

LAKE COUNTY WASTEWATER TREATMENT SYSTEM REGULATIONS

Adopted by the Lake County Board of Health
Effective Date: ~~October 1, 2006~~ **XXXXXXXX 1, 2012**

DISCUSSION DRAFT

**Not Reviewed by the Board of Health
January 20, 2012**

NOTE: Numbering/formatting will be corrected with the final draft

Red text underlined = new language

~~Red text deleted~~ = deleted language

(The above may have a few flaws. The final draft will be checked for accuracy.)

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LAKE COUNTY

ENVIRONMENTAL HEALTH DEPARTMENT

Wastewater Treatment Systems

FEE SCHEDULE

PERMIT APPLICATIONS		FEE
	INSTALLATION/USE PERMIT <i>New and replacement drainfields, engineered systems, holding tanks, gray water systems</i>	520.00
	INSTALLATION/USE PERMIT - SEPTIC TANK / PUMP CHAMBER ONLY <i>Permitted Drainfield; design flow approved the future connection or otherwise approved.</i>	200.00
	INSTALLATION/USE PERMIT - PIT PRIVY, COMPOSTING OR INCINERATING TOILET, CHEMICAL TOILET – Pit Privy - Sealed or Unsealed	200.00
	CHANGE OF USE PERMIT <i>Changing the wastewater flow to a permitted system. No new components needed.</i>	100.00
	CONNECTION PERMIT <i>Connection to previously installed and permitted system. No tank or design necessary for the connection; original design flow may or may not have anticipated the connection.</i>	100.00
	ADDITIONAL SITE VISIT – For permit review, beyond three site visits	100.00
	SECOND OR SUBSEQUENT FINAL INSPECTION	100.00
	DESIGN/REVIEW TIME - Per hour beyond two hours	50.00
	PERMIT EXPIRATION DATE EXTENSION	25.00
LICENSED INSTALLERS		FEE
	INSTALLER TESTING - APPLICATION, MATERIALS, TEST	25.00
	INSTALLER LICENSE - ORIGINAL & RENEWAL	50.00
	INSTALLER LICENSE - EACH RETESTING	10.00
	LANDOWNER or NEWLY LICENSED INSTALLER – ADDITIONAL INSPECTION FEE	100.00
OTHER DEPARTMENT SERVICES		FEE
	VOLUNTARY SANITATION REVIEW OF LOT 20+ ACRES	300.00
	DEPARTMENT SERVICES NOT LISTED <i>Per hour for non-permitting services</i>	50.00
	VARIANCE APPLICATION <i>Additional fees may be charged related to any Board of Health Requirements This fee is in addition to any required permit application fee.</i>	500.00
	EXPERIMENTAL SYSTEM STATUS APPLICATION <i>Additional fees may be charged related to any Board of Health Requirements This fee is in addition to any required permit application fee.</i>	500.00
	INSPECTION – ADEQUATE REPLACEMENT AREA IN SUBDIVISION REVIEW <i>Per MCA 76-4-125(3)</i>	100.00
	SITE VISIT – Subdivision lots reviewed by county under MCA 76-4 <i>Per lot reviewed under county contract with MDEQ (\$25/lot and \$100 minimum)</i>	100.00+ minimum

ARTICLE 1 GENERAL INFORMATION

SECTION 1.1 Title

These regulations shall be known as the Lake County Wastewater Treatment System Regulations.

SECTION 1.2 Authority

Enactment of these amended regulations by the Lake County Board of Health is pursuant to M.C.A. 75-5-305, M.C.A. 50-2-116 and A.R.M. 17.36. SubChapter 944. These regulations were originally adopted in 1979 and were previously amended in 2002 and 2006.

SECTION 1.3 Purpose

The Lake County Board of Health declares the purpose of these regulations is to protect the public health, safety, and welfare of the community 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, or impair the enjoyment or use of property. These regulations further this purpose by setting forth minimum standards for the design, permitting, installation, alteration, repair, replacement, extension, operation, maintenance, and use of wastewater treatment systems within Lake County.

SECTION 1.4. Applicability

These regulations shall be applicable on fee status land throughout Lake County and shall be enforced by the ~~Lake County~~ Board ~~of Health~~ or its authorized agents. These regulations shall govern the treatment and disposal of wastewater from private and public buildings and facilities. These regulations govern the design, permitting, installation, alteration, repair, replacement, operation, maintenance, and use of wastewater treatment systems ~~except that these regulations shall not govern an approved municipal or publicly-owned wastewater treatment system, subject to the specifications of Circular DEQ 4 – Onsite Wastewater Treatment Systems unless otherwise specified by state law. These regulations may also apply to wastewater treatment systems of public health significance that are not subject to state regulation at this time.~~

SECTION 1.5 Designation of Authority

The ~~Lake County~~ Board ~~of Health~~ designates the Lake County Health Officer and the Lake County Environmental Health Department with the authority to administer ~~administrate~~ and enforce these regulations. The ~~Lake County~~ Board ~~of Health~~ reserves the right to hear any variance request or appeal to a determination or action ~~actions~~ of the Department or Health Officer. The Board also retains the authority to amend these regulations ~~as necessary~~ per Section 8.7 Amendment.

SECTION 1.6 Definitions

1. Absorption Bed - an absorption system that consists of excavations greater than three (3) feet in width where the distribution piping 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.
2. Alteration - changing a wastewater treatment system by:
 - a. lengthening, shortening, or reconfiguring the drainfield
 - b. adding or removing components including but not limited to:
 - i. water treatment system units that may impact the wastewater treatment

- system
- ~~ii. non-standard water fixtures building structures over components, making non-cosmetic structural modifications to a building served by the system,~~
- iii. additional septic tank
- iv. advanced treatment unit
- c. connecting a structure or facility to the wastewater treatment system whether or not the connection was previously permitted and approved.
- d. substantially remodeling, renovating or reconstructing a building served by, but not necessarily connected to, the wastewater treatment system, as determined by the Board of Health or its authorized agent, with or without a change in bedroom count or footprint.
- e. exchanging or replacing dwelling units; this shall not be construed to mean exchanging units of equivalent design flow in a campground or a trailer court currently licensed by the Montana Department of Public Health and Human Services.
- ~~f. Alteration shall also include increasing~~ increasing or changing the potential wastewater flow or strength ~~beyond the~~ from the design capacity of the system.
- ~~g. changing facilities served including providing service to different or additional structures or facilities with or without a system connection.~~
- h. changing the use of a structure or facility connected to or served by the system.

