

# **RAVALLI COUNTY SUBSURFACE WASTEWATER TREATMENT AND DISPOSAL REGULATIONS**

## **ARTICLE 1. GENERAL INFORMATION**

### 1.1 Scope

These regulations shall govern the disposal of Wastewater and the design of all Wastewater Systems within the jurisdiction of Ravalli County Board of Health.

These regulations shall not govern an approved municipal or sewer district system nor shall these regulations govern the disposal of Wastewater by means of an approved municipal or sewer district Wastewater systems designed in accordance with DEQ Circular DEQ-2 (“approved” means an approval by the Department of Environmental Quality, DEQ).

### 1.2 Authority

The Ravalli County Board of Health adopts these Regulations under authority of Section 50-2-116, Montana Code Annotated (MCA) and Administrative Rules of Montana (ARM) 17.36.920,

### 1.3 Purpose

The Ravalli County Board of Health adopts these regulations to protect the health, safety, and welfare of the public and to prevent the spread of communicable disease by ensuring Wastewater is disposed in a manner that will not create a health hazard, adversely affect the environment, pollute state waters, impair the enjoyment or use of property or create a nuisance. These regulations further this purpose by setting forth minimum standards for the installation, alteration, repair, extension, and use of Wastewater Systems within Ravalli County.

### 1.4 Delegation of Authority

Except as provided herein, the Ravalli County Board of Health delegates authority to administer and enforce these Regulations to the Ravalli County Environmental Health Department.

### 1.5 Interpretation

The Department Director, in consultation with other professionals or County personnel as necessary, may interpret these Regulations in order to implement the overall intent of these Regulations for guidance. The Department Director shall articulate such interpretation in writing and the Department shall keep a permanent record of them. The Department Director’s interpretations may be subject to the appeal provisions of these Regulations.

## 1.6 Definitions

Capitalized terms in these Regulations are defined either by the definitions provided below or in ARM 17.36.101, ARM 17.36.912, MCA 50-1-101, and Montana Circular DEQ-4. If there is a conflict between a definition in the ARM or MCA and a term defined below in these Regulations, then the definition in these Regulations shall take precedence. Words and phrases not specifically defined in these Regulations or in the ARM shall have their usual and customary meaning in the context of environmental health:

1.6.1 “Alter” (and “Alteration”) means acting, or the act of, to change any Wastewater Systems in any way that is determined by the Department to substantially change the intent of the original permit. This may include, but is not limited to the following:

- A. Increased Use as defined below.
- B. Connecting a different structure to the Wastewater System than the originally approved structure.
- C. Reconnecting to the Wastewater System after a period of nonuse greater than five years.
- D. Lengthening or shortening any Absorption System component.
- E. Replacing the Septic Tank or any components of the Wastewater System.
- F. Building structures on top of the Wastewater System including parking areas or paving.

For example, under this definition, adding a new bedroom to an existing Dwelling would be an Alteration and require a permit.

1.6.2 “Bedroom” means any room that is primarily used for sleeping. An unfinished basement is considered an additional bedroom.

1.6.3 “Camping” means the use of a recreational vehicle (such as a camper, motor home, or travel trailer), tent, or other non-permanent residence for living quarters or sleeping purposes on any given tract of record, for a period of less than 30 consecutive days during any calendar year. The term does not include use for any period of time of a recreational vehicle that is permitted to connect to a Wastewater System. Camping on a given tract of record may be extended for more than 30 days but no longer than 180 days during any calendar year, only with prior written Department approval of an appropriate Wastewater disposal plan that complies with these Regulations and includes a termination date when the Camping will end.

1.6.4 “Delineated Floodplain” means a floodplain adopted by the Ravalli County Floodplain Regulations, a floodplain delineated under subdivision or other site specific review process, or any other floodplain boundary as delineated by accepted professional standards and as reviewed and approved by the Ravalli County Floodplain Manager. “Department” means the Ravalli County Environmental Health Department.

1.6.5 “Existing System” means an installed Wastewater System. There are two types of Existing Systems:

“Conforming Existing System” means (1) a Wastewater System that was installed prior to December 31, 1982, or (2) was installed with a valid permit on or after December 31, 1982, provided it was installed in compliance with all applicable laws and regulation in effect at the time; applicants are required to provide sufficient evidence for the Department to determine when the Existing System was installed.

“Nonconforming Existing System” means an Existing System that does not meet the definition of a Conforming Existing System—e.g. a Wastewater System installed after December 31, 1982, (1) without a permit or (2) with a permit but in violation of the permit or of any applicable law or regulation in effect at the time the permit was issued.

1.6.6 “Fee Schedule” means the schedule showing the amount for each fee provided for by these Regulations; fee schedule is approved by the Board of County Commissioners, is amended from time to time, and is available at the Ravalli County Environmental Health office and on the Department website. Applicants are advised to refer to the fee schedule to determine the amount of any fees to be paid under these Regulations.

1.6.7 “Increased Use” means enlargement or change in use of any structure served by a Wastewater System where the enlargement or change in use would, in the Department’s judgment, potentially increase effluent flow in excess of approved limits or standards. Increased Use includes but is not limited to the following:

- A. Enlarging a structure by adding one or more Bedrooms
- B. Connecting an additional Occupied Building to a Wastewater System.
- C. Adding a business that will have employees or customers, or enlarging a business that will increase the number of employees or customers.

1.6.8 “Occupied Building” means any structure with any one or more of the following: bedroom, bathroom, plumbing, a Piped Water Supply, a kitchen, or laundry facilities. Recreational vehicles, motor homes, travel trailers, and tents are Occupied Buildings when they are used for living purposes and are not “Camping” under these regulations.

1.6.9 “Piped Water Supply” as defined in ARM 17.36.912.

1.6.10 “Replacement System” means a Replacement System as defined in ARM 17.36.912.

1.6.11 “Seasonally High Groundwater” as defined in DEQ-4.

