by the Montana Department of Environmental Quality and the Mineral County Board of Health.
30. Licensed Wastewater Treatment System Installer - an individual who holds a current license issued by the Department to install, alter, repair, or replace wastewater treatment systems under the terms of these regulations.
31. Limiting Layer - bedrock, an impervious layer, or seasonally high ground water.
32. Multiple User Wastewater System - a wastewater system that serves or is intended to serve more than two living units or commercial units or a combination, but which is not a public sewage system as defined in 75-6-102, MCA. In estimating the population that will be served by a proposed residential system, the reviewing authority shall multiply the number of living units by 2.5.
33. Municipal Sewage Treatment System - a system that is the sole responsibility of an incorporated city or town government.
34. Parcel - Lot, tract, or other legally described and recorded portion of land.
35. Percolation Test - a standardized test used to assess the infiltration rate of soils, performed in accordance with Appendix A of Circular DEQ-4.
36. Piped Water Supply - a plumbing system that conveys water into a structure from any source including, but not limited to, wells, cisterns, springs, or surface water.
37. Pit Privy - a pit that receives undiluted, non-water-carried toilet wastes.
38. Pre-Existing System - a wastewater treatment system installed before 1987 when permitting requirements were first established by the Board.

39. Professional Engineer - An engineer licensed or otherwise authorized to practice engineering in Montana pursuant to Title 37, Chapter 67, MCA.
40. Public Sewage System- a system for collection, transportation, treatment, or disposal of wastewater that serves 15 or more families or 25 or more persons daily for any 60 days or more in a calendar year.
41. Publicly Owned Sewage Treatment System - A system that is the sole responsibility of a Special Improvement Sewer District created in accordance with Montana Law.
42. Registered Sanitarian - a person licensed by the State of Montana under Title 37, Chapter 40, MCA to practice the profession of sanitarian.
43. Responsible Party - a wastewater treatment system user, property owner, property owner's agent, wastewater treatment system installer, or other person or entity whose actions or inactions are governed by these regulations.
44. Recreational Vehicle Connection - a sewer standpipe provided for temporary connection of a recreational vehicle to a wastewater treatment system. Such connections shall be for personal, non-commercial use only. Any commercial use of a recreational vehicle connection may subject the property to the requirements of subdivision review under Title 76, Chapters 3 and 4, MCA, and campground and trailer park licensing by the Montana Department of Public Health and Human Services.
45. Sanitation Evaluation - an evaluation to determine if a parcel or location is suitable for the installation of a subsurface wastewater treatment system.
46. Sanitation in Subdivision Review and/or Approval - review of a parcel under Title 76, Chapter 4, MCA Sanitation in Subdivisions Act, or any prior similar statute, or local health authority review for water, wastewater, solid waste and/or storm water management facilities that results in a Certificate of Subdivision Approval or similar document issued by the state or the local government.
47. Sealed Pit Privy - an enclosed receptacle designed to receive non-water-carried toilet wastes into a watertight vault.
48. Seasonal Use - use for not more than a total of four months (120 days) during any calendar year.
49. Seasonally High Ground Water - the depth from the natural ground surface to the upper surface of the zone of saturation, as measured in an unlined hole or perforated monitoring well during the time of the year when the water table is the highest. The term includes the upper surface of a perched water table.
50. Seepage Pit - a covered underground receptacle that receives wastewater after primary treatment and allows the wastewater to seep into the surrounding soil.
51. Septage - liquid or solid material removed from a septic tank, cesspool, portable toilet, or similar treatment works that receive only domestic sewage. Domestic septage does not include material removed from a septic tank, cesspool, or similar treatment works that receive industrial wastewater and does not include grease removed from a grease trap at a restaurant.
52. Septic Tank - a wastewater settling tank in which settled sludge is in immediate contact with the wastewater flowing through the tank while the organic solids are decomposed by anaerobic action.
53. Shared Wastewater System - a wastewater system that serves or is intended to serve two living units or commercial units or a combination of both. The term does not include a public sewage system as defined in 75-6-201, MCA.



54. Significant Alteration - when a structure has suffered fifty (50) percent or greater destruction and is being replaced or restored. The destruction can be intentional or unintentional, resulting from things like fire, flood, or remodeling. Replacement of a mobile home with a permanent structure is considered significant alteration. Replacement of a single wide mobile home with another single wide mobile home or replacement of a double wide mobile home with another double-wide mobile home with the same number of bedrooms is not significant alteration.
55. Site Evaluator – a soils scientist, Professional Engineer, Registered Sanitarian, hydro geologist, or geologist who has experience and knowledge of soil morphology. Other individuals will be considered qualified after providing, to the Department, evidence of experience describing soils or experience conducting necessary test procedures.
56. Slope - the rate that a ground surface declines in feet per 100 feet. It is expressed as a percent of grade.
57. Soil Profile - a description of the soil strata to a depth of eight (8) feet using the United States Department of Agriculture (USDA) soil classification system method in Appendix B of Circular DEQ-4.
58. State Waters - a body of water, irrigation system, or drainage system, either surface or underground. The term does not apply to ponds or lagoons for treating, transporting, or impounding pollutants or irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters, 75-5-103, MCA.
59. System components - the individual parts of a wastewater treatment system that include, but are not limited to, all structures or facilities served by but not necessarily connected to the system, i.e. dwelling, building, bunkhouse; sewer and effluent pipes; septic tank; pump chamber; alarm system; advanced treatment unit; and drainfield.
60. Subsurface Wastewater Treatment System - the process of wastewater treatment in which the effluent is applied below the soil surface or into a mound by an approved distribution system.
61. Unapproved Wastewater Treatment System - a wastewater treatment system installed or altered since 1987, without any required permit having been issued by the Department.
62. Use Permit - a written authorization issued by the Department for the utilization of a wastewater treatment system.
63. Variance - the grant, pursuant to ARM 17.36.922 and Section 4.6 of these regulations, by the Mineral County Board of Health, of an exception to the minimum requirements set out in these regulations, ARM 17.36 Subchapter 9, or Circular DEQ-4.
64. Wastewater - water-carried wastes including, but not limited to: household, commercial, or industrial wastes; chemicals; human excreta; or animal and vegetable matter in suspension or solution.
65. Wastewater Treatment System or Wastewater Disposal System - a system that receives wastewater for purposes of treatment, storage or disposal. The term includes, but is not limited to, all disposal methods described in Circular DEQ-4.
66. Water Treatment Unit - a device added to a water system including but not limited to water softeners, reverse osmosis units, water filtration units, and units to reduce any water quality constituent.

## **ARTICLE 2 GENERAL REQUIREMENTS**

### **SECTION 2.1 Prohibited Acts**

- A. No person may install, alter, repair, extend, or utilize any wastewater treatment system in a manner that may, as per ARM 17.36.913 (1):
  - 1. Contaminate any actual or potential drinking water supply;
  - 2. Cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;
  - 3. Cause a public health hazard by being accessible to persons or animals;
  - 4. Violate any law or regulations governing water pollution or wastewater treatment and disposal;
  - 5. Pollute or contaminate any state water in violation of 75-5-605, MCA; or
  - 6. Cause a nuisance due to odor, unsightly appearance or other aesthetic consideration.
- B. No person may own or operate a failing sewage treatment system;
- C. No person may install or alter a sewage treatment system without a valid permit or written Departmental approval;
- D. No person may construct or maintain any dwelling or other occupied structure which is not equipped with adequate facilities for the sanitary disposal of sewage;
- E. No person may remove sewage or effluent from a system and disposed of it onto any site which has no prior approval for septage disposal;
- F. No person may violate any provision of these regulations.

### **SECTION 2.2 General Provisions**

- A. Structures or facilities with interior plumbing or a water system shall not be occupied until a wastewater treatment system is in compliance with these regulations, unless connected to a district, municipal or publicly-owned sewage treatment system.
- B. No person may install a water or wastewater treatment system that conflicts with any legally installed water or wastewater treatment system or any such system that is approved but not yet installed, under Sanitation in Subdivision Review.
- C. In cases where there is reasonable belief that a wastewater treatment system may not be in compliance with Section 2.1, the Department may require a property owner provide testing, demonstration and/or reporting by a professional engineer, registered sanitarian or other qualified person acceptable to the Department to ascertain compliance with Section 2.1.
- D. All new mixing zones and well isolation zones proposed under Sanitation in Subdivision Review of new, existing, or adjusted parcels shall be contained within the subdivision boundaries whenever possible as determined by the Department or as required by state law unless an easement has been granted by the affected property owner(s).