The definition of "alteration" shall be interpreted broadly by the Board and its authorized agents in order to promote that a pre-existing, unapproved, or substandard wastewater treatment system is replaced whenever the facilities served are changed or upgraded.

3. Applicant - a person or entity who submits an application for services, permitting or licensing under these rules. ~~a permit to install, alter, extend, or repair a wastewater treatment system. The applicant must be the record owner of the property or an agent designated by the property owner.~~

4. Approved - consent given in writing by ~~an authorized agent of the Lake County Board of Health or its authorized agent under these regulations.~~

5. Authorized Agents of the Lake County Board of Health - the Lake County Health Officer and registered sanitarians employed in the Lake County Environmental Health Department.

6. 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.

7. Board of Health - the legally designated Board of Health of Lake County, Montana, organized as defined in M.C.A. 50-2-104.

8. Cesspool - a seepage pit without a septic tank to pre-treat the wastewater.

9. Change of Use Permit – a written authorization issued by the Department for an increase or change in wastewater flow or strength for an existing, permitted wastewater treatment system that does not require addition of any system components.

XX. Circular DEQ 4 – The current edition of the technical document Montana Standards for Subsurface Wastewater Treatment Systems.

10. Cistern - a watertight receptacle of non-toxic material that is designed for storage of potable water.

XX. Connection Permit – a written authorization issued by the Department for a sewer connection to a previously installed and permitted system. No tank or design is necessary for the connection. The original design flow and permit may or may not have anticipated the connection.

11. Department - the ~~Lake County~~ Environmental Health Department of Lake County, Montana.

XX. Dependent Living Unit – a living unit, separate but associated with a main dwelling, that does not contain kitchen and laundry facilities. An example is a guest house that contains bedroom(s), bathroom(s) but no kitchen and laundry facilities. Under sanitation in subdivision review and approval, an independent dwelling with dependent dwelling is considered one living unit for design flow calculations provided they share a common wastewater treatment system.

12. Effluent – the liquid portion of partially treated sewage from a septic tank or other treatment facility.

13. Experimental System - a wastewater treatment system for which specific design standards are not provided in these regulations or Circular DEQ 4.

XX. Failed System – a wastewater treatment system and/or disposal system that no longer provides the treatment and/or disposal for which it was intended, or violates any of the requirements of ARM 17.36.913.

XX. Floodplain – the area adjoining the watercourse or drainway that would be covered by the floodwater of a flood of 100-year frequency except for sheet occurrence and are considered Zone B areas by the federal emergency management agency. The floodplain consists of the floodway and the flood fringe, as defined in ARM Title 36, Chapter 15.

14. Gray Water – wastewater other than toilet wastes or industrial chemicals including, but not limited to, shower and bath wastewater, kitchen wastewater, and laundry wastewater.

15. Health Officer - as per M.C.A. 50-2-116, an individual designated by the Lake County Board of Health who is a physician, ~~or~~ a person with a master's degree in public health, or a person with the equivalent education and with appropriate experience as determined by the ~~Department~~ Montana Department of Public Health and Human Services.

16. Holding Tank - a water-tight receptacle that receives wastewater for ~~the retention of wastewater before, during, or after treatment.~~ and does not, as part of its normal operation, dispose or treat the wastewater.

17. Installation Permit - a written authorization issued by the Department for the installation, alteration, repair, extension, or replacement of a wastewater treatment system.

18. Licensed Professional Engineer - a person licensed as an engineer by the State of Montana.

19. Licensed Septic Tank Pumper - a person licensed under state law to remove and dispose of seepage wastewater treatment system residues, ~~or~~ in an approved manner at a site approved by the Montana Department of Environmental Quality and the Lake County Board of Health.

20. Licensed Wastewater Treatment System Installer - an individual or entity, partnership, or company that holds a current license issued by the Department to install, alter, ~~or~~ repair, or replace wastewater treatment systems under the terms of these regulations.

XX. Limiting Layer - bedrock, an impervious layer, or seasonally high groundwater.

21. Living Space – Part of a structure or facility that provides area for human habitation requiring service of a wastewater treatment system either with or without a direct sewer connection to the system. Examples include but are not limited to dwellings, shops, boat houses, apartments, businesses, hobby rooms, bunk houses, hangars, and cabins.

22. Non-standard water fixture – a water system fixture that may require additional wastewater system design flow. Examples include but are not limited to luxury showers, high volume bathtubs and spas, and discharging ice machines.

21. Parcel - Lot, tract, or other legally described and recorded portion of land.

22. Pit Privy - a structure with a pit that receives undiluted, non-water-carried toilet wastes.

23. Pre-Existing System - a wastewater treatment system installed before July 1, 1969 when permitting requirements were first established by the ~~Lake County~~ Board of Health.

24. Registered Sanitarian - a person registered as a sanitarian by the State of Montana under MCA 37-40.

25. 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. ~~have caused a violation~~

X 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 MCA 76-3 and 76-4 and campground and trailer park licensing by the Montana Department of Public Health and Human Services.

X Sanitation in Subdivision Review – review of a parcel under MCA 76-4

Sanitation in Subdivisions Act, or any prior similar statute, or local health authority review for water, wastewater, solid waste and/or stormwater management facilities that results in a Certificate of Subdivision Approval or similar document issued by the state or the local government.

26. Sealed Pit Privy - a pit privy with an enclosed receptacle designed to receive non-water-carried toilet wastes into a watertight vault.

27. Seasonal Use - use for not more than a total of four months (120 days) during any calendar year.

28. 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.

29. Seepage Pit - a covered underground receptacle that receives wastewater after primary treatment in a septic tank and permits the wastewater to seep into the surrounding soil.

X. Septage - liquid or solid material removed from a septic tank, cesspool, portable toilet, or similar treatment works that receives only domestic sewage. Septage does not include material removed from a septic tank, cesspool, or similar treatment works that receives industrial wastewater and does not include grease removed from a grease trap at a restaurant .

30. Septic Tank - a storage 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 ~~bacterial~~ action.

31. Site Evaluation - an evaluation to determine if a parcel or location is suitable for the installation of a subsurface wastewater treatment system.