1.6.12 “Wastewater System” means a Wastewater Treatment System as defined in ARM 17.36.912.

1.6.13 “Wastewater System Permit” means a written permit issued by a registered sanitarian from the Department or other authorized representative permitting the construction, Alteration, repair, connection or use of a Wastewater System under these regulations.

## **ARTICLE 2. GENERAL REQUIREMENTS**

2.1 All Occupied Buildings must have an approved means of Wastewater treatment in accordance with these Regulations. Any office or business must have approved toilet facilities connected to a Wastewater System within 200 feet of the structure. Portable toilets do not fulfill these requirements.

2.2 No person may install, Alter, repair, utilize, or connect to a Wastewater System or Replacement System within Ravalli County unless an Wastewater System Permit has been issued as required by these Regulations. The Department is the only entity that may issue a Wastewater System Permit for any Wastewater System in Ravalli County.

2.2.1 Installers of Wastewater Systems, and builders of structures or structural alterations requiring a Wastewater System Permit, must coordinate and confirm that their work complies with the approved Wastewater System Permit. Failure to comply may result in actions in compliance with Section 8 of these Regulations.

2.4 The general requirements for these Regulations incorporate the general requirements in ARM 17.36.913.

## **ARTICLE 3. PERMITS**

3.1 Application for Wastewater System Permit – New Construction

3.1.1 New Wastewater System Permit

A New Wastewater System Permit is required for all new Occupied Buildings. The applicant must have an approved Wastewater System Permit prior to pouring for any part of a foundation for the intended structure or installing any non-concrete footings or foundations for the structure. The Wastewater System Permit would be issued at the end of the process provided for under these Regulations, a process that includes, but is not limited to: 1) site evaluation, 2) groundwater monitoring (when required), 3) non-degradation analysis, and 4) system design including detailed layout.

3.1.1.1 Holding Tanks

Applications for holding tanks must meet the following requirements:

1. Meet the requirements of these Regulations.

2. A Seasonal Holding Tank Agreement between the owner and the Department must be filed with the Ravalli County Clerk and Recorder's Office.

### 3.1.2 Replacement Wastewater System Permit

3.1.2.1 A Replacement Wastewater System Permit is required for the replacement of a failed or failing Wastewater System. A person may replace a non-failed or non-failing Wastewater System if the proposed Replacement Wastewater System is an improvement on the Existing System. The Replacement Wastewater System Permit will be issued at the end of the process provided for under these Regulations, a process that includes, but is not limited to a site evaluation and a system design including detailed layout.

3.1.2.2 A Replacement Wastewater System Permit which would allow for Increased Use must meet all the requirements of 3.1.1.

3.1.2.3 When a Wastewater System is replaced, or will no longer be used, the system shall be considered abandoned and any further use of the system for any purpose is prohibited.

3.1.2.4 When a septic tank, seepage pit, or cesspool is abandoned it must be:

- (1) located;
- (2) pumped entirely of its contents by a licensed septage hauler; and,
- (3) properly abandoned in one of the following ways:
  - (a) filled with sand, gravel, or other suitable material;
  - (b) broken into pieces with the resultant hole being filled with suitable material; or
  - (c) Removed, with the resultant hole being filled with suitable material.

### 3.1.3 Alteration Wastewater System Permit

3.1.3.1 An Alteration Wastewater System Permit is required to perform alterations as defined in 1.6. An Alteration Wastewater System Permit is not required for minor maintenance as noted in 3.2.

3.1.3.2 An Alteration Wastewater System Permit which would allow for Increased Use must meet all the requirements of 3.1.1.

### 3.2 Wastewater System Permit for other than new construction.

Minor maintenance may be performed on a Wastewater System without a Wastewater System Permit. Minor maintenance is limited to the following: pumping the Septic Tank, cleaning or replacing the effluent filter, replacing the effluent pump with a pump of equal specifications, unplugging sewer pipes, adjusting the flow leveling devices in a distribution box, installing an access riser or lid, installing an effluent filter, or repairing broken pipes. Other minor activities may be conducted without a Wastewater System

Permit only if approved in advance in writing by the Department. Any maintenance and repair may only be completed by a Licensed Installer or the owner of record of the tract.

- 3.3 Application for a Wastewater System Permit shall be submitted by the owner(s) of the tract of record or the owner's duly authorized agent on forms provided by the Department and shall, at a minimum, include the following required information:
1. Name, mailing address, and phone number of each and every owner of the tract of record.
  2. If application is by owner(s): signature of each and every owner.
  3. If application is by owner's agent: name, mailing address, and phone number, and signature of owner's agent.
  4. If application is by owner's agent, a form signed by each and every owner designating the authorized agent.
  5. For signatures other than a natural person (e.g. an LLC or a corporation), signer must provide legal signatory authority.
  6. The Department may assist in the creation of a lot layout drawn to scale, consisting of the following:
    - a. Property lines;
    - b. Existing and proposed structures, including basements;
    - c. All existing and proposed wells showing adequate separation from the proposed Wastewater System, including but not limited to wells for domestic water or irrigation supply;
    - d. All streams, lakes, springs, ponds, irrigation ditches, and other surface water sources, and any part of the delineated floodplain located within 300 feet of the Wastewater System or within the distance of the length of mixing zone, if the mixing zone requested is greater than 300 feet;
    - e. Location of any area including driveways and parking areas;
    - f. All paved areas including driveways and parking areas;
    - g. Utility lines;
    - h. Any existing Wastewater or sewage disposal systems or facilities;
    - i. A scale (for example: 1 inch = 20 feet);
    - j. Direction and amount of slope on the property;
    - k. A north directional arrow;
    - l. A layout plan for the proposed Wastewater System and replacement area;
    - m. Easements
- 3.4 The applicant, at the applicant's expense, must have a Site Evaluation conducted, which includes a site visit and a Soil Profile. A Soil Profile shall be within 25 feet of the proposed Absorption System area unless the Department determines that a Soil Profile greater than 25 feet complies with these regulations. The Department, a licensed engineer, or registered sanitarian may conduct a Site Evaluation, except (1) only the Department may conduct Site Evaluations for systems that are not approved by the State under the sanitation in subdivisions regulations, (2) for lots under review by the State under the sanitation in subdivision regulations, a Qualified Site Evaluator may conduct the site evaluation, but only after giving notification to the Department not less than 3 business days before the evaluation will occur.. The Department may require the

applicant provide more than one Soil Profile depending upon the variability of the soils, the type of information necessary and/or the anticipated size of the Absorption System area.