- E. When a site visit is needed for the Department to determine adequate drainfield replacement area for a parcel being exempted from sanitation review under 76-4-125(2)(ii), MCA, the property owner must pay a fee as listed in the policies to cover the expense of the site visit by the Department under 76-4-125(3), MCA.

## **ARTICLE 3 ADMINISTRATIVE REQUIREMENTS**

### **SECTION 3.1 Fees**

- A. Permit fees are required and must be submitted with the initial applications.
- B. Fees shall be in accordance with a Schedule of Fees adopted by the Board, a copy of which shall be available at the Health Department.
- C. Fees are to defray costs, to the extent deemed appropriate by the Board, for evaluation of the site and system, administration, necessary inspection and re-inspection from initial application through construction and operational start-up.
- D. There will be no reimbursement to any applicant of fees received for the issuance of the permit.
- E. The Department shall charge three (3) times the permit fees when the construction, repair, or increased use of a system starts prior to a valid permit being issued.

### **SECTION 3.2 Application for Installation or Alteration Permit**

- A. No person may install, alter, repair, or replace a wastewater treatment system unless the Department has issued an Installation or Alteration Permit.
- B. No person may commence excavation and/or construction on a structure or facility that will require wastewater facilities until an Installation Permit has been issued by the Department.
- C. No person may install a wastewater treatment system contrary to an Installation or Alteration Permit as issued by the Department unless the Department has previously approved the change. If the applicant initiates a change in the wastewater treatment system design after it is approved by the Department, a second permit fee may be required prior to the second review.
- D. No person may install, alter, extend, repair or replace a wastewater treatment system within Mineral County unless that person is either a Mineral County Licensed Wastewater Treatment System Installer or an Authorized Installer per Section 3.7. -
- E. Minor repairs and/or maintenance may be made to a wastewater treatment system without first obtaining an Installation or Alteration Permit. Minor repairs include:
  - 1. Replacing a broken sewer line
  - 2. Pumping the septic tank
  - 3. Cleaning the effluent filter
  - 4. Replacement of the effluent pump with a pump of equal specifications
  - 5. Clearing of laterals
  - 6. Other action authorized by the Department

- F. All wastewater treatment systems must be designed by a professional engineer or a registered sanitarian in private practice or the Department. A wastewater treatment system design shall include a plan of the proposed system to be installed, with substantiating data attesting to its compliance with the minimum standards set forth in these regulations, to the Department for review, approval and permitting prior to installation.
- G. The Department will require a wastewater treatment system be designed by and installed under the seal of a professional engineer when the system:
1. Has a specific public or environmental health concern.
  2. Is located on a parcel with challenging site conditions.
  3. Design incorporates a lined retaining wall greater than 24 inches in height.
  4. Is an experimental system.
  5. Serves a commercial or industrial establishment that produces fats, oils, and grease.
  6. Has a design flow greater than 2500 gallons per day.
  7. Is a multi-user with five (5) more units or public wastewater system.
- H. Plans for a multi-user or a public wastewater treatment system must be reviewed and approved by the Department of Environmental Quality and the Department prior to issuance of an Installation or Alteration Permit.
- I. Application for an Installation or Alteration Permit shall be submitted by the owner of the parcel or his/her authorized agent on a form provided by the Department. The Department may require the signature of all property owners in the case of multiple owners. For trusts, limited liability corporations and other such entities, the owner is the legal signator(s) of the entity. The application must include the following information:
1. Name, address, and phone number of the property owner(s).
  2. Legal description of the property.
  3. The structures or facilities served by, but not necessarily connected to the system and the total number of bedrooms for each structure or facility. Detailed floor plans for each level, including basements, of any structure or facility with living space that will be connected to or served by the wastewater treatment system.
  4. Water supply information.
  5. Water treatment units.
  6. Lot layout consisting of:
    - a. Scale (for example: 1 inch=20 feet)
    - b. North directional arrow
    - c. Property lines
    - d. Existing and proposed structures or facilities
    - e. All existing or proposed wells and/or water sources on the property and/or within 100 feet of the property lines
    - f. All streams, lakes, springs, ponds, irrigation ditches, and other surface water sources on the property and/or within 100 feet of the property lines
    - g. Driveways, parking areas
    - h. Utility lines
    - i. Any existing wastewater facilities
    - j. Direction of slope on the property

7. Design specifications for the wastewater system including contact information of designer.
  8. Soil profile information.
  9. Percolation test results, if required.
  10. Groundwater monitoring results, if required.
  11. Non-significance determination.
- J. The Department will require the applicant have a soil profile dug in the area of the proposed drainfield and/or the replacement area. The depth of the test hole will be dependent upon the information the Department determines necessary to the specific situation. The Department may require the applicant provide more than one test hole depending upon the variability of the soils, the potential for a limiting layer, the type of information necessary, and/or the anticipated size of the drainfield area. A soil profile report shall be provided in accordance with Circular DEQ 4 – Appendix B.
- K. The Department may require a percolation test be completed in the area of the proposed drainfield and/or the replacement area. The percolation test shall be conducted by a site evaluator in accordance with Circular DEQ 4 – Appendix A.
- L. The Department may require ground water monitoring in the area of the proposed drainfield and/or the replacement area if it has reason to believe ground water may be relevant to the proposed drainfield location.
1. Ground water monitoring shall be conducted by a site evaluator in accordance with Circular DEQ 4 – Appendix C.
  2. The property owner or his/her authorized agent shall notify the Department when the ground water monitoring period begins and ends. This notification shall be on a form provided by the Department and shall authorize the Department the right to access the site within office hours for the purpose of verifying groundwater levels.
  3. The Department may reject ground water monitoring information:
    - a. If monitoring is conducted during a drought year as per Circular DEQ 4 – Appendix C;
    - b. If information is available that indicates a higher groundwater situation than that reported;
    - c. If site conditions exist that are not typical to the property. An example of a typical site condition is a tract where normal irrigation practices have been altered or suspended during the season when ground water monitoring is conducted;
    - d. If the measurements have not been conducted as per Circular DEQ 4 – Appendix C;
    - e. If the monitoring has been completed by a person not approved by the Department; and/or
    - f. If the Department has not been notified of the monitoring as per Item 2 to allow for verification of the report.
- M. The Department will require information to demonstrate compliance with 75-5, MCA, the Montana Water Quality Act, including but not limited to a non-significance determination, background nitrate test, well pump test, or well triangulation.
- N. It is the responsibility of the wastewater treatment system designer to ensure all setback

requirements are met, per Section 4.2 of these regulations.

- O. Proposed well and drainfield locations shall be staked and labeled for the on-site design visit and must remain so staked through the final inspection.
- P. The Department may require surveying or staking of the property boundaries, topographic mapping and similar site information necessary to assure that the wastewater treatment system will meet the requirements of these regulations.
- Q. The Department may require any additional information, certification, invoices, testing or re-testing relating directly to the installation, operation, and maintenance of a wastewater treatment system in compliance with these regulations.
- R. The Department may conduct investigations, examinations, tests and site evaluations as deemed necessary to verify information contained in an application. The submittal of an application shall be deemed a granting of approval by the applicant to the Department for necessary site visits during normal business hours.
- S. Unless otherwise approved by the Department, no permit shall be issued on a parcel with sanitation in subdivision approval unless the parcel development and proposed permit are in compliance with the requirements of that approval.
- T. An Installation Permit is granted for a specific structure(s) and/or facility(ies) in a specific location(s). Any change in structure, facility or location affecting the design and not approved by the Department will void the Installation Permit.
- U. Any system that serves multiple ownerships or properties shall be required to have a shared user agreement or declaration that describes the parcels or ownerships served; the design flow assigned to each ownership; and the ability for each party to install, use, maintain, repair and replace the system including any necessary easements for all shared components. Such document requires the notarized signatures of the owners. For trusts, limited liability corporations and other such entities, the owner's signature is the legal signator(s) of the entity. Such document shall be reviewed and approved by the Department prior to filing, may not be altered without approval of the Department, and must be filed with the Mineral County Clerk and Recorder. When there is only one owner of the properties, the Department may allow the use of a filed deed restriction that requires such easement or agreement be established prior to the properties being separated in ownership.
- V. Any system that has or will have any component(s) located on another parcel shall be required to have an easement or declaration for the component(s) that provides for the installation, operation, maintenance, repair and replacement of the component(s). Such document requires the notarized signature of the owner(s). For trusts, limited liability corporations and other such entities, the owner signature is the legal signator(s) of the entity. Such document shall be reviewed and approved by the Department prior to filing; may not be altered without approval of the Department, and must be filed with the Mineral County Clerk and Recorder. When there is only one owner of the properties, the Department may allow

the use of a filed deed restriction that provides that such easement or agreement be established prior to the properties being separated in ownership.