32. Soil Profile - a description of the soil strata to a depth of eight (8) feet using the USDA Unified soil classification system.

33. 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. MCA 75-5-103

34. Unapproved Wastewater Treatment System – a wastewater treatment system installed or altered since July 1, 1969, that does not have the required Installation/Use Permit or that has been altered such that it is not in compliance with its Installation/Use Permit.

34. Use Permit - a written authorization issued by the Department for the ~~use~~ utilization of a wastewater treatment system.

35. Variance - the granting, pursuant to Section 4.6 of these regulations, by the Lake County Board of Health, of an exception to the minimum requirements set out in these

regulations, A.R.M. 17.36 Subchapter 9, or Circular DEQ 4.

36. Wastewater - water-carried waste that is discharged from a dwelling, building, or other facility, including household, commercial, or industrial wastes; chemicals; human excreta; or animal and vegetable matter in suspension or solution. Wastewater includes gray water.

37. Wastewater Treatment System - a system that receives wastewater for purposes of treatment, storage, and/or disposal. The term includes but is not limited to pit privies, subsurface disposal systems, seepage pits, holding tanks, and experimental systems. A wastewater treatment system includes any and all of the individual system components and all structures or facilities served by, but not necessarily connected to, the system for purposes of system sizing or other consideration of these regulations.

XX. Water System – a piped or hauled water supply that serves a structure or facility intended or used as living space.

38. 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, replace, extend or utilize a any wastewater treatment or disposal system in a manner that may:

As per A.R.M. 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 waters, in violation of 75-5-605, MCA; ~~or~~*
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.*

Unless otherwise authorized by a Board variance, a wastewater treatment system MAY BE determined by the Department not to meet the provisions of Section 2.1 if:

- A. it does not provide four feet of soil between the bottom of the drainfield trench or discharge point and bedrock or seasonal high ground water;
- B. it does not provide 100' horizontal setback from the drainfield or discharge point to any well, surface water, or state water;
- C. it does not provide a competent and adequately sized concrete septic tank;
- D. by its design and/or location it has a high likelihood of contaminating surface or ground water resources.

The Board or its authorized agents shall not actively seek such systems for replacement. However, if such systems come to the attention of the Board or its authorized agent for any reason, including but not limited to: real estate transactions, mortgage transactions,

land use permits, licensing requests, or reporting by the public, the property owner may be required to replace the system.

~~B. No person may use a system that is not performing in compliance with its original permit. For example, a system permitted with a component for nitrate reduction must continue to provide the required reduction. (moved to Use Permit section)~~

~~C. No person may install, alter, extend or repair any wastewater treatment system drainfield or other unsealed component in the floodplain of any river or stream whose floodplain has been designated by Federal Emergency Management Agency or determined to be within a 100 year floodplain by the Lake County Floodplain Coordinator. see Table in Section 4.2(B). (Moved into definitions – setbacks are in separation distance table Section 4.2)~~

X. No person may use a wastewater treatment system that is a failed system as defined by these regulations unless otherwise authorized in writing by the Department.

X. Structures or facilities regularly occupied by people shall maintain a wastewater treatment system or other approved wastewater facilities for the structure/facility or have access to an existing system or approved wastewater facilities within 200 feet of the structure or facility.

X. Structures or facilities with interior plumbing or running water shall not be occupied unless a wastewater treatment system is permitted, installed, and maintained as required by these regulations, unless connected to a publicly-owned sewage treatment system.

X No person may install any water or wastewater treatment facility that conflicts with any legally installed wastewater treatment facility or any water or wastewater treatment facility, installed or uninstalled, approved through sanitation in subdivision review. (Binkley-Schreiber issue)

ARTICLE 3 ADMINISTRATIVE REQUIREMENTS

SECTION 3.1 Fees

A. Application or Department Service Fees:

A ~~permit~~ fee shall accompany a ~~the~~ completed application when submitted to the Department for review or for other services requested. Payment to the Lake County Environmental Health Department shall be as follows:

APPLICATION OR DEPARTMENT SERVICE	FEE
Installation/Use Permit	\$300.00 <u>520.00</u>
<u>Installation/Use Permit - Pit Privy – sealed or unsealed, Composting, Incinerator, or Chemical Toilets</u>	\$300.00 <u>200.00</u>
<u>Installation/Use Permit - Septic Tank/Pump Chamber Only</u> <i>Permitted drainfield; original design flow may or may not have anticipated connection</i>	100.00 <u>200.00</u>
Change of Use Permit	\$75.00 <u>100.00</u>
Connection Permit <i>No tank or design is necessary for the connection. The original design flow may or may not have anticipated the connection.</i>	<u>100.00</u>
<u>Permit Expiration Date Extension</u>	<u>\$25.00</u>
<u>Additional Site Visit – beyond three per permit</u>	<u>100.00</u>
Second or Subsequent Final Inspection	100.00
Site Evaluation	200.00

<u>Voluntary Sanitation Review - Lots 20 Acres or Larger</u>	<u>300.00</u>
Installer Testing - <i>Application, Materials, & Test Fee</i>	25.00
Licensed Installer - <i>Original & Renewal License Fee</i>	(Renewal was 25.00) <u>50.00</u>
Licensed Installer - <i>Retesting Fee</i>	<u>10.00</u>
<u>Landowner or Newly Licensed Installer - Per Additional Inspection</u>	<u>100.00</u>
Department Services and/or System Design/Review Time Beyond 2 hours - <i>per hour</i>	<u>50.00</u>
Experimental System Application <i>Additional fees may be charged related to Board of Health Requirements This fee in addition to Installation Permit Application Fee</i>	\$250.00 <u>500.00</u>
Variance Request Application <i>Additional fees may be charged related to Board of Health Requirements This fee in addition to Installation Permit Application Fee</i>	\$250.00 <u>500.00</u>
<u>Inspection - Replacement Area in Subdivision Review</u> <i>Per MCA 76-4-125(3) - If site visit is required by Department</i>	<u>100.00</u>
Septage Disposal Site <i>Local Health Authority Approval</i>	250.00
<u>Lot Evaluation for Sanitation in Subdivision Review Under MDEQ Contract with Lake County</u>	<u>25.00 per lot and 100.00 minimum</u>

Installation/Use Permit	\$300.00
Additional Connection in Design - per Connection	50.00
Septic Tank/Pump Chamber Installation Only - Permitted Drainfield	\$100.00
Second or Subsequent Final Inspection	\$100.00
Change of Use Permit	\$ 75.00
Lot Evaluation	\$200.00
Groundwater Monitoring Verification	100.00
Additional system design and/or review time per hour beyond 2hr	\$ 50.00

B. Within twelve months of receipt of a permit application, the Department may reimburse all or a portion of any application fee based upon the amount of work completed for any withdrawn or denied application.