3.5 The applicant shall provide a water sample analysis for contaminants of concern including nitrate (as nitrogen) to complete the non-degradation analysis. The Department may also require one or more of the following water tests: (1) total coliform analysis for water supplies that may be influenced by surface contamination or other sources; (2) specific conductance for tracts of record that are proposed for subdivision or may have water quality concerns; and (3) other tests or analysis the Department believes will be necessary or helpful to determine site suitability.

3.6 In the Department's reasonable discretion, the Department may also require: (1) a Percolation Test be completed within the area of the proposed Absorption System and replacement area if variable soil textures or Limiting Layers are evident or suspected likely, and the Percolation Test must be performed in accordance with Circular DEQ-4; (2) other tests or analysis the Department believes will be necessary or helpful to determine site suitability.

### 3.7 Groundwater Monitoring

The Department may require groundwater monitoring in the area of the proposed Absorption System. Generally, the Department will require groundwater monitoring if it has reason to believe groundwater will be within 7 feet of the surface at any time of the year within the boundaries of the Absorption System. Groundwater monitoring shall be achieved by installation of one or more Groundwater Observation Wells.

3.7.1 The top of any Groundwater Observation Wells shall be 2 feet above the ground surface or adequately marked. The Department shall record the coordinates of Groundwater Observation Wells using a global position system device. Unless the Department directs otherwise, Groundwater Observation Wells shall be installed to a depth of at least 8 feet.

Groundwater Observation Wells must be located at a point that is representative of the area of the proposed Wastewater System.

3.7.2 The Department, or a designated representative shall monitor the Groundwater Observation Wells for a period sufficient to measure Seasonally High Groundwater after the applicant has completed the groundwater monitoring application form and paid the fee in accordance with the Fee Schedule available in the Department office. A determination based on Groundwater Observation Wells will be made only after the Department determines that sufficient data has been collected to detect Seasonally High Groundwater, and a peak and a sustained decline in the groundwater level.

3.7.4 The Department may reject groundwater monitoring data and may require additional monitoring (including another season) if it believes the data may be defective, incomplete, or compromised including but not limited to the following reasons:

- a. Monitoring occurred during a drought year in accordance with Appendix C of Circular DEQ-4;
  - b. Historic information indicates high groundwater occurrences;
  - c. if the Department believes that monitoring was conducted in a manner or at a time during which the monitoring would fail to detect the Seasonally High Groundwater level; or
  - d. The Department believes that site conditions during monitoring were not typical. An example of atypical site conditions would be a property where normal irrigation practices have been altered or suspended during groundwater monitoring.
- 3.7.5 Groundwater Observation Wells must remain in the ground until construction of the Wastewater System begins.
- 3.7.6 Any Groundwater Observation Well which has failed (i.e., groundwater was measured at less than 48 inches from the ground surface) cannot be monitored again unless the applicant documents that a permanent change has been made that might allow the Well to pass. (For example, a nearby irrigation ditch is filled in, removed or piped).
- 3.7.7 Unless approved by the Department in writing, any Groundwater Monitoring Well installed in subsequent years must be located at least 100 feet from the failed Groundwater Monitoring Well.
- 3.7.8 If the Department believes that a Groundwater Monitoring Well has been tampered with by, or on behalf of the applicant, applicant will be notified and may ask for a hearing with the Department Director. The Director may consider a rebuttable presumption that the applicant is responsible for any tampering that would make the Groundwater Monitoring Well more likely to pass. The Director may consider a rebuttable presumption that the applicant is not responsible for tampering that would make the Groundwater Monitoring Well more likely to fail. The Department shall consider any evidence and make a determination whether applicant is responsible for suspected tampering. (APPEAL PROVISION)
- 3.7.9 If an applicant has been found to be responsible for tampering with a Groundwater Observation Well, that Well will be considered failed and the Department shall reject the application. The Department shall reject another application on that tract of record, or any other tract of record owned by the applicant or owned by an entity in which applicant has at least 25% interest, for 2 years. Notice of the Department's finding and the application restriction shall be filed with the Clerk and Recorder.
- 3.7.10 Any Wastewater System Permit approval is dependent on data and calculations showing a specific level for Seasonally High Groundwater under the site. It is the responsibility of the tract owner to ensure that irrigation and water use practices that may affect the applicant tract of record do not cause groundwater level to rise above the level determined during the time of the approved monitoring season.

- 3.8 The applicant must provide evidence satisfactory to the Department that the proposed Wastewater System will comply with all adopted zoning, delineated floodplain, covenants, and land use requirements for the area. The Department may require the applicant to provide additional evidence if the Department deems necessary.
- 3.9 When any portion of the subject tract of record is in a delineated floodplain or is located within 300 horizontal feet of the Delineated Floodplain boundary the applicant must consult with the Ravalli County Planning Department, which may require the applicant to obtain a floodplain determination.
- 3.10 By signing the application for a Wastewater System Permit or by designating an agent to submit an application, the owner of the tract of record gives permission for Department personnel to conduct such investigations, examinations, tests and site evaluations, as it deems necessary to determine site suitability and to verify information contained in an application.
- 3.11 An application shall not be considered unless the Wastewater System permit application fee accompanies the completed application when submitted to the Department for review. Checks are payable to the Ravalli County Environmental Health Department (RCEH). If the applicant initiates a change in the Wastewater System design after it is approved by the Department, a fee may be required by the Department for review and inspection costs associated with the alteration of the design. Penalties for starting construction without a Wastewater System Permit and the permit fee must be paid in accordance with the Fee Schedule before a Wastewater System Permit is issued.
- 3.12 Until successful completion of system design and non-degradation analysis, there is no guarantee that a Wastewater System Permit may be issued. Fees for these items are non-refundable regardless of outcome.