- W. Any system that has an advanced wastewater treatment unit, drainfield size reduction, use limitation, maintenance, performance, and/or other special requirement may be required to have a Deed Restriction(s) or Affidavit(s) filed with the Mineral County Clerk and Recorder. Such document requires the notarized signature of the owner(s). For trusts, limited liability corporations and other such entities, the owner signature is the legal signator(s) of the entity. Such document shall be reviewed and approved by the Department prior to filing; may not be altered without approval of the Department, and must be filed with the Mineral County Clerk and Recorder.
- X. Any system that utilizes advanced treatment for any reason, including drainfield size reduction, shall be required to have a filed deed restriction that the system will have perpetual maintenance under agreement with the advanced treatment unit dealership, professional system maintenance contractor, or other qualified third party and is subject to the same system performance and monitoring requirements as those required by state regulations under the Montana Water Quality Act for Level II treatment. Failure at any time to have such perpetual maintenance contract in place is a violation of these regulations and voids the Use Permit. If the system has multiple owners and/or serves multiple properties, each owner and/or each property may be required to file a deed restriction.
- Y. Any system that requires the abandonment of a well, piping of surface water, or other adjustment to meet a minimum setback distance requirement will not be issued a permit until the setback conflict has been rectified. For example, piping of an irrigation ditch or abandonment of a well must occur prior to permitting issuance.
- Z. Any system that requires replacement, removal or permanent disconnection of a structure or dwelling will not be issued a permit until the Department has confirmation that the action has been completed or has a legal affidavit that the action is assured within a reasonable time frame.
- AA. A permit that requires a deed restriction, affidavit, easement agreement, shared or multi-user agreement, declaration, and/or any other document shall be issued only after the signed document(s) has been received and approved by the Department. The Department shall file the document(s) and provide a copy of the filed document(s) to the applicant along with the issued Use Permit.
- BB. The Department shall require evidence that the proposed development will comply with all adopted zoning regulations, adopted land use regulations, floodplain regulations, and/or subdivision planning approvals for the parcel. A deed restriction may be required prior to issuance of a permit to assure compliance with such regulations.
- CC. The Department may place any reasonable condition on a permit that will facilitate compliance with the provisions of these regulations, sanitation in subdivision approval, or any other stipulation upon which an Installation Permit is based.

### **SECTION 3.3 Expiration of Permit Application**

When the Department responds to a permit application requesting additional information, the applicant has ninety (90) days from the date of the letter to respond with the information requested. The application will be placed on hold for the ninety (90) day period. If the additional information is not provided by the end of the ninety (90) day period, the permit application will expire.

### **SECTION 3.4 Denial of Permit Application**

- A. The Department may deny an application for a permit if the Department determines:
  - 1. That the sewage treatment system, as proposed, will not comply with the requirements or specifications of these regulations, or,
  - 2. That the applicant has failed to supply all data necessary to make a determination as to whether or not the proposed sewage treatment system complies with the requirements or specifications of these regulations and had failed to provide such information within ninety (90) days after a written notice for such additional information has been made by the Department.
  
- B. If a tract of land is presently being reviewed under the Sanitation in Subdivisions Act, a permit cannot be issued for any structure on that tract of land until the review of said subdivision has been completed and the subdivision approved.
  
- C. A permit may be denied if it is found that any provision of a Certificate of Subdivision Approval has been violated or there is a departure from any criteria set forth in the approved plans and specifications of said Certificate of Subdivision Approval.
  
- D. A permit may be denied if it is found that such installation is in conflict with the requirements of the Sanitation in Subdivisions Act or its regulations, or if such installation is intended as a means of avoiding the requirements of the Sanitation in Subdivisions Act or its regulations.
  
- E. A permit to construct a sewage treatment system for a structure on any tract of land, regardless of size, where there already exists another structure or structures serviced by a separate sewage system(s), shall be denied if the applicant cannot provide substantiating evidence that there is available area for the construction of said system, and there is sufficient area to construct a 100% replacement system for that system and for any other sewage treatment system on that tract of land.
  
- F. If an approved municipal or other publicly owned sewage collection and treatment system is readily available within a distance of 200 feet of the property line for connection to a new source of wastewater, or as a replacement for a failed treatment system, and the owner (management entity) of the publicly owned collection and treatment system approves the connection, the applicant must connect. A connection is considered as not readily available if:
  - 1. The cost of the connection, as determined by the Department, is greater than three times the cost of the installation of an onsite wastewater treatment system that could be approved for the site;
  - 2. Connection to the public system is physically impractical;



3. Necessary easements cannot be obtained; or
4. The municipality or special district is notified of the Department's decision and concurs with the septic system installation or repair approval.

G. If it is determined by the Department that the primary purpose of a proposed septic system is to avoid annexation to a municipality, the permit shall be denied.

### **SECTION 3.5 Expiration of Issued Permits – Void Permit**

A Permit is valid for twelve (12) months from the date of issuance. If the wastewater treatment system installation or alteration is not completed and inspected as required within twelve (12) months of issuance, the permit is expired. The Department may grant a six (6) month extension if requested by the applicant prior to the end of the original twelve (12) month period and the permit extension fee is paid. The Department may deny an extension request if the permit is no longer in compliance with these regulations or if information, construction plans, site conditions or technology changes have impacted the proposed system design.

### **SECTION 3.6 Use Permit**

- A. Any system that requires a Permit for construction may not be utilized until a final inspection has been completed and a Use Permit has been issued by the Department. The Department may, in writing, waive the requirement for a final inspection for certain Permits.
- B. A final inspection by the Department of the installation is required **prior to covering** the completed wastewater treatment system. It shall be the duty of the installer to notify the Department at least forty-eight (48) hours prior to the completion of the system. If the final inspection cannot be made within forty-eight (48) hours after notification, arrangements for the inspection shall be negotiated between the inspector and the installer.
- C. The Department will require the system designer or authorized representative be present at the time of final inspection by the Department.
- D. If any part of the system has been covered prior to final inspection without Department approval, the system may be required to be uncovered upon the order of the Department. A second final inspection fee shall be paid prior to any subsequent inspection.
- E. If at the final inspection, the inspector determines that any aspect of the construction or operation of a wastewater treatment system is not in full compliance with these regulations and/or the plans and specifications of the permit, the inspector shall describe the deficiencies in writing on the Department's copy of the inspection record or other Department form. The Department shall immediately notify the installer and the applicant or owner of all deficiencies and require that corrective action be taken. A re-inspection shall be made within forty-eight (48) hours' notice as given in (C) to ensure that the deficiencies have been corrected. A second or subsequent final inspection fee shall be paid prior to any subsequent inspection. A Use Permit shall not be issued until the system is in full compliance with these regulations and the issued permit.
- F. If it is determined that the installation is in compliance with the design specifications, the

Department shall issue a Use Permit to the property owner. The Use Permit shall constitute the final approval of the installation and authorize its use.