SECTION 3.2 Application for Installation Permit

A. No person may install, alter, repair, or ~~replace or extend~~ a wastewater treatment system unless the Department has issued an Installation Permit. This permit shall be for the specific installation, alteration, repair, or ~~replacement extension~~. Alterations may also be authorized by a Change of Use Permit or Connection Permit, ~~see Section 3.5.~~

B. Minor repairs and/or maintenance may be made to a wastewater treatment system without first obtaining an Installation Permit. Minor repairs include:

1. replacing a broken sewer line, except as required by ARTICLE 5 PRE-EXISTING WASTEWATER TREATMENT SYSTEMS
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 , except as required by ARTICLE 5 PRE-EXISTING WASTEWATER TREATMENT SYSTEMS

6. other action authorized by the Department

~~These repairs are limited to: replacing a broken sewer line, pumping the septic tank, cleaning the effluent filter and replacement of the effluent pump with a pump of equal specifications.~~

~~C.F.~~ Application for a wastewater treatment system Installation Permit shall be submitted by the owner of the parcel or his/her authorized agent on ~~a forms~~ 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 signature shall be the legal signator(s) of the entity, and shall include the following information:

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 residences or structures served by, but not necessarily connected to, the system and the total number of bedrooms for each residence or structure.
4. 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.
5. Water supply information
6. Non-standard water fixtures
7. Water treatment units
8. Proposed RV connections

Note: Recreational vehicle connections may be subject to Montana Rules for Trailer Parks and Campgrounds, MCA 76-3 regarding subdivision for rent or lease, and/or the Lake County Density Map.

9. Installer's name, if known. (Lake County Licensed Wastewater Treatment System Installer or Homeowner – See Section x.x)

10.4. Lot layout consisting of: *(have been re-ordered)*

- a. a scale (for example: 1 inch=20 feet)
- b. a north directional arrow
- x. property lines
- x.. existing and proposed structures, including basements
- e. ~~floor plan for each level of structure~~
- d. existing or proposed recreational vehicle connections
- x. all existing or proposed wells and/or ~~domestic~~ water sources on the property and/or within 100 feet of the property lines
- x. all streams, lakes, springs, ponds, irrigation ditches, and other surface water sources on the property and/or within 100 feet of the property lines
- x. driveways, parking areas
- x. utility lines
- x. any existing sewage wastewater disposal facilities
- x. direction of slope on the property
- j. ~~replacement area or plan for proposed wastewater treatment system~~
-x.l.easements of record and the purpose with the benefited party of the easement identified

D.5. The Department may require the applicant have a soil profile dug in the area of the proposed ~~wastewater treatment system~~ drainfield. The depth of the test hole will be dependent upon the ~~type of~~ information the Department determines ~~is~~ necessary to ~~that 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 by a qualified, independent, objective party, approved by the Department.

E. 6. 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 must be done by a qualified, independent, objective party, approved by the Department~~, in accordance with Circular DEQ 4 – Appendix A.

~~F. 7. The Department may require groundwater monitoring in the area of the proposed drainfield if it has reason to believe groundwater may be relevant to the proposed drainfield location, will be within 7 feet of the surface at any time of the year within the boundaries of the drainfield. The applicant must provide data to demonstrate the minimum separation distance between the absorption trench bottom and the seasonally high groundwater level can be maintained. The applicant may be required to install groundwater observation wells to depth of 8 feet to determine the seasonally high groundwater level and employ a qualified consultant to observe the wells through the seasonally high groundwater period.~~

~~1. Ground water monitoring, measurement must shall occur be conducted by a qualified, independent, objective party, approved by the department, in accordance with Circular DEQ 4 – Appendix C to for a long enough period of time to detect a peak and then a sustained decline in the groundwater level.~~

~~2. The property owner or his/her authorized agent shall notify the department when the 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.~~

~~If the applicant chooses to conduct the monitoring, he/she must register on a form provided by the Department. Registration by the applicant will provide permission to access the property and provide the required payment to allow the Department to verify the monitoring results.~~

- H. 3. The Department may reject groundwater monitoring information:
- a. If monitoring is conducted during a drought year as per Circular DEQ 4 - Appendix C, of DEQ4,
 - b. If ~~historie~~ information is available that indicates a higher groundwater situation than that reported, and/or
 - c. If site conditions exist that are not typical to the property. An example of atypical site conditions is being atypical would be 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, and/or
 - e. If the monitoring has been completed by a person not approved by the department.
 - f. If the Department has not been notified of the monitoring as per Section 2 to allow for verification of the report.

G. The wastewater treatment system must be designed ~~either by the~~ a Department registered sanitarian, a licensed professional engineer, or a registered sanitarian in private practice.

X. Plans for 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 Permit.

H. The Department may require a wastewater treatment system be designed by and installed under the seal of a licensed professional engineer or by a registered sanitarian in private practice when the system:

1. Has a specific public or environmental health concern.
- X. Is located on a parcel with challenging site conditions.
- x. Is located on a parcel with complex development that requires in-depth study.
- x. Is located on a parcel with multiple options for development.
2. Is an experimental system.
3. Requires a variance from the ~~Lake County~~ Board of Health.
4. Serves a commercial or industrial establishment.
5. Serves a ~~multi family residence.~~ multiple structures or facilities..
6. Is a public wastewater system.
7. Will have non-residential strength wastewater .
- X. Has a wastewater flow that has been determined to require design by a professional engineer.
8. Cannot be designed by the Department in a timely manner or is beyond the design expertise of current professional staff.

~~The Lake County Board of Health and its authorized agents reserve the right to require a property owner retain the services of a professional engineer in the event the system cannot be designed by the Lake County Environmental Health Department in a timely manner or is beyond the abilities of current professional staff.~~

~~I. 8.~~ If a wastewater treatment system is designed by a person outside the Department, a complete plan of the proposed system to be installed, with substantiating data attesting to its compliance with the minimum standards set forth in these regulations, ~~shall must~~ be submitted to the Department for review, approval and permitting prior to installation.