Once written approval is received from the Department, the issuance of a Wastewater System Permit may be guaranteed for a period of 12 months, provided the conditions of approval remain unchanged. Once a Wastewater System Permit is issued, it will expire after 24 months as described in Section 4.8. Receiving an Operating Permit is dependent on the system being successfully installed as designed.

#### **ARTICLE 4. DESIGN AND TECHNICAL REQUIREMENTS**

- 4.1 An applied for Wastewater System, and its corresponding non-degradation analysis, must be designed either by the Department, a licensed professional engineer, or a registered sanitarian.
- 4.1.1 Wastewater Systems and non-degradation analysis not designed by the Department must be reviewed and approved by the Department, and associated fees from the Fee Schedule paid.

- 4.2 The Department or the Ravalli County Board of Health may require a property owner to retain the services of a professional engineer or registered sanitarian for one or more of the following reasons:
1. The system cannot be designed by the Department in a timely manner.
  2. The system is beyond the abilities of the Department's professional staff.
  3. It is an Experimental System under ARM 17.36.912.
  4. It serves a commercial or industrial establishment.
  5. It serves a multiple-user residence.
  6. It is located in an area with challenging site conditions, including but not limited to excessive slopes, wetlands, flooding, Limiting Layers, or elevated nutrients.
  7. It has a specific public or environmental health concern, including but not limited to non-residential strength Wastewater, existing contamination, or history of Failed Systems.
  8. The design includes use of a pumping system, siphon system, or pressure-dosed distribution system.
  9. It includes the use of specific grades of sand or gravel in different layers such as elevated sand mounds, or recirculating or intermittent sand filters, or trickling filters.
- 4.3 An applicant may appeal the approved Department design in accordance with Section 7.1. The applicant may employ a licensed professional engineer or registered sanitarian for an alternative design to be approved by the Department. Additional fees may be required according to the Fee Schedule.
- 4.4 No person may install a Wastewater System that differs from design and specifications on the Wastewater System Permit, including the site layout, unless the Department has previously approved the change in writing. If the installation is being supervised and certified by a professional engineer or a registered sanitarian, "as built" drawings and certification must be submitted that show any changes. All installations must be inspected by the Department, or their designated representative, with detailed site layout and system specifications recorded, and final inspection certified by the inspector.
- 4.5 Compliance
- 4.5.1 Wastewater Systems shall comply with the specifications set forth in ARM, Title 17, Chapter 36, Subchapter 3 (when applicable), Subchapter 9, and the current version of Circular DEQ-4, Montana Standards for Subsurface Wastewater Treatment Systems and Circular DEQ-2, Design Standards for Wastewater Facilities, except as noted in the following sections.
- 4.5.2 The minimum lot size for a Wastewater System shall be in accordance with state regulations for subdivisions, ARM 17.36.340, unless the Department determines that site-specific conditions require a larger area to comply with these Regulations.

- 4.5.3 The installer shall ensure that all setback requirements are met under these Regulations, ARM 17.36.918, and when applicable, ARM 17.36.323.

#### 4.6 General Technical Requirements

- 4.6.1 For all residential Wastewater Systems, the minimum design flow shall be 225 gallons of Wastewater flow per day.
- 4.6.2 The Department may require a fifty (50) foot or more minimum separation from all property boundaries to the proposed Absorption System if adjacent properties have limited space available for a water supply, for example, if adjacent lot sizes are less than one (1) acre.
- 4.6.3 As allowed under Section 76-4-1 12(1)(c), MCA, new Wastewater Systems must be located so that the mixing zones approved by the Department under ARM 17.30.501 and ARM 17.30.715, do not extend onto adjacent private property unless the owner of the proposed Wastewater System obtains an easement from the neighboring property owner. This requirement does not apply to Wastewater Systems with mixing zones approved prior to the effective date of these Regulations.
- 4.6.4 No component of any Wastewater System may be located under structures or driveways, parking areas or other areas subject to vehicular traffic, except for those components of the system designed to accommodate such conditions.
- 4.6.5 Absorption Systems must not be located in swales or depressions where runoff may flow or accumulate.
- 4.6.6 Unsealed pit privies are not allowed. Sealed, non-discharging, composting toilets may be allowed as long as the property has an operating gray water system and Absorption System and replacement areas as approved by these Regulations.
- 4.6.7 Portable toilets may only be used temporarily and may not be used in lieu of an approved Wastewater System.
- 4.6.8 Except as allowed below, a Septic Tank shall be located within 50 feet of the structure to be served by the Septic Tank, and the sewer line feeding the Septic Tanks shall have no single bend greater than 45 degrees. A cleanout must be installed outside the structure on any sewer line serving the Septic Tank, and a cleanout must be no further than 3 feet outside the foundation wall unless approved by the Department. The cleanout shall be located on the exterior side of the foundation wall so as to allow access from the outside. If site conditions prevent location of the Septic Tank within 50 feet of the structure to be served by the Septic Tank, the sewer lines between the foundation wall and the Septic Tank shall have additional cleanouts installed at every point where cumulative horizontal bends exceed 135 degrees or length exceeds 100 feet.