- G. The wastewater treatment system installer who is responsible for the system installation must sign/certify on the Use Permit that the system has been installed in compliance with these regulations and permit specifications.
- H. For systems installed after the effective date of these amended regulations, the Department may authorize a Mineral County Licensed Wastewater Treatment System Installer to inspect his/her own installation and certify on a form provided by the Department that the system is installed in compliance with the permit and these regulations. A completed inspection of the system, including a drawing and measured locations of the system components, must be provided to the Department by the Installer within ten working days after the system installation is completed and within thirty days after the self-inspection has been authorized by the Department.
- I. The designing entity shall furnish written certification to the Department that an inspection has been made by the designing entity verifying the system is installed in accordance with the approved design. An as-built drawing acceptable to the Department shall be provided to the Department within thirty (30) days of the final inspection by the system designer. The Use Permit shall not be issued until the Department receives the required certification and as-built drawing from the system designer.
- J. Inspections of wastewater treatment systems by the Department are performed only for the purpose of determining that the minimum requirements of these regulations have been met and are not conducted for the purpose of analyzing or ensuring workmanship. Inspections are not intended to guarantee the life expectancy and operation of the facilities. Therefore, the issuance of a Use Permit does not constitute assumption by the Department of liability for the failure of any wastewater treatment system.
- K. A copy of the Use Permit shall be kept on file at the Department.
- L. Any alteration of the wastewater treatment system not approved by the Department after the Use Permit has been issued voids the permit.
- M. No person may use a system that is not performing in compliance with its permit.
- N. Any system that requires a filed document as a condition of a permit shall be considered in violation of these regulations and void if any requirement of the document is not followed.
- O. Any change to the parcel or a nearby parcel that impacts the compliance of the approved wastewater treatment system may void the Use Permit as determined by the Department. Examples include but are not limited to:
  - 1. The installation of a well that does not meet the minimum setback distances as given in Section 4.2(B).
  - 2. Building structures over system components.

3. Applying additional fill over the drainfield.
4. Adjusting boundary lines such that a system component is separated from the original parcel without the benefit of a filed easement and/or a shared user agreement.

### **SECTION 3.7 Wastewater Treatment System Installer**

#### **A. License Required:**

1. Except as provided in Section 3.7(D), no person may install, alter, repair, or replace a wastewater treatment system without holding a valid Mineral County Wastewater Treatment System Installer License issued by the Department. A person holding such license will hereinafter be referred to as a Licensed Installer.
2. Employees of a Licensed Installer shall not be required to be separately licensed.
3. Licenses are not transferable to any other person or entity.

#### **B. Requirements to obtain and renew a Wastewater Treatment System Installer License:**

1. Application for a new Wastewater Treatment System Installer License shall be made on a form provided by the Department and shall include the required application fee.
2. Prior to the issuance of a new license, the Department shall require the applicant demonstrate through testing adequate knowledge of these regulations. The Department shall create the overall evaluation program including the content and format of the evaluation, the conditions that the test will be given under, a passing score, and frequency of evaluation.
3. Licenses shall expire on December 31st of each year and shall be renewed before March 1st of the new licensing year. The Department shall develop a renewal program wherein each licensee shall attest that they have maintained the knowledge required for initial licensing and has reviewed new laws, regulations, and industry practices to the satisfaction of the Department.
4. If the license is not renewed prior to March 1st of the new licensing year, then the license is deemed expired and the affected installer shall start the process of licensing from the beginning as though they are applying for a new license. However, the Department may waive the requirement for a second inspection of systems installed by new license holders who were previously licensed.
5. If a system installer is licensed in Lake, Missoula or Sanders Counties then this Department may accept that license in lieu of testing.

#### **C. Property Owner Installer – Authorized Installer**

1. The property owner of record may install a wastewater treatment system on his/her own property, without obtaining a Wastewater Treatment System Installer License, with the following stipulations:
  - a. The Department reserves the right to require installation by a Licensed Installer if the system has unique or challenging design and/or site considerations, utilizes advanced treatment, or has other complex installation concerns.
  - b. The property owner shall not have installed, or caused to be installed, a wastewater treatment system in violation of these regulations within the last twelve months, beginning on the date of the Notice of Violation certified letter issued by the Department.
  - c. The property owner is subject to the testing requirement and testing fee of Section

3.7(B) for each property on which a system will be installed.

D. General Duties and Requirements of a Wastewater Treatment System Installer:

1. Installation, alteration, repair or replacement of any wastewater treatment system shall be done in compliance with these regulations and with the conditions and specifications given in the permit.
2. The installer is responsible for work performed under these regulations by himself/herself and employees.
3. The installer is responsible and liable for all workmanship under his/her control in the system installation and for compliance of all components and permit specifications.
4. No person may install, alter, repair or replace a wastewater treatment system or component without having a copy of the issued permit at the construction site.
5. It is the responsibility of the installer to ensure all minimum setback requirements as given in Section 4.2(B) are met and that the system complies with the minimum separation distance to a limiting layer given in Section 4.2(C) unless otherwise approved by the Board.
6. In the event the installer discovers a situation that will prevent the system from being constructed as designed or meeting any regulation for wastewater treatment systems, it is the responsibility of the installer to halt further installation and contact the Department for instruction.
7. In the event a wastewater treatment system requires special installation instructions or special considerations, then the Department may require evidence of the successful completion of instruction for any installer. For example, a drip irrigation system requires an installer to undergo special instruction on installation by a registered dealer of that system.
8. The installer shall request an inspection by the Department no less than forty-eight (48) hours before the inspection is to be made.
9. As per Section 3.6(B), if any part of the wastewater treatment system has been covered prior to final inspection without Department approval, the system may be required to be uncovered upon the order of the Department. A re-inspection fee shall be paid prior to any subsequent inspection.
10. As per Section 3.6(F) the installer who is responsible for the system installation may sign/certify on the Use Permit that the system has been installed in compliance with these regulations and all permit specifications.

E. Denial or Revocation of a Mineral County Wastewater Treatment System Installer License

1. DENIAL: Wastewater Treatment System Installer Licenses are the property of the Board and may be denied by the Health Officer or Department for any of the following:
  - a. Having a Wastewater Treatment System Installer License revoked by the Board, Health Officer or Department within twelve months preceding the application.
  - b. Having installed, or caused to be installed, a wastewater treatment system in violation of these regulations within the last twelve months, beginning on the date of the Notice of Violation certified letter issued by the Department.
  - c. Failure to meet the requirements of the license application or license renewal including any required demonstration of knowledge.
2. REVOCAION: Wastewater Treatment System Installer Licenses are the property of the

Board and may be revoked by the Health Officer or Department for a single occurrence, unless otherwise specified, of any of the following:

- a. Having offered false information in order to obtain a Wastewater Treatment System Installer License.
  - b. Having been found in violation of these regulations or an order by the Department, Health Officer, or Board.
  - c. Falsifying any aspect of the system permitting, installation or inspection process.
  - d. Installation, alteration, repair or replacement of a wastewater treatment system or any component of such system by the licensed installer or any person working under the licensed installer before the required permit is issued by the Department.
  - e. Failure to have a final inspection prior to covering a wastewater system unless authorized by the Department.
  - f. Failure to correct deficiencies noted during the inspection of an installation within the specified time given by the Department.
3. Written notice of denial or revocation signed by the Department or Health Officer stating the reason(s) for denial or revocation shall be sent to the applicant by certified mail or personal delivery at the last known address to the Department. Should the applicant fail to notify the Department of updated address changes or fail to receive the notice, the Department may proceed with the denial or revocation process and time frames shall run as though the notice was received.
4. Appeal to the Board: Upon denial or revocation of a Wastewater System Installer License, the applicant or installer may make an appeal to the Board per Section 9.1.

### **SECTION 3.8 Licensed Septic Tank Pumps**

- A. INFORMATIONAL NOTE: Septic tank pumps are licensed by the Montana Department of Environmental Quality; see ARM 17.50 SubChapter 8.
- B. Disposal sites for wastewater or septage pumped from wastewater treatment systems shall be reviewed and approved by the Board in accordance with ARM 17.50 SubChapter 8. An inspection fee as set by these regulations shall be submitted to the Department with the application for evaluation of each proposed disposal site.

## **ARTICLE 4 TECHNICAL REQUIREMENTS**

### **SECTION 4.1 Compliance**

Unless otherwise required by a more stringent standard of these regulations or approved by a Board variance, wastewater treatment systems shall comply with the specifications set forth in the most current versions of ARM 17.36. SubChapter 9, *Minimum Standards for Subsurface Wastewater Treatment Systems*, Circular DEQ 4 *Montana Standards for Subsurface Wastewater Treatment Systems*, and M.C.A. 75-5 *Montana Water Quality Act with ARM 17.30 SubChapter 7 Non-Degradation of Water Quality*.