~~8.~~ The Department shall have the authority to require certification or re-testing to verify information submitted as part of the application. ~~Moved to 11.~~

~~9.~~

~~J.~~ The Department may require information to demonstrate compliance with MCA 75-5, the Montana Water Quality Act, including but not limited to a non-significance determination, background nitrate test, well pump test, or well triangulation.

~~X.~~ Proposed well locations shall be staked and labeled for the on-site design visit and must remain so-staked through the final inspection.

~~X.~~ 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.

~~K. 44.~~ The Department may require any additional information, certification, invoices, testing or re-testing relating directly to the installation, operation, and maintenance of ~~an acceptable a~~ wastewater treatment system in compliance with these regulations.

~~X.~~ The Department may require a scientific study, professional environmental assessment or other support for any wastewater treatment system proposed in a unique, environmentally sensitive, or other location that may have adverse environmental and/or public health impacts. Examples include but are not limited to drainfields located in gravelly soils near groundwater or surface water and drainfield locations in bedrock settings.

~~L. 4~~ The Department may conduct such investigations, examination, tests and site evaluations, as ~~deemed it deems~~ necessary to verify information contained in an application. The submittal filing of an application ~~for a wastewater treatment system installation permit~~ shall be deemed a granting of approval by the applicant to the Department for necessary site visits during normal business hours.

N. Unless otherwise approved by the Department, no permit shall be issued on a parcel with a sanitation in subdivision approval unless the parcel development and proposed permit are in compliance with the requirements of that approval.

L. 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.

M. Any system that has a specialized design, advanced wastewater treatment unit, drainfield size reduction, use limitation, maintenance, performance, and / or other requirement may be required to have a require a Deed Restriction(s) or Affidavit(s) be filed with on the Lake County Clerk and Recorder property as determined by the Department. Such document requires the notarized signature of the owner(s). For trusts, limited liability corporations and other such entities, the owner signature must be 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 Lake County Clerk and Recorder.

X Any system that serves multiple ownerships or properties shall be required to have a shared user agreement that describes the parcels or ownerships served, the design flow assigned to each ownership, 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 signature must be 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 Lake 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.

X Any system that has or will have any component located on another parcel shall be required to have an easement for the component that provides for the installation, operation, maintenance, repair and replacement of the component. Such document requires the notarized signature of the owner(s). For trusts, limited liability corporations and other such entities, the owner signature must be 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 Lake 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.

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.

- ~~X~~ Any system that requires abandonment of a well, piping of a 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 permit issuance.
- K.....~~An Installation~~ permit that requires a deed restriction, affidavit, easement agreement, shared or multi-user user agreement and/or any other document ~~Shared or Multi-User~~ will shall be issued only after the signed document(s) and filing fee(s) has have been received and approved by the Department. The Department shall file the document(s) and will provide a copy of the filed document(s) to the applicant along with the issued Use Permit.
- F. The Department ~~may shall~~ require evidence that the proposed development wastewater treatment system will comply with all adopted zoning, and/or adopted land use regulations, and/or subdivision planning approvals ~~planning requirements~~ for the parcel area. A deed restriction may be required prior to issuance of a permit to assure compliance with land use regulations.
- L.K. If the applicant initiates a change in the wastewater treatment system design after it is approved by the Department, a second Installation/Use permit fee may be required must be submitted prior to the second review and alteration of the design.
- X.....~~If~~ the applicant elects not to use the department design, he/she may have employ a licensed professional engineer or registered sanitarian in private practice ~~prepare for~~ an alternative design. The alternative design must be submitted with a new permit application and fee to be reviewed and approved by the Department prior to installation. ~~and subject to an additional Installation permit fee.~~
- ~~X.....No person may install plumbing features in a structure or facility that will utilize an on-site wastewater treatment system under these regulations until an Installation Permit Application and fee have been received by the Department. (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.)~~
- B. No person may install a wastewater treatment system contrary to an Installation Permit as issued by the Department, unless the Department has previously approved the change in writing.
- X. No person may install, alter, repair, or replace extend a wastewater treatment system within Lake County unless that person holds a valid Lake County Wastewater Treatment System Installer License or is exempted as per Section 3.6 ~~(A)(2)~~.
- X. No person may contract for or cause a wastewater treatment system to be installed, altered, repaired or replaced other than by a licensed Lake County Wastewater Treatment System Installer unless exempted as per Section 3.6.
- C. It is the responsibility of the wastewater treatment system installer to ensure all setback requirements are met, per Section 4.2 of these regulations. ~~In the event the installer discovers a situation that will prevent the system from being constructed as designed, it is the responsibility of the installer to halt further installation and contact the Department.~~

- ~~Ø. An applicant may appeal the approved Department design as per Section 8.1.~~
- ~~X.....The Department may issue a temporary permit when a district or municipal wastewater treatment facility will imminently and definitely serve the property. The Department must determine the time limitation of the permit and may allow an alternate system design as deemed appropriate to the circumstances. If the district or municipal system fails to become available within the time limitation, the wastewater system must be replaced under a new permit with one that fully conforms with the requirements of the regulations effective at that time.~~
- ~~X.....The Department may issue a temporary permit when weather conditions or special circumstances warrant an interim purpose for a wastewater treatment system. The Department must determine the time limitation of the permit and may allow an alternate system design as deemed appropriate to the circumstances.~~
- ~~X. The Department may require any information necessary to assure compliance with the provisions of these regulations, sanitation in subdivision approval, or any other stipulation upon which an Installation Permit is based.~~
- ~~X. 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 3.4. Use Permit

- A. Any system that requires an Installation Permit or Connection Permit at the time of construction or alteration may not be utilized until a final inspection has been completed and a valid Use Permit has been issued by the Department.
- ~~X. The Department reserves the right to require additional inspections for any installation based upon the complexity of the system, installer experience, or past compliance issues with the installer. Such inspections are subject to the re- inspection fee.~~
- ~~X. A final inspection by the Department of the installation is required **prior to covering** the completed wastewater treatment system or any portion thereof, unless otherwise authorized in writing by the Department. 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.~~
- ~~X. If any part of the system has been covered prior to final inspection without Department approval, the system ~~it~~ may be required to be uncovered upon the order of the Department. A re-inspection fee shall be paid prior to any subsequent inspection.~~
- ~~X. At the final inspection, if the inspector finds the contractor is not prepared for the inspection of the system, the inspector may cancel the inspection. The installer must reschedule a final inspection as given in X. A re-inspection fee must be paid prior to any subsequent inspection.~~
- ~~. 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 applicant or owner of all deficiencies and require that corrective action be taken. A re-inspection shall be made with 48 hours notice as given in X. to ensure that the deficiencies have been corrected. A re-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 Installation Permit.