- 4.6.8 Standard distribution boxes with flow levelers must be provided as approved by the Department for all gravity distribution systems. A riser ring and access lid must be installed on all the distribution box.
- 4.6.9 At-grade systems shall only be used if the depth to a Limiting Layer is at least 54 inches from the natural ground surface and the Absorption System Trenches are at least 6 inches in depth, and 48 inches of natural soil to the Limiting Layer is maintained.
- 4.6.10 A Septic Tank may not be located within 50 feet of any area subject to flood irrigation or of any existing or proposed pond, Drainage Way, or excavation that contains or conveys surface water (including ditches).
- 4.6.11 An Absorption System may not be located within 100 feet of any area subject to flood irrigation or of any existing or proposed pond, Drainage Way or excavation that contains or conveys surface water (including ditches).
- 4.6.12 All Wastewater Treatment Systems and their components must meet the specifications in ARM 17.36.911 through 17.36.924.
- 4.6.13 For any Septic Tank that will be located in groundwater for any time of the year, the applicant must demonstrate to the Department's satisfaction that the Septic Tank will be properly sealed and anchored to prevent flotation and inundation.
- 4.6.14 Risers and lids shall be installed on Septic Tanks for all new Wastewater Systems and must provide adequate access for maintenance. Safety basket screens (child catchers) are recommended.
- 4.6.15 For systems in which effluent pumping is required for any reason, the receiving Absorption System shall be dosed with pressure distribution piping, designed according to circular DEQ 4 standards. This applies to any type system in which effluent is pumped, including standard Absorption System, gravel-less chambers, sand beds, mounds. Distribution boxes feeding gravity dosed pipes or trenches shall not be used for any of these systems with pumped effluent.
- 4.6.16 Soils that require pressure dosing under DEQ 4, under these Regulations shall include those soils described in DEQ-4 that have percolation rates faster than six (6) minutes per inch.
- 4.6.17 Public Wastewater Systems must be designed by a professional engineer and reviewed by Montana DEQ. Operation and management of these systems must comply with Montana Circular DEQ-4, EPA/625/R-00/008, and the manufacturer's and designer's recommendations, and a management entity must be established to ensure that the system remains in compliance with the operation and management plan. Assistance in establishing a management entity, may be found in the Voluntary National Guidelines for Management of Onsite and Clustered (Decentralized) Wastewater Treatment Systems - (EPA 832-B-03-001), Date Published: 03/01/2003.

#### 4.7 Denial of Wastewater System Permit or Disapproval of Plans

- 4.7.1 The Department shall deny an application for a Wastewater System Permit if it determines any of the following:
1. Due to physical limitations, the tract of record cannot support the proposed Wastewater System in conformance with these Regulations.
  2. The applicant has failed to supply all data necessary to make a determination whether the Wastewater System conforms to these Regulations;
  3. The proposed Wastewater System design, as proposed, will not conform to these Regulations;
  4. The proposed Wastewater System does not comply with covenants or other local or state regulations including without limitation, zoning, land use, delineated floodplain, subdivision regulations; or
  5. Site conditions have changed since the time of DEQ approval or if the approval was based on incorrect or incomplete information.
- 4.7.2 The Department shall give an applicant written notice of the denial of a Wastewater System Permit with the reason for denial.
- 4.7.3 An applicant may appeal denial of a Wastewater System Permit to the Ravalli County Board of Health under Section 9.1.

#### 4.8 Expiration of Wastewater System Permits

A Wastewater System Permit is valid for 24 months from its issue date. If the Wastewater System is not completed within 24 months of the issue date, the Wastewater System Permit shall expire. In the Department's discretion, an expired Wastewater System Permit may be reissued upon payment of fees and after review and approval by the Department in accordance with the current Regulations.

#### 4.9 Invalidation of Wastewater System Permits

- 4.9.1 The Department may revoke a previously issued Wastewater System Permit (even if a Wastewater System was already installed) if it determines any of the following:
1. Ground water or a Limiting Layer becomes evident during installation;
  2. Substantial difference in site conditions from the initial Site Evaluation is encountered during installation;
  3. The Wastewater System cannot be constructed as designed on the Wastewater System Permit;
  4. The applicant is responsible for tampering with a Groundwater Monitoring Well;
  5. The Department determines that information reported to the Department in the application and in the application process was not accurate, and that the given information was material to the application;
  6. The Wastewater System does not comply with all adopted zoning, delineated floodplain, covenants, and land use requirements for the area at the time of the application;

7. The design, including plans, specifications, or details of construction as built do not comply with the Wastewater System Permit and the application process, unless:
  - a. The changes were approved in writing by the Department or by the supervising engineer (see 3.1.D), or
  - b. The changes are allowed by Section 3.1.C and Section 3.1.D; or,
8. The proposed or constructed structure does not match the proposed use on the Wastewater System Permit.

4.9.2 If the installer or applicant becomes aware of any of the situations listed above, installation must cease, and applicant or installer shall contact the Department to determine if site modification or relocation may be necessary. Failure of the installer to abide by these provisions shall subject the installer to penalties under these Regulations.

#### 4.10 Inspections

4.10.1 For systems designed by the Department, the following must be completed:

1. A Department sanitarian, or as described further below, a certified installer, shall inspect the Wastewater System installation prior to covering with fill dirt. A certified installer may inspect and verify that the system was built only when authorized and arranged in advance by the Department. In such cases, a drawing of the system with components labeled and located, with measurements shown, must be submitted to the Department within seven (7) days after completion of the system, with a signed statement by the installer that the completed system was installed according to the Wastewater System Permit and meets required specifications.
2. If the Department determines that the installation is in compliance with the Wastewater System Permit and these Regulations, the Department shall sign the inspection form and send a copy of the Wastewater System Permit to the applicant and the owner of the tract of record (if different), which shall constitute the final approval of the installation.
3. If the Department determines that the installation is not in compliance with the Wastewater System Permit and these Regulations, the system must be modified as required by the Department and re-inspected. The fees for the modifications and inspection shall be according to the Fee Schedule.
4. If the system has been covered prior to the final inspection, or prior to Department approval of final inspection, the applicant may be required to remove the fill covering the system at the applicant's cost to complete the final inspection.