### **SECTION 4.2 General Standards**

- A. If a Montana Department of Environmental Quality approved public collection and treatment system is readily available within a distance of 200 feet of the property line for connection to a new source of wastewater or as a replacement for an existing wastewater treatment system,

and the owner or managing entity of the public collection and treatment system approves the connection, wastewater must be discharged to the public system. Not “readily available” will be based upon evidence demonstrating that the connection to the system is physically or economically impractical and/or that easements cannot be obtained. For purposes of this regulation, a connection is economically impractical if the cost of the connection to the public system equals or exceeds three times the cost of installation of a Department-approved wastewater treatment system on the site.

B. The components of any wastewater treatment system shall be located to comply with the minimum horizontal separation requirements in accordance with ARM 17.36.918 as shown in the following table:

<i>Note: All measurements are in feet.</i>	Sealed components (1) Other components (2)	Absorption Systems (3)
Public or Multiple-user Drinking Water Wells/Springs	100	100
Individual and Shared Drinking Water Supply	50	100
Other wells (4)	50	100
Suction lines	50	100
Cisterns	25	50
Roadcuts/Escarpments	10 (5)	25
Slopes > 35% (5)	10 (5)	25
Property boundaries (7)	10	10
Subsurface drains	10	10
Water mains (8)	10	10
Drainfields/Sand Mounds (3)	10	--
Foundation Walls	10	10
Surface water, Springs	50	100
Floodplains	-- (1) 100 (2)	100

- (1) Sealed components include holding tanks, sealed pit privies, and the components addressed in Circular DEQ-4, Chapters 4 and 5. Holding tanks and sealed pit privies must be located at least ten (10) feet outside the floodplain or any openings must be at least two (2) feet above the floodplain elevation.
- (2) Other components include the components addressed in Circular DEQ-4, Chapter 7.
- (3) Absorption systems include the systems addressed in Circular DEQ-4, Chapter 6.
- (4) Other wells include but are not limited to, irrigation and stock watering, but do not include observation wells as addressed in Circular DEQ-4.
- (5) Sewer lines and sewer mains may be located in roadways and on steep slopes if the lines and mains are safeguarded against damage.
- (6) Down gradient of the sealed component, other component, or drainfield/sand mound.
- (7) Easements may be used to satisfy the setback to property boundaries.
- (8) Sewer mains that cross water mains must be laid with a minimum vertical separation distance of 18 inches between the mains.

C. No person shall install or cause to be installed any water or wastewater facility that conflicts with the above minimum setback distance requirements. For purposes of these regulations, and the setback distances given in the above table, a water or wastewater facility approved under sanitation in subdivision review but not yet installed shall be considered identical in

status and protection to an existing water or wastewater system facility.

- D. The Department may require greater horizontal separation distances than those specified in the above table if it determines that site conditions or water quality requirements indicate a need for the greater distance.
- E. If the floodplain has not been designated and its level relative to a wastewater system is in question, the applicant shall submit evidence adequate to allow the Department, or a Department-designated entity, to establish the location of the floodplain.
- F. Sealed components of wastewater treatment systems, if located within a 100-year floodplain, must be designed and constructed to prevent surface water and ground water inundation, and pump lines must be pressure tested prior to use. Pipes must have a pressure rating of at least two times the operating pressure or pump shutoff pressure, whichever is greater. Pipes must be tested at 1½ times the operating pressure or pump shutoff pressure, whichever is greater, or must be tested as specified by the manufacturer.
- G. The setbacks in the table above are not applicable to gray water irrigation systems that meet the requirements of ARM 17.36.919.
- H. Wastewater treatment systems must be located to maximize the vertical separation distance from the bottom of the absorption trench to the seasonally high groundwater level, bedrock, or other limiting layer, but under no circumstances may this vertical separation be less than four feet of natural soil to the limiting layer.
- I. For existing or replacement wastewater treatment systems, current state and local wastewater treatment system regulations shall apply to all new or increased wastewater design flow proposed for these systems, unless otherwise approved by the Board or Department.
- J. Uniform pressure distribution of effluent may be used for new and replacement wastewater treatment systems having a subsurface absorption drainfield unless the Department determines it is not practical to do so.
- K. Wastewater treatment systems, except for sealed components that are designed, constructed and tested as set out in ARM 17.36.918, may not be located in drainage ways. No wastewater treatment system drainfield, or component subject to infiltration shall be located in a swale or depression subject to accumulation of stormwater or irrigation water. Stormwater and irrigation water shall be managed to effectively direct water away from wastewater treatment system drainfield areas.
- L. Only wastewater as defined in these regulations may be discharged into the wastewater treatment system unless otherwise authorized by the system permit. Surface and subsurface water including roof, cellar, foundation, storm drainage, and water softener discharge shall be excluded from such systems and shall be disposed of in a manner that will not affect the wastewater treatment system.
- M. No structure, moveable or immovable, shall be located over any part of the wastewater

treatment system unless the structure is designed to accommodate operation and maintenance of the system. No such structures shall be located over any subsurface absorption drainfield.

- N. No component of any wastewater treatment system shall be located under driveways, roads, parking areas, confined livestock areas, or other areas subject to heavy loading and soil compaction except those portions properly designed and installed to accept such loads. No subsurface absorption drainfield shall be subjected to such heavy loading or compaction. Wastewater system components that have been routinely subjected to such loads or compaction without proper protection shall be considered to violate the standards given in Article 2 General Requirements and any permit issued for the system may be deemed void.
- O. Soil absorption systems shall be adequately protected, fenced or barriered as necessary to prevent compaction by livestock, damage from vehicular traffic, or similar heavy loading activities.
- P. To facilitate maintenance of pumps, siphons, and filters, access ports must be extended to the finished ground surface, have lids of lightweight/durable construction, and have lids secured with hex screws, lag bolts, locks, or other method to prevent child access. An exception to this may be granted by the Department for drive-over septic tank lids or other special circumstances.
- Q. The access ports given in (P) above shall remain extended to the finished ground surface throughout the life of the wastewater treatment system and access shall not be impeded by structures or landscaping.
- R. No wastewater treatment system shall be placed in any easement that has been previously designated for a non-compatible use. The Department shall make the determination of the kinds of easements that are non-compatible with the installation of a wastewater treatment system.
- S. A replacement area or plan must be provided for each new or expanded wastewater treatment system must be in compliance with these regulations, must be designated on the parcel, and the uses restricted accordingly. If the parcel contains or will contain more than one wastewater treatment system, adequate replacement area for all systems shall be demonstrated prior to issuance of a new or replacement permit.
- T. Any existing tank proposed for use in a replacement or altered wastewater treatment system shall be inspected and tightness tested by a professional engineer, registered sanitarian, licensed septic pumper, or licensed wastewater treatment system installer with the written report provided to the Department. The Department may require any existing component be tested prior to use in a replacement or altered wastewater treatment system.
- U. All new mixing zones and well isolation zones proposed in sanitation in subdivision review of new or adjusted parcels shall be contained within the subdivision boundaries whenever possible as determined by the Department or as required by state law unless an easement has been granted by the affected property owner(s).



- V. Septic tanks, cesspools, and similar wastewater system components that are taken out of service must be properly abandoned by one of the following methods to prevent a safety hazard.