- X. If it is determined that the installation is in compliance with the design specifications, construction details, system and orientation, any special conditions, and setback distance requirements set forth in the Installation or Connection Permit and these regulations, 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.

- X. The wastewater treatment system installer who is responsible for the system installation must certify on the Use Permit that the system has been installed in compliance with these regulations and permit specifications.

- X. The Department may authorize a Lake 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 or within thirty days after the self- inspection has been authorized by the Department.

- X In addition, the Department may require A non-Departmental 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 may also be required. by the system designer. Such documents shall be provided to the Department within twenty 30 days of the system installation. The Use Permit shall not be issued until the Department receives the required certification and as-built drawing from the system designer.

- X. The Department may require the system designer or authorized representative be present at the time of final inspection by the Department.

- X. The Department shall not accept an as-built drawing for a wastewater treatment system that has not had a final inspection by the Department, other governmental agency, or other entity approved by the Department.

- E. 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 insuring 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.

- F. A copy of the ~~final~~ Use Permit shall be kept on file with at the Department.

- G. Any alteration of the wastewater treatment system not approved by the Department after the Use Permit has been issued ~~voids invalidates~~ the permit.
- ~~H. No person may use a system that is not performing in compliance with its permit. For example, a system permitted with a component for nitrate reduction must continue to provide the required reduction.~~
- ~~X. 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. For example, a system that requires a perpetual maintenance contract must be continuously under contract for system maintenance, a dependent living unit must remain in that status, and a shared system agreement must not be amended without permission by the department.~~
- I. 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 benefit of a filed easement.
 5. ~~Splitting a wastewater system or system component from single ownership to shared or multiple ownership without benefit of a filed easement and/or shared user agreement.~~
- ~~J. Appeal: Upon denial of a Use Permit, the applicant may make appeal per Section 8.1.~~
- ~~X The Department may require any information necessary to assure compliance with the provisions of these regulations, sanitation in subdivision approval, or any other stipulation upon which a Use Permit is based.~~
- ~~X The Department may place any reasonable condition on a Use Permit that will facilitate compliance with the provisions of these regulations or sanitation in subdivision approval~~

SECTION 3.5 Change of Use Permit

- A. No person may ~~increase change or increase~~ wastewater flow or strength ~~from the beyond the original design~~ of a wastewater treatment system without a Change of Use Permit issued by the Department ~~when no additional components are needed; when no Installation Permit is required by Section 3.1; or no Connection Permit is required by Section 3.XX.~~

Examples of ~~uses circumstances~~ where a ~~requiring a~~ Change of Use Permit ~~may be authorized rather than an Installation or Connection Permit~~ include but are not limited to:

1. Addition of a bedroom(s) to a residence
2. ~~Addition of a structure or facility to the property that contains living space that may affect design flow without direct connection to the wastewater system.~~
3. ~~Alteration of a structure or facility served by the system~~
4. Alteration of a residential use - examples include ~~but are not limited to:~~
 - daycare facility
 - office or home occupation

- vacation rental licensing
- bed and breakfast licensing

5. Any change in use of a commercial or industrial building. The Department shall determine if either the flow or the strength of the wastewater requires additional capacity beyond the original system design.
 6. Replacement of a structure served by, but not necessarily connected to, the system with a different structure.
 7. Removal of a mobile home and replacement with another mobile home unless the mobile home location is within a ~~5~~-except that exchanging a unit within a mobile home trailer court licensed by the Montana Department of Public Health and Human Services. does not require a Change of Use Permit.
 9. Exchanging units in a campground or trailer court that are not equivalent in design flow to that originally approved and licensed for the site.
 10. Addition of a water treatment unit or non-standard water fixture that has potential to increase wastewater flow or strength beyond the design capacity of the system.
- B. ~~A property owner or designated agent must request a Change of Use Permit on forms a form provided by the Department.~~ Upon submittal of a Change of Use Permit application and fee, the Department will review the existing wastewater system permit and reserves the right to inspect the system in accordance with Section 8.4 of these regulations.
- x. Any information required for an Installation Permit may be required for a Change of Use Permit.
- X. A Change of Use Permit application shall be evaluated for adequacy using the standards required by the current state and county regulations.
- C. If the existing wastewater system is not adequate for the proposed use and the property owner elects to pursue the change, the owner will be required to apply for an Installation Permit and upgrade the system in accordance with the Installation Permit. The Change of Use Permit fee will be applied toward the Installation Permit fee.
- D. A Change of Use Permit shall not ~~cannot~~ be issued: ~~in the following cases:~~
1. If the system was permitted and installed more than 30 years prior to the date of the Change of Use application, unless otherwise determined by the Department.
 1. If any new components or connection is ~~are~~ required for the wastewater treatment system.
 2. If the existing wastewater treatment system does not have a valid Use Permit of record issued by the Department, by another governmental recognized agency and approved by the Department, or by an entity accepted by the Department.
 3. If the existing wastewater treatment system does not meet current minimum standards or is a system listed under Section 4.3, unless otherwise determined by the Department.
 4. If the Department determines that the proposed change of the wastewater system may adversely affect public health or the environment per Section 2.1.
 5. If the wastewater system does not have sufficient capacity as determined by current design flow standards.
- X. The Department may require any information necessary to assure compliance with the provisions of these regulations, sanitation in subdivision approval, or any other stipulation upon which a Change of Use Permit is based.
- X., The Department may place any reasonable condition on a Change of Use Permit that will facilitate compliance with the provisions of these regulations or sanitation in subdivision approval.