4.10.2 For systems designed by consultants, the following must be completed:

1. The system designer shall inspect the system and provide written verification to the Department that the system was installed in accordance with the approved design. If the system designer is not available to conduct the inspection, the Wastewater System Permit must be amended in writing by the Department to designate another qualified inspector. The system designer or inspector must also submit a signed "as-built drawing" of the system to the Department within 60

days of completion of the project. If the inspector is not the designer; written permission must be given by the system designer and the inspector of the system shall certify that the system was installed in conformance with the submitted as-built plans. The system inspector must be a professional engineer or registered sanitarian.

2. Any alteration of the Wastewater System after the final inspection and not approved in writing by the Department shall invalidate the Wastewater System Permit.

## **ARTICLE 5. WASTEWATER TREATMENT SYSTEM CERTIFIED INSTALLERS**

- 5.1 No person may install, Alter, repair, or connect to a Wastewater System within Ravalli County unless that person holds a valid Ravalli County Wastewater Treatment System Installer Certification or is exempt under Section 5.1.4.
  - 5.1.1 Except as provided in Section 5.1.2 and 5.1.4, no person may install, Alter, repair, or connect a Wastewater System unless he/she holds a valid Ravalli County Wastewater Treatment System Installer Certification.
  - 5.1.2 System Installer Certification  
An employee need not be certified if the employee works under the direct supervision of a certified installer and the certified installer verifies that it is installed in accordance with the Wastewater System Permit and these Regulations.
  - 5.1.3 Requirements for Certified Installer
    - 5.1.3.1 Application for a Certified Wastewater Treatment System Installer shall be made on forms provided by the Department and submitted to the Department. The application fee for the Certified Installer shall be the Installer Certification Exam Fee according to the schedule available at the Ravalli County Environmental Health Office. Certifications shall expire on December 31<sup>st</sup> of each year and must be renewed within sixty (60) days.
    - 5.1.3.2 Certified Wastewater Treatment System Installers must renew their certifications within sixty (60) days of expiration. The renewal fee must accompany the renewal application. An expired certification shall be subject to the application fee and other requirements for new certifications.
    - 5.1.3.3 Prior to the issuance of certification, the applicant shall demonstrate adequate knowledge of these Regulations and the ability to properly install a Wastewater System in compliance with these Regulations. Adequate knowledge could be demonstrated by a combination of the following: successfully passing a written exam; passing field inspection of work conducted by the applicant; and demonstrating understanding of and ability to use tools to set level and grade of a system, such as an optical transit or laser level. Prior to the renewal of

certification, the Department may require that the applicant demonstrate knowledge of and compliance with these Regulations. Prior to the renewal of a certification, the Department may require that the installer provide the Department all outstanding Wastewater System Permit information and as-built drawings for completed work.

5.1.3.4 Installer must complete all installations, Alterations, repairs, or connection of any Wastewater System in compliance with these Regulations and with the conditions set out in the Wastewater System Permit, including the requirement to provide a drawing of an installed system when required under Section 4.10.

5.1.4 A landowner of record may install a Wastewater System on his/her own tract of record if he/she successfully completes the Installer Certification. The landowner will be subject to all requirements given in Section 5.1.3, except landowner will not be required to pay the exam fee.

5.1.5 Denial of application or Revocation of an existing Certified Wastewater Treatment System Installer certification.

1. The Department may deny an application or revoke an existing certification for any one or more of the following reasons:

- a. The applicant/certified installer was found to have violated these Regulations, was found to have violated an order by the Board of Health, or the Board of Health issued a penalty for a violation as provided for under Section 7 within one year preceding the application.
- b. The applicant/certified installer had a Wastewater Treatment System Installer Certification revoked within one year preceding the application.
- c. The application for Certified Wastewater Treatment System Installer, or any permit application submitted to the Department contains false information.
- d. The applicant/certified installer failed to meet the requirements of the certification application including any required demonstration of knowledge, including but not limited to passing the written exam.

2. Written notice of the Department's denial or revocation stating the reasons for denial or revocation shall be sent or personally delivered to the applicant.

5.1.6 Appeal to the Board of Health: The Department's decision regarding the denial or revocation of a certification may be appealed to the Board of Health. The request for an appeal must be submitted in accordance with Section 7.1.

## 5.2 Licensed Septic Tank Pumpers

5.2.1 Septic Tank pumpers shall be licensed by the Montana Department of Environmental Quality in accordance with ARM 17.50.803.

5.2.2 Disposal sites for Septage shall be reviewed and approved in writing by the Ravalli County Board of Health or its designated representative in accordance with ARM

17.50.809. The inspection fee shall be submitted to the Department with the application for evaluation of each disposal site.

- 5.2.3 Septic Tank pumpers shall ensure that the owner of any disposal site shall allow the Department access to the site.

## **ARTICLE 6. VARIANCES**

- 6.1 The Board of Health may grant a variance from certain requirements of these Regulations if all the criteria in ARM 17.36.922 are met. The Board of Health may grant a variance from a requirement only if it determines that granting a variance will not violate Article 2 of these Regulations, except for the rule from which the variance is requested.
- 6.2 Any person wishing to apply for a variance shall prepare an application on forms provided by the Department and shall supply such additional information as the Board of Health or its authorized agent deems necessary to properly evaluate the proposed variance. An application fee shall accompany the application.
- 6.3 Upon receipt of the completed application and fee, the Department shall schedule a public hearing by the Board of Health in accordance with Section 7.2 of these Regulations.
- 6.4 The Board of Health may impose reasonable conditions to the granting of a variance to further the purposes of these Regulations.
- 6.5 The Board of Health's decision on a variance may be appealed to the Montana Department of Environmental Quality pursuant to ARM 17.36.924.
- 6.6 Designs that lack sufficient technical data or background for inclusion in the state regulations, Montana Department of Environmental Quality, ARM 17.36.320 and Circular DEQ-4 may be approved only by a variance from the Board of Health for an Experimental System Permit in accordance with ARM 17.36.922.
- 6.6.1 The Board of Health, in accordance with the standards and procedures set forth in this article, shall review any proposal for an Experimental System.
- 6.6.2 An Experimental System shall be considered only if the system has been designed by a Licensed Professional Engineer or a Registered Sanitarian and only if the application provides an acceptable plan for the installation of a Replacement System.
- 6.6.3 Any person wishing to apply for a variance to install an Experimental System shall make application on forms provided by the Department, and shall supply such information as the Board of Health or its authorized agents deems necessary to properly evaluate the proposal. An application fee shall accompany the application

for an Experimental System Permit, which shall contain the following, unless the Board of Health agrees to alternative arrangements:

- a. The required permit fee.
  - b. The design specifications and any previous laboratory or field test results.
  - c. The results of necessary or requested field tests that will produce adequate data for the Board of Health to make a determination.
  - d. An approved design for a backup system shall be provided.
- 6.6.4 An approved or conditionally approved Experimental System must be installed and inspected as stated in the permit.
- 6.6.5 Any field tests not completed when the application is submitted shall be completed and the results of the tests submitted to the Department. All test costs shall be borne by the applicant.
- 6.6.6 The Board of Health shall determine the parameters of any required testing, and the applicant shall pay the Department in advance for all costs associated with testing.

## **ARTICLE 7. EXISTING SYSTEMS**

- 7.1 Continuation of Use of Existing Systems
- 7.1.1 Conforming Existing Systems installed may be used (without Alteration) unless public health and safety are directly endangered.
- 7.1.2 Nonconforming Existing Systems may not be lawfully used or Altered. The owner of a tract of record containing a Nonconforming Existing System must obtain a new Wastewater System Permit to allow a Nonconforming Existing System to be used.
- 7.1.3 Any Existing System on a tract of record being sold will be subject to review by the Department at the time of sale for compliance under Article 7.
- a. a Public Education Process to include but is not limited to: home owners, builders, realtors, remodelers, installers, septic pumpers, inspectors, bankers, lender/mortgage companies and title companies over a 18-month period prior to implementation.
  - b. a Review Process will be created by the department and application forms made available to all parties. The review shall compare the application submittal form to the septic permit on file. The review process shall be completed in a timely manner.
  - c. upon completion of review a determination by the department will be made of Compliant or Non-compliant and either;
    1. a certificate of Compliance will be issued by the department or
    2. a certificate of Non-compliance with an itemized list to specific reasoning of why the system is not in compliance. Any system that is found as Non-compliant must be brought into compliance with-in 12 months of the date of the certificate. A grace period will forgive any fines during this 12 month duration period.

3. a certificate of Compliance will be valid until an Alteration occurs or time of sale.

## 7.2 Nonconforming Existing Systems

- 7.2.1 When an application is made for an additional Wastewater System on a tract of record that has a Nonconforming Existing System, the Nonconforming Existing System must be brought into compliance with these Regulations before an application for another Wastewater System will be considered.
- 7.2.2 To make a Nonconforming Existing System lawful, an installation permit must be issued for that system. Upon application for a new Wastewater System Permit for a Nonconforming Existing System, the Department will:
  1. Issue a Wastewater System Permit that allows the Nonconforming Existing System's continued use as built; or,
  2. Issue a Wastewater System Permit that allows the Nonconforming Existing System's continued use provided that specified modifications or upgrades are completed; or,
  3. With approval of the Board of Health, order structure(s) served by the Nonconforming Existing System moved or destroyed. Abandonment of a Wastewater System and its components must be in accordance with Section 3.1.

## 7.3 Alteration of Existing System

- 7.3.1 No person may repair, Alter, enlarge, or extend a Conforming Existing System, without a valid Wastewater System Permit.

In order to assess the condition of the Existing System the Department may:

1. review and inspect the Conforming Existing System or as-built plans, and
2. require the owner to pump the Septic Tank and submit a pumper's report, and
3. require the excavation of portions of the Conforming Existing System at the owner's or applicant's expense, to determine its type and specifications if it cannot be determined by other means.

The Department may require that the Conforming Existing System, or any part of the Conforming Existing System, be replaced or upgraded when Alteration of the Conforming Existing System may cause the Conforming Existing System to fail. In all cases the Department has discretion on issuing a permit for Alteration of an Conforming Existing System to ensure that any Wastewater System is installed and operating properly for each specific site.

A Conforming Existing System that was installed but not connected to an Occupied Building or used for five years or more must be reviewed and approved by the Department to ensure that it functions properly.

- 7.3.2 When a repair to an Existing System requires a permit, that system shall be brought into compliance with these regulations except when specifically exempted by the Department.

- 7.3.3 Any new construction on an Occupied Building may require a Wastewater System Permit. The applicant must contact the Department for a determination if a permit is necessary and, if necessary, obtain the permit.
- 7.3.4 Replacement Septic Tanks, sealed components, the Absorption System, and other Wastewater treatment components must meet the requirements in Section 4.2.L. unless the tract of record does not include area outside the Delineated Floodplain that would meet these requirements. In all other properties, the Wastewater System, including the Septic Tank, sealed components, other components, and Absorption System must meet the requirements in ARM 17.36.918 and the Ravalli County Floodplain Regulations. An increase in the permitted Wastewater strength or effluent flow from an Existing System located in the delineated floodplain is prohibited.
- 7.3.5 The Department shall not approve an application for a Wastewater System Permit for increase in the permitted Wastewater strength or effluent flow of a Conforming Existing System where groundwater or other Limiting Layer is closer than 48 inches from the ground surface.