**SECTION 4.3 Absorption Beds, Holding Tanks, Seepage Pits, and Pit Privies**

- A. The wastewater treatment systems described in this section may be allowed only if the permit application has demonstrated that:
1. Site constraints, or special circumstances such as no piped water supply, prevent the applicant from constructing a system that meets the requirements of any other system described in Circular DEQ4;
  2. All off-site treatment alternatives have been considered and are infeasible.
  3. No other alternative for wastewater disposal is feasible.
  4. The requirements of Section 2.1 are met; and
  5. All other requirements in these regulations applicable to the proposed system are met.
- B. The wastewater treatment systems described in this section are subject to the permitting application and fee requirements of Article 3 of these regulations.
- C. The wastewater treatment systems described in this section must meet the design and construction requirements in Circular DEQ4.
- D. Absorption beds may be used only for replacement systems, only if the conditions of (A), (B), and (C) are met, and may not be constructed in unstable fill.
- E. Seepage pits may be used only for replacement systems, only if the conditions of (A), (B), and (C) are met. Seepage pits must be located a minimum of 25 vertical feet from bedrock or seasonally high groundwater.
- F. A sealed pit privy may be approved only if the conditions of (A), (B), and (C) are met and only if:
1. The facility to be served does not have a piped water supply and is a seasonal-use recreational site, with the exception as given in H.
  2. The privy is in a location that is readily accessible for pumping.
  3. A stabilization design stamped by a professional engineer is provided if seasonal high groundwater is expected to come within 12 inches of the bottom of the vault.
- G. A sealed pit privy may be approved on property with a piped water supply only if it is used as a backup to an existing wastewater system.
- H. Holding tanks may only be approved if the conditions of (A), (B) and (C) are met and:
1. The facility to be served is for seasonal-use only; or
  2. For year round residences, as a replacement for a failed wastewater treatment system when the property cannot accommodate a replacement system in compliance with these regulations and an offsite easement cannot be reasonably obtained; or
  3. The use is for a special purpose approved by the Department. Examples of special purposes include food processing waste and automotive shop drainage that would be

subject to regulation as a Class V Injection Well.

4. An application for a holding tank system shall include the following:
    - a. Demonstration that the property use conforms to the "seasonal use" limitation or that a variance has been granted.
    - b. Tank liquid level monitoring system with alarm and/or telemetry as determined by the Department.
    - c. Means of waterproofing tank.
    - d. A deed restriction signed and notarized by the owner stating the conditions of the permit to be filed with the Mineral County Clerk and Recorder.
    - e. Maintenance plan for annual water tightness testing and periodic pumping by a Licensed Septic Tank Pumper. All pumping and testing records must be maintained by the property owner and provided to the Department upon request.
    - f. If seasonal high groundwater is expected to come within 12 inches of the tank's base, a tank stabilization design stamped by a professional engineer.
  5. Holding tanks must remain accessible to the ground surface for pumping purposes. Any pumping access port must be secured with hex screws, lag bolts, locks, or other method to prevent child access.
- I. Unsealed pit privies may be approved only if the conditions of (A), (B) and (C) are met AND the parcel to be served does not have a piped water supply, is a seasonal-use recreational site, and is in a remote location that is not accessible to septic tank pumpers.

#### **SECTION 4.4 Non-Discharging Toilets, Gray Water Systems, and Portable Chemical Toilets**

- A. Non-discharging toilets such as composting toilets, incinerator toilets, and non-portable chemical toilets are acceptable provided design and construction details are supplied to the Department with a Permit application and are found to be acceptable.
- B. Gray water disposal shall provide a wastewater treatment system in compliance with these regulations.
- C. Gray water re-use systems must meet the requirements of ARM 17.36.919 Gray Water Reuse.
- D. Use of chemical toilets (porta-potties and similar toilets) in an occupied building or facility shall be prohibited except during construction projects and other temporary uses or for seasonal recreational use as approved by the Department. Chemical toilets are subject to the minimum horizontal setbacks as given for sealed components in Table 4.2(B) unless otherwise authorized by the Department and must be in a location that is readily accessible and feasible for pumping.

#### **SECTION 4.5 Cesspools and Open Slit Trenches**

New construction or alteration of cesspools is prohibited. Open slit trenches are prohibited.

## **ARTICLE 5 PRE-EXISTING AND OTHER EXISTING WASTEWATER TREATMENT SYSTEMS**

### **SECTION 5.1 Continuation of Pre-Existing Systems**

- A. Per Section 1.5-Definitions (38), a pre-existing wastewater treatment system is a system installed before 1987 when permitting requirements were first established by the Board. The definition does not include existing systems that were installed without the required permit such that the system was/is in violation of regulations adopted by the Board and was/is not authorized for use.
- B. Subject to the provisions of these regulations, including Section 5.2, the use or maintenance of a properly functioning pre-existing wastewater treatment system may be continued. This shall not be construed to permit a use when the pre-existing system violates Section 2.1. of these regulations.
- C. If a structure served by a pre-existing wastewater treatment system undergoes significant alteration, the pre-existing system shall be replaced under these regulations. For purposes of these regulations, significant alteration is when a structure has suffered fifty (50) percent or greater destruction and is being replaced or restored. The destruction can be intentional or unintentional, resulting from things like fire, flood, or remodeling. Replacement of a mobile home with a permanent structure is considered significant alteration. Replacement of a single wide mobile home with another single wide mobile home or replacement of a double wide mobile home with another double-wide mobile home with the same number of bedrooms is not significant alteration.

### **SECTION 5.2 Repair or Alteration of Pre-Existing Systems**

- A. It shall be unlawful to repair or alter a pre-existing wastewater treatment system. All pre-existing systems for which alterations or repairs are required or proposed shall be either permanently abandoned or replaced under these regulations.
- B. When application is made for a new or replacement wastewater treatment system on a parcel with a pre-existing or unapproved system(s), the pre-existing or unapproved system(s) shall be replaced under these regulations before or at the same time the new or replacement system is installed unless otherwise approved by the Department.

### **SECTION 5.3 Wastewater Treatment Systems Installed by Another Government Agency**

Systems installed under permit by another government agency may be accepted and made of record by the Department if it is determined by the Department that the system does not violate a provision of these regulations and is consistent with the purposes of these regulations.

## **ARTICLE 6 EXPERIMENTAL WASTEWATER TREATMENT SYSTEMS**

### **SECTION 6.1 Purpose**

The Board acknowledges the need for progress in wastewater treatment and encourages the development of technology and design that will improve or facilitate wastewater treatment and its efficient disposal. Manufacturers whose design lacks sufficient technical data or background

for inclusion as a standard design in Circular DEQ4 may petition the Board for an Experimental Installation Permit.

### **SECTION 6.2 Authorization**

The Board, in accordance with state and local standards and requirements set forth in this article, shall review any proposal for an experimental wastewater treatment system. In approving such systems, the Board may impose reasonable conditions to further the purposes of these regulations.

### **SECTION 6.3 Application**

- A. A person wishing to apply for permission to install an experimental wastewater system shall make application on forms provided by the Department and shall supply such information as the Board, or its authorized agent deems necessary to properly evaluate the proposal. The required fee shall accompany the application.
- B. The Board may approve an application for an experimental type system only if the system has been designed by a licensed professional engineer and only if the application provides an acceptable plan for the installation of a standard system listed in Circular DEQ4 as a back-up system should the experimental system prove unsuccessful.

### **SECTION 6.4 Requirements for Experimental Wastewater Systems**

- A. Requirements for an Experimental Installation Permit:
  - 1. The design specifications, in compliance with the requirements given in Circular DEQ 4 for experimental wastewater treatment systems, along with any previous laboratory or field tests shall be submitted with the application.
  - 2. The necessary field tests or system information that will produce adequate data shall be agreed upon between the manufacturer and the Board.
  - 3. The Board shall determine the duration of the testing period and shall collect a fee for administrative costs associated with the testing period.
  - 4. The manufacturer or designer shall warrant the design and the installation and shall agree, in writing, to remove an unsatisfactory installation, as determined by the Board, within the time limit stipulated by the Board.
  - 5. A backup system of an approved design shall be provided.
  - 6. If the experimental system is approved by the Board, prior to system installation, an Installation Permit Application with fee must be submitted to the Department. If the application conforms to all conditions given by the Board and contains all information required by these regulations for permitting, the Department shall issue an Experimental Installation Permit. The system must have a final inspection as given in Section 3.6. -Use Permits.
  - 7. A signed deed restriction stating the experimental nature of the wastewater treatment system and the conditions of the permit shall be filed per Section 3.2(S) of these regulations and shall be reversible only upon satisfactory performance as given in (B).
  - 8. The field tests shall be completed and the results of the tests shall be submitted to the Department. All test costs shall be borne by the manufacturer or the applicant.
- B. Upon satisfactory performance of the design and installation, the Board may approve the installation and remove the experimental designation on the Use Permit for the wastewater

treatment system.