~~E. Appeal: Upon denial of a Change of Use Permit, the applicant may make appeal per Section 8.1.~~

SECTION 3.6 Connection Permit

- ~~A. No person may connect a structure or facility to a previously permitted and/or existing wastewater treatment system without a Connection Permit issued by the Department. This requirement includes connection even if the system was previously designed and installed to serve the structure or facility. The purpose of this requirement is to assure the structure or facility to be connected is in compliance with the design flow assignment of the permitted system.~~
- ~~B. Upon submittal of a Connection Permit application and fee, the Department will review the existing wastewater system and reserves the right to inspect the system in accordance with Section 8.4 of these regulations.~~
- ~~C. Any information required for an Installation Permit may be required for a Connection Permit.~~
- ~~D. A Connection Permit application shall be evaluated for adequacy using the standards required by the current state and county regulations.~~
- ~~E. If the existing wastewater system is not adequate for the proposed use and the property owner elects to pursue the connection, the owner will be required to apply for an Installation Permit and upgrade the system in accordance with the Installation Permit. The Connection Permit fee will be applied toward the Installation Permit fee.~~
- ~~F. A Connection Permit shall not be issued:
 - ~~1. If any new component other than a connection sewer pipe or solids handling pump is required for the wastewater treatment system.~~
 - ~~2. If the existing wastewater treatment system does not have a valid Use Permit of record issued by the Department, by another governmental agency and approved by the Department, or by an entity accepted by the Department.~~
 - ~~3. If the existing wastewater treatment system does not meet minimum standards or is a system listed under Section 4.3, unless otherwise determined by the Department.~~
 - ~~4. If the Department determines that the proposed connection to the wastewater system may adversely affect public health or the environment per Section 2.1.~~
 - ~~5. If the wastewater system to serve the connection does not have sufficient capacity as determined by current design flow standards.~~~~
- ~~X. The Department may require any information necessary to assure compliance with the provisions of these regulations, sanitation in subdivision approval, or any other stipulation upon which a Connection Permit is based.~~
- ~~X. The Department may place any reasonable condition on a Connection Permit that will facilitate compliance with the provisions of these regulations or sanitation in subdivision approval.~~

SECTION 3.2 Response to or Denial of Installation Permit Application or Disapproval of Plans

- ~~A. The Department shall respond to each permit application within 60 days or as promptly as possible given Department staffing and workload. The response shall be an approval, request for additional information, or a denial.~~
- ~~B. The Lake County Board of Health or its authorized agents may deny a an Installation permit for any of the following reasons:
 - ~~1. The application does not comply with any requirement of these regulations.~~~~

1. Due to physical limitations, the parcel cannot support an on-site wastewater treatment system in conformance with these regulations.
2. The applicant has failed to supply all data necessary to make a determination as to whether or not the wastewater treatment system ~~conforms to~~ complies with these regulations and/or has failed to supply such information within the time frame specified in ~~a the~~ written request for additional information.
- ~~3. The application is for alteration or replacement of an existing system or existing system component when additional upgrade or replacement is needed to comply with these regulations and/or Section 2.1.~~
3. The wastewater treatment system design, as proposed by an engineer or sanitarian in private practice, ~~will does not comply with conform to~~ these regulations.
4. The parcel of land is under sanitation in subdivision review either by the county or state. No facilities for wastewater treatment shall be designed, permitted, or may be constructed on the parcel until the review of the subdivision has been completed and approved. A parcel shall be determined as being under sanitation review for purposes of this requirement as of the date an application is received for such review by the Department or by the Montana Department of Environmental Quality.

Replacement systems may be excluded from this requirement by the Department if necessary to assure public health or to meet the requirements of subdivision review.

- X. An application for subdivision review of the property under MCA 76-3 Montana Subdivision and Platting Act has been received by the Lake County Planning Department.
5. A stipulation of the sanitation in subdivision approval ~~Certificate of Subdivision Approval for the property~~ has been violated or there is departure from any criterion set forth in the sanitation or planning approval for approved plans and specifications of the parcel subdivision.
- ~~6. The property has not been made accessible to the Department for the site inspection after the applicant has been notified of the need for access. An additional site visit fee may be required for each repeat visit to the property.~~
- ~~7. Access to the property for a site investigation is deemed by the Department to pose a safety concern to staff and the issue has not been resolved by the applicant. An additional site visit fee may be required for each repeat visit to the property.~~

C. Written notice of the denial of a permit with detailed reasons for denial shall be provided given to the applicant. ~~within 60 days of submittal to the Department or as promptly as possible given Department staffing and workload.~~

D. Appeal: Upon denial of any permit ~~Installation Permit~~, the applicant may make appeal per Section 8.1.

Section 3.Expiration of Permit Applications

A. When the Department responds to a permit application requesting additional information, the applicant has twelve months from the date of the letter to respond with the information requested. The application will be placed on hold for the twelve-month period. At the

end of the twelve-month period, the applicant may file for a six-month extension. If the additional information is not provided by the end of the twelve-month period or, if granted, by the end of the six-month extension, the permit application will expire. This provision for “on hold” status may not be used in conjunction with the time frame defined in B

B.....A permit application may be placed on hold at the request of the applicant for up to twelve months from the date of the request, at which time the applicant may file for a six-month extension. If an extension is not approved by the department or not applied for by the applicant, the application will expire at the end of the twelve-month period. If extended, the permit application will expire at the end of the six-month extension unless otherwise approved by the department. This provision for “on hold” status may not be used in conjunction with the time frame defined in A.

C.....If the permit application fee has increased since the date the application was received, the applicant must pay any additional amount prior to extension of the application as given in A or B.

X.....If regulations change during the period a permit application is on hold, the department may require the application meet the requirement of the new regulation.

SECTION 3.3 Expiration of Issued Permits – Void Permit

A. An ~~Installation, Change of Use, or Connection~~ Permit is valid for twenty-four months from the ~~date of issuance, date.~~ If the wastewater treatment system installation, ~~connection, or alteration~~ is not completed ~~and inspected as required~~ within twenty-four months of issuance, the ~~Installation~~ permit ~~is expired, will expire.~~ The Department may grant a twelve-month extension if ~~requested~~ ~~contacted~~ by the applicant prior to the end of the original twenty-four 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, site conditions or technology changes have impacted the proposed system design. The extension will be denied if the Installation Permit is no longer in compliance with current regulations.~~

B. The Department may void a permit before its normal expiration date if any fact or condition upon which the permit was issued is found to be false, changed, or in violation of these regulations.