## **ARTICLE 8. VIOLATIONS, ENFORCEMENT AND PENALTIES**

- 8.1. Violation of any provision of these Regulations is a misdemeanor punishable as provided for in Section 50-2-124, MCA.
- 8.2. Instead of, or in addition to criminal proceedings, these regulations may be enforced through civil and administrative remedies and penalties as described below or otherwise as allowed by law.
- 8.3. Notice of Violation
- 8.3.1. If the Department determines that a violation of these Regulations has occurred, it shall provide written notice and an order to take corrective action to any or all of the following parties: The landowner, the alleged violator, or the applicant, if the permit is not finalized.
- 8.3.2. Means of notice. Notice may be by personal service, by means of previous recent correspondence, or by U.S. Mail to the address on a permit (if a permit is not finalized) or to the landowner's record address for property tax purposes.
- 8.3.3. Contents of Notice. The notice must state:
- (a) The section of the regulations violated;
  - (b) The facts constituting the violation;
  - (c) The specific nature of the corrective action that the Department requires;
  - (d) The date the corrective action must be completed;
  - (e) The applicable amount of the administrative penalty to be assessed, if any;
  - (f) If applicable, the date by which any administrative penalty must be paid;

(g) That the alleged violator may request a hearing before the Ravalli County Board of Health by filing a written request no later than 30 calendar days after service of the notice and order.

8.3.4. The Notice of Violation shall become final 31 calendar days after the mailing or transmission date, unless a hearing before the Board of Health was requested.

#### 8.4. Hearing

8.4.1. A request for hearing must be received by the Department no more than 30 days from the date of the Notice of Violation.

8.4.2. A hearing shall be held at the next available time in a regularly scheduled Board of Health meeting.

8.4.3. The Department and the alleged violator shall have the opportunity to present evidence and arguments orally or in writing.

8.4.4. All testimony, whether oral or written, shall be given under oath or affirmation.

8.4.5. An alleged violator may be represented by counsel.

8.4.6. A record of the evidence presented at the hearing, including a recording of any oral testimony or argument, must be preserved for possible review by the District Court.

8.4.7. The Board of Health shall determine if there was a violation of the Regulations.

8.4.8. The Board of Health shall determine if an administrative civil penalty shall be imposed, and if so, the amount of the civil penalty.

8.4.9. If after a hearing, the Health Officer finds that a violation has not occurred or is not occurring, the Department order shall be rescinded.

#### 8.5. Administrative civil penalties

8.5.1. Administrative civil penalties for starting construction without an issued Wastewater System permit.

a. Starting construction on an Occupied Building, without an issued Wastewater System permit, on a site with an approved or approvable wastewater system location shall be assessed an administrative fee of \$1,000.

b. Starting construction on a wastewater system, without an issued Wastewater System permit, on a site with an approved or approvable wastewater system location shall be assessed an administrative fee of \$2,000.

8.5.2. Administrative civil penalties per day.

a. Starting construction on a site without an approvable wastewater system site

- b. Installation of a wastewater system without a permit, and the wastewater system has been or is currently utilized.

8.5.3 All penalties may be cumulative.

- 8.6. Appeal to District Court. A person found by the BOH to have violated the Regulations may seek judicial review of the Board of Health’s decision within 30 days of the decision.
- 8.7. Before, during or after the Department’s Order of Violations, the Board of Health may pursue a civil action to restrain or enjoin any acts in violation of the Regulations.
- 8.8. The Board of Health or Ravalli County may pursue a legal action (separate or as part of any other civil action permitted under the Regulations) to recover any expenses incurred from any person who has violated the Regulations.
- 8.9. Misrepresentation
  - 8.9.1. Any permit, certification, or approval granted under these Regulations based upon missing, incorrect, or misrepresented information may be declared void by the Department. Failure to disclose any information that the Department determines is relevant and material, shall be considered misrepresentation.
  - 8.9.2. If the Department determines that a certified installer has failed to disclose any materially relevant information, the Department may revoke that installer’s certification for a period the Department determines appropriate.

**ARTICLE 9. GENERAL PROVISIONS**

9.1 Appeals to the Department or Board of Health

Certain decisions regarding permits, certifications, or other matters made by the Department may be appealed to the Department director for review.

Denial of a permit or certification or a decision by the Department, an individual may make appeal to the Board of Health. The appeal to the Board of Health must be received within sixty (60) days of the denial of a permit, certification or other decision by the Department. If requested by the applicant or if deemed necessary by the Board of Health, a public hearing shall be held at the next regularly scheduled Board of Health meeting.

9.2 Public Hearings

When the Board of Health 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 according to Montana Code Annotated Section 7-1-2121.

### 9.3 Right to Inspect Private Property

9.3.1 By submitting an application for a Wastewater System, the owner of the tract of record consents to the Board of Health or authorized agent to inspect any proposed or existing Wastewater System on the subject property from the date of application until six months past the date of final inspection, to determine if the Wastewater System is in compliance with these regulations.

9.3.2 As authorized under 50-2-116, MCA, the Board of Health or authorized agent may inspect any existing Wastewater System in Ravalli County if there is reason to believe that the System may pose an imminent public health threat and to ensure that it is being maintained in proper working order and in compliance with these Regulations. The owner or occupant of the property shall allow the Board of Health or authorized agent access to the property at reasonable times for the purpose of making such inspections as are necessary. Inspections shall be made after reasonable notice is given to the owner or occupant.

### 9.4 Conflicts

If any provision of these Regulations conflicts with, any other law, regulation, or code, or two provisions in these Regulations conflict, the provision which, in the judgment of the Department Director, establishes the higher or more stringent standard for the promotion and protection of the health and safety of the people shall take precedence.

9.5 These Regulations supersede all prior regulations or amendments established by the Board of Health pertaining to Wastewater Systems in Ravalli County, Montana.

### 9.6 Effect of Partial Invalidity

If any section, subsection, paragraph, sentence, clause or phrase of these Regulations should be 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.

### 9.7 Effective Date

The effective date of these regulations shall be DATE XX/XX/2020.