- C. An unsatisfactory installation may be repaired or changed in design with the approval of the Board. However, the Board may limit the duration of the testing period and may declare the design and installation to be unsatisfactory and require it be replaced by a standard system listed in Circular DEQ4 or is removed from the designated parcel.

## **ARTICLE 7 VARIANCES**

### **SECTION 7.1 Variance Procedures**

- A. As provided in ARM 17.36.922, the Mineral County Board of Health may grant variances from these regulations, ARM 17.36 SubChapter 9, and Circular DEQ-4, except for requirements established by statute.
- B. The Mineral County Board of Health may grant a variance from a requirement only if it finds that all of the following criteria are met:
  - 1. Granting the variance will not:
    - a. contaminate any actual or potential drinking water supply;
    - b. cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;
    - c. cause a public health hazard by being accessible to persons or animals;
    - d. violate any law or regulation governing water pollution or wastewater treatment and disposal, including the rules contained in ARM 17.36.SubChapter 9 except for the rule that the variance is requested from;
    - e. pollute or contaminate state waters, in violation of 75-5-605, MCA;
    - f. degrade state waters unless authorized pursuant to 75-5-303, MCA; or
    - g. cause a nuisance due to odor, unsightly appearance, or other aesthetic consideration;
  - 2. Compliance with the requirement from which the variance is requested would result in undue hardship to the applicant;
  - 3. The variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented;
  - 4. No alternatives that comply with the requirement are reasonably feasible; and
  - 5. The variance requested is not more than the minimum needed to address the extraordinary conditions.
- C. Any person wishing to apply for a variance shall make application on forms provided by the Department and shall supply such information as the Mineral County Board of Health or its authorized agent deems necessary to properly evaluate the proposal. The appropriate fee shall accompany the application.
- D. Upon receipt of the completed application and fee, the Department shall schedule and hold a public hearing in accordance with Section 9.2 of these regulations.
- E. The Board may deny, approve with conditions, approve the variance request or continue the hearing to allow for additional information to be presented. No further legal notice is required for a continued hearing. The Board shall notify the applicant in writing of the

decision regarding the variance request. If the variance was granted, the notice shall provide any condition or stipulation that is part of the terms under which the variance was granted.

### **SECTION 7.2 Standard Variance**

The Board may grant by resolution a Standard Variance to be administered by the Department for cases where specific variance conditions have been determined not to violate of Section 2.1 of these regulations.

### **SECTION 7.3 Appeal to the Montana Department of Environmental Quality**

Appeal: The Mineral County Board of Health's decision on a variance of a requirement of ARM 17.36.SubChapter 9 *Minimum Standards for Subsurface Wastewater Treatment Systems* or Circular DEQ4 *Montana Standards for Subsurface Wastewater Treatment Systems* may be appealed to the Montana Department of Environmental Quality pursuant to ARM 17.36.924.

## **ARTICLE 8 ENFORCEMENT AND PENALTIES**

### **SECTION 8.1 Right to Inspect**

The Board or its authorized agents may inspect any wastewater treatment system to ensure it is being used, operated and maintained in proper working order and in compliance with these regulations or any provision of the permit. It shall be unlawful for the owner or occupant of the property to deny such officials free access to the property for the purpose of making such inspection. Where practical, the inspections shall be made only after reasonable notice to the owner or occupant. Per 50-2-122, MCA it is unlawful to hinder a local health officer in the performance of duties listed under that same chapter which includes regulating wastewater treatment systems.

### **SECTION 8.2 Notice of Violation and Order for Corrective Action of the Board**

- A. If any inspection or information discloses there is, has been, or may be a violation of these regulations or order of the Board or authorized agents, the responsible party shall be given notice of such violation. Such notice shall be in writing and shall state the violation, the required corrective action, and provide a timeframe set by the Department for correction. Service of such notice shall be by means of certified mail, personal delivery, or other means to provide effective notice.
- B. A re-inspection shall be made by the Department upon receipt of notification that the violation has been corrected or at the end of the time period allowed for corrective action. The correction of a violation does not preclude the assessment of penalties as provided for in Section 8.4. If the violation has not been corrected or an order has been violated, the Board or its authorized agents may seek civil or criminal prosecution as per Section 8.4.

### **SECTION 8.3 Cease and Desist Order**

- A. The Board or its authorized agents may issue an order to cease and desist from the installation, alteration, repair, replacement or use of any wastewater treatment system that is not in compliance with these regulations or the conditions under which the system was permitted.

- B. Such order shall be in writing and shall state the violation and the requirement to cease and desist from the conditions creating the violation. Service of such order shall be by means of certified mail, personal delivery, or other means to provide effective notice.
- C. The Cease and Desist Order may be followed by or include a Notice of Violation and Order for Corrective Action which shall follow the procedures as given in Section 8.2 Notice of Violation or Order for Corrective Action.
- D. The correction of a violation or compliance with a Cease and Desist Order does not preclude the assessment of penalties as provided for in Section 8.4. If the order is violated, the Board or its authorized agents may seek criminal prosecution as per Section 8.4.

**SECTION 8.4 Penalty for Violation**

- A. The Board or its authorized agents may assess an administrative a penalty for violation of these regulations. The penalty shall not exceed \$500 per violation. Each day of violation may be considered a separate violation.
- B. Any violation of these regulations or order of the Board is subject to criminal prosecution in accordance with M.C.A. 50-2-123-124.

*As per M.C.A. 50-2-123: Compliance order authorized.*

*If a person refuses or neglects to comply with a written order of a state or local health officer within a reasonable time specified in the order, the state or local health officer may cause the order to be complied with and initiate an action to recover any expenses incurred from the person who refused or neglected to comply with the order. The action to recover expenses shall be brought in the name of the city or county.*

*As per M.C.A. 50-2-124 Penalties for Violations.*

- (1) *A person who does not comply with rules adopted by a local board is guilty of a misdemeanor. On conviction, the person shall be fined not less than \$10 or more than \$200.*
- (2) *Except as provided in 50-2-123 and subsection (1) of this section, a person who violates the provisions of this chapter or rules adopted by the department under the provisions of this chapter is guilty of a misdemeanor. On conviction, the person shall be fined not less than \$10 or more than \$500 or be imprisoned for not more than 90 days, or both.*
- (3) *Each day of violation constitutes a separate offense.*
- (4) *Fines, except justice’s court fines, shall be paid to the county treasurer of the county in which the violation occurs.*

**SECTION 8.5 Misrepresentations**

Any permit, license, or approval granted under these regulations that are based upon any material misrepresentation or failure to make a material fact or circumstance known by or on behalf of an applicant shall be void. This section shall not be construed to affect the remedies available to Mineral County under Section 8.4 of these regulations.

## **ARTICLE 9 MISCELLANEOUS PROVISIONS**

### **SECTION 9.1 Appeals to the Department or Board**

- A. All decisions regarding permits, licenses, or other matters made by the Department staff may be presented to the Department director for review.
  
- B. Upon denial of a permit or license or a decision by the Department or Health Officer, a person may make an appeal to the Board. The Board or its authorized agents shall set a date for the appeal or a hearing. The date shall be the next regularly scheduled or special Board meeting that will allow for any required public notice, provide available agenda time, and provide for adequate staff time to prepare information for the Board. If requested by the applicant or if deemed necessary by the Board, a public hearing shall be held and notice of public hearing shall be in accordance with Section 9.2 of these regulations. If the applicant requests the public hearing, the cost of the legal notice of the public hearing shall be borne by the applicant.

### **SECTION 9.2 Public Hearings**

- A. When the Board is required or determines it necessary to hold a public hearing, as provided for by the terms of these regulations, notice of the hearing shall be given in the following manner as per *M.C.A. 7-1-2121 Publication and Content of Notice*:
  - 1. Each notice of public hearing shall be published in a newspaper of general circulation, published at least weekly in Mineral County.
  - 2. The notice shall be published twice with at least six (6) days separating each publication.
  - 3. The published notice must contain the date, time and place of the hearing or other action, a brief statement of the action to be taken, and the contact information for further information.
  
- B. At least ten working days prior to the date of hearing, notices shall be mailed to the applicant, to each owner of record of the land involved in the application, to all owners of property within five hundred (500) feet of the exterior boundary of the subject property, as determined by the latest tax assessment records of the county.
  
- C. Any hearing may be continued by the Board to obtain additional information or to serve further notice upon other property owners. Upon the decision to continue, the time and date when the hearing is to be resumed shall be announced. No further legal notice is required for a continued hearing.

### **SECTION 9.3 Conflict of Ordinances**

- A. In any case where a provision of these regulations is found to be in conflict with a provision of any zoning, building, fire, safety or health regulation, or code of the county existing on the effective date of these regulations, the provision which, in the judgment of the Board or its authorized agents, establishes the higher standard for the promotion and protection of the health and safety of the public shall prevail.
  
- B. These amended regulations supersede all prior versions of the regulations or amendments thereof established by the Board pertaining to wastewater treatment systems in Mineral



County, Montana.

**SECTION 9.4 Effect of Partial Invalidity**

If any section, subsection, paragraph, sentence, clause or phase of these regulations is declared invalid for any reason, such decision shall not affect the remaining portions of these regulations, which shall remain in full force and effect; and to this end, the provisions of these regulations are hereby declared to be severable.

**SECTION 9.5 Amendment of Regulations**

- A. These regulations may be amended at any time by the Board or, as per Sections 9.6 and 9.7 to remain current with state law.
  
- B. The process of amendment is as follows:
  - 1. The Board or Department prepares a document stating proposed amendments to the regulations.
  - 2. The Board provides an item on the agenda for the next scheduled meeting describing the Board's intent to take action on proposed amendments to the regulations and the document of proposed amendments is made distributed to board members and made available to the general public.
  - 3. The Board reviews the proposed amendment at the next scheduled meeting, takes public comment and takes action on the proposed amendment unless the item is tabled for future discussion and consideration.

**SECTION 9.6 Consistency with Laws Regarding Minimum Standards for Wastewater Treatment Systems**

If Montana law or rule affecting state minimum standards for wastewater treatment systems is either created or amended, the Board reserves the right to amend these regulations at any regularly scheduled or special meeting without public notice or hearing in order to meet required minimum state standards.

**SECTION 9.7 Consistency with Laws Regarding Local Boards of Health and Health Officers**

If Montana law governing the duties, responsibilities and authorities of local boards of health and health officers is either created or amended, the Board reserves the right to amend these regulations at any regularly scheduled or special meeting without public notice or hearing as necessary to be consistent with such state law.

**SECTION 9.8 Effective Date**

The effective date of these regulations shall be the 1<sup>st</sup> day of June 2016 and as amended by the Mineral County Board of Health on the 16<sup>th</sup> day of December 2016.

## ATTACHMENT SCHEDULE OF FEES

<b>PERMIT APPLICATIONS</b>		
	<b>INSTALLATION/USE PERMIT</b> <i>New and replacement drainfields, holding tanks, gray water system, composting, incinerating &amp; non-portable chemical toilets</i>	<b>150.00</b>
	<b>ENGINEERED, PRESSURE DOSED SYSTEMS</b>	<b>200.00</b>
	<b>ALTERATION PERMIT – NEW COMPONENTS NEEDED</b>	<b>75.00</b>
	<b>ALTERATION PERMIT – NO NEW COMPONENTS NEEDED</b>	<b>25.00</b>
	<b>ADDITIONAL SITE VISIT – For permit review, beyond two site visits</b>	<b>100.00</b>
	<b>SITE EVALUATION FEE</b>	<b>225.00</b>
	<b>SECOND OR SUBSEQUENT FINAL INSPECTION</b>	<b>75.00</b>
	<b>PERMIT EXTENSION</b>	<b>25.00</b>
<b>LICENSED INSTALLERS</b>		
	<b>INSTALLER TESTING - APPLICATION, MATERIALS, TEST</b>	<b>25.00</b>
	<b>INSTALLER LICENSE - ORIGINAL &amp; RENEWAL</b>	<b>50.00/10.00</b>
	<b>LANDOWNER or NEWLY LICENSED INSTALLER – ADDITIONAL INSPECTION FEE</b>	<b>50.00</b>
<b>OTHER DEPARTMENT SERVICES</b>		
	<b>VOLUNTARY SANITATION REVIEW OF LOTS 20+ ACRES</b>	<b>300.00</b>
	<b>ADDITIONAL SYSTEM DESIGN AND/OR REVIEW TIME PER HOUR AFTER 2 HOURS</b>	<b>50.00</b>
	<b>VARIANCE APPLICATION</b> <i>This fee is in addition to any required permit application fee.</i>	<b>200.00</b>
	<b>EXPERIMENTAL SYSTEM STATUS APPLICATION</b> <i>This fee is in addition to any required permit application fee.</i>	<b>500.00</b>
	<b>INSPECTION – ADEQUATE REPLACEMENT AREA IN SUBDIVISION REVIEW</b> <i>Per 76-4-125(3),MCA</i>	<b>100.00</b>
	<b>INSPECTION- NEW DISPOSAL SITE FOR LICENSED SEPTIC TANK PUMPERS</b>	<b>100.00</b>
	<b>GROUNDWATER EVALUATION</b>	<b>60.00</b>
	<b>GROUNDWATER MONITORING PER WEEKLY TRIP (MINIMUM)</b>	<b>10.00</b>
	<b>CONSTRUCTING WITHOUT AN ISSUED INSTALLATION PERMIT OR APPROVED SITE EVALUATION</b>	<b>300.00</b>

**ATTACHMENT**  
**PROCEDURE TO LICENSE AND RENEW**  
**WASTEWATER TREATMENT SYSTEM INSTALLERS**

**Testing for new Installer licenses shall be provided and administered by the Department.**

1. The testing fee shall be paid prior to administering the test.
2. The requirement for successfully completing the test shall be a score of 80% or higher.
3. A newly Licensed Installer must contact the Department for the following two inspections or as otherwise required by the Department:
  - a. When the septic tank has been installed and the trenches excavated but not filled. This inspection is to determine that the trenches are level and of the correct depth.
  - b. When the system has been fully installed but not covered.
4. A newly Licensed Installer must pay the required fee prior to the scheduled inspection for the second and any subsequent inspection.
5. A newly Licensed Installer is subject to the second inspection and fee for a minimum of three system installations or until the Department determines the installer can complete the installation per the county regulations and permit specifications. The Department may waive the requirement for second inspection of systems installed by newly licensed holders with substantial installation experience.

**Renewal of Wastewater Treatment System Installer License**

1. Licenses shall expire on December 31<sup>st</sup> of each year and shall be renewed before March 1<sup>st</sup> of the new licensing year.
2. Renewal requires that the annual renewal fee and a signed acknowledgment of any new regulations, provided with the renewal notice, be returned to the Department before March 1<sup>st</sup> of the new licensing year.
3. If the license is not renewed before March 1<sup>st</sup> of the new licensing year, it is expired. An expired license shall subject the installer to all of the requirements for a new license. However, the Department may waive the requirement for the second inspection of systems installed by new license holders who were previously licensed.

**Property Owner Installer - Authorized Installer**

1. The property owner of record may install a wastewater treatment system on his/her own property, without obtaining a Wastewater Treatment System Installer License, with the following stipulations:
  - d. The Department reserves the right to require installation by a Licensed Installer if the system has unique or challenging design and/or site considerations, utilizes advanced treatment, or has other complex installation concerns.
  - e. The property owner shall not have installed, or caused to be installed, a wastewater treatment system in violation of these regulations within the last twelve months, beginning on the date of the Notice of Violation certified letter issued by the Department.
  - f. The property owner is subject to the testing requirement and testing fee.

- g. The authorization to install a system under this section shall expire with the expiration of the Installation Permit associated with the property.
- 2. A property owner who has successfully met the criteria listed in 1. shall be considered an Authorized Installer and shall be on site during the installation of the wastewater treatment system and actively participating in the installation.
- 3. The Authorized Installer shall contact the Department for the following two inspections or as otherwise required by the Department.
  - a. When the septic tank has been installed and the trenches excavated but not filled. This inspection is to determine that the trenches are level and of the correct depth.
  - b. When the system has been fully installed but not covered.
- 4. The Authorized Installer shall pay the required inspection fee prior to the scheduled inspection for the second and any subsequent inspection.