SECTION 3.7 Sanitation Evaluation and Sanitation Review of Parcels

A. The Department will conduct a site evaluation of a lot plan submitted by a professional engineer or registered sanitarian in private practice. The plan must demonstrate how the lot may be developed in compliance with state and local regulations. The submittal must include a proposal for the location of the water supply system components and any well isolation zone. The proposal must include wastewater treatment system and floodplain information as required under ARM 17.36. SubChapter 3 and/or 9 for local permitting purposes and include a non-significance determination. Any required water or wastewater system easements and shared user agreements must be included. The Department may require a site-specific design for the wastewater treatment system depending upon site limitations. Upon completion of the review of the plan, the Department will provide a letter stating if the site plan meets current regulations.

Ann approved site evaluation is valid only for the proposal submitted and only until regulations and/or site conditions change, as the Department cannot control changes in regulations, neighboring parcels, or other factors that may impact the plan.

It is highly recommended that, rather than a site evaluation, the property owner choose

voluntary sanitation review of the property as provided in either B or C below. Voluntary sanitation review provides a filed legal document that assures, under these regulations, development according to the approved plan. The Department will, upon request of the property owner, conduct sanitation review of parcels twenty acres or larger in size. The purpose of this review is to demonstrate that the parcel is suitable for development regarding water and wastewater systems. The owner must submit an application, along with the required fee, that contains the information required under MCA 76-4 Sanitation in Subdivisions Act with the exception of stormwater management information which is optional. If the application is approved as meeting the requirements of MCA 76-4 and the associated rules, the Department will issue a certificate of approval which shall be filed as a legal document with the parcel records. The owner is required to follow the approved plan for development unless the certificate is revised through the same process.

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C. Voluntary sanitation review of parcels less than 20 acres in size shall be completed through the provisions of MCA 76-4-134. If the application is approved as meeting the requirements of MCA 76-4 Sanitation in Subdivisions Act and the associated rules, the Montana Department of Environmental Quality will issue a certificate of approval which shall be filed as a legal document with the parcel records. The owner is required to follow the approved plan for development unless the certificate is revised through the same process.

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SECTION 3-6 3.8 Licensed Wastewater Treatment System Installer

A. License Required

1. Except as provided in Section 3.6.X no person may install, alter, repair, or ~~extend~~ replace, hereinafter referred to as “install” or “installation”, a wastewater treatment system ~~without holding unless he/she holds~~ a valid ~~Lake County~~ Wastewater Treatment System Installer License ~~issued by the Department. A person holding such license will hereinafter be referred to as Licensed Installer.~~ Employees of a ~~validly licensed Lake County Licensed Wastewater Treatment System~~ Installer shall not be required to be ~~separately~~ licensed. ~~The Licensed Installer is responsible for all actions of work performed under these regulations by employees. n performing work.~~ A person who holds an Independent Contractor Exemption Certificate, as defined by M.C.A. 39-71-417 and the associated rules, may not work under the license of a Licensed Installer; such Independent Contractors must be separately licensed.

X. The Department reserves the right to require installation by a Licensed Installer having specialized instruction and/or experience for systems that have unique or challenging design and/or site considerations. The Department will base its decision regarding those qualified for such installations on both past instruction and successful system installation and may provide a non-preferential listing of those meeting this standard to the property owner.

2. The Any property owner landowner of record may install a wastewater treatment system on his/her own property without obtaining a ~~Lake County~~ Wastewater Treatment System Installer License with the following stipulations: ~~provided:~~

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 have installed, or caused to be installed, a wastewater treatment system on the property that is in violation of these regulations.

a. ~~However, the~~ The property owner landowner is subject to the testing

requirement and testing fee of Section 3.6(B) ~~with the exception of the license fee given in 3.6(B)(1)~~.

- ~~x. The property owner must have successfully completed the testing requirements within twelve months of the installation.~~
- ~~x. A property owner who has successfully completed the testing requirement shall be considered an Authorized Installer and shall be on-site at all times during the installation of the wastewater treatment system and shall be actively involved in the installation.~~
- ~~d. The Authorized Installer shall contact the Department for the following two inspections or as otherwise required by the Department:
 - ~~i. 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.~~
 - ~~ii. When the system has been fully installed but not covered.~~~~
- ~~e. The Authorized Installer shall pay the required fee prior to the scheduled inspection for the second and any subsequent inspection~~
- ~~f. The Authorized Installer shall be 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.~~

B. Requirements to Obtain or Renew a ~~for a Lake County~~ Wastewater Treatment System Installer License:

1. Application for a new Wastewater Treatment System Installer License shall be made on a form ~~forms~~ provided by the Department and shall include the required application fee ~~and is valid for six months. The application fee for a license shall be \$50.00.~~
2. Licenses shall expire on December 31st of each year and shall be renewed within sixty (60) days and include the annual renewal fee; ~~an annual renewal fee of \$50.00 \$25.00 shall be charged.~~
3. If the license is not renewed within the 60-day period given in 2., it is expired. An expired license shall ~~be subject the installer to all of the the application fee and other~~ requirements established for a new license. However, the Department may waive the requirement for second inspection of systems installed by new licensed holders who were previously licensed.
2. Prior to the issuance ~~or renewal~~ of a new license, the Department ~~may~~ shall require the applicant demonstrate through testing adequate knowledge of these regulations.
 - a. Testing for new licenses shall be provided and administered by the Department. The testing fee shall be paid prior to administering the test.
 - b. The requirements for successfully completing the test shall be determined by the Department.
 - c. If the test is not successfully completed, the applicant may retake the test after three calendar days have passed and the retesting fee has been paid.
 - e. A new license holder must contact the Department for the following two inspections or as otherwise required by the Department:
 - i. 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.
 - ii. When the system has been fully installed but not covered.
 - e. The new license holder must pay the required fee prior to the scheduled

inspection for the second and any subsequent inspection.

f. New license holders are 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.

3. The Department shall require testing for license renewals every five years. The Department shall implement such testing for renewals beginning with license year 2013 and shall establish a staggered testing cycle by random method. Testing for a renewal is subject to the same testing criteria and testing fee as a new license.

4. The Department may require the successful completion of instruction and/or additional testing for any installer of a wastewater treatment system that requires special installation instruction or other considerations. Any additional testing is subject to the same testing fee and standards as given in 2(a-c) and the periodic testing as given in 3 of this section.

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

1. Installation, alteration, repair or ~~replacement~~ ~~extension~~ of any wastewater treatment system shall be done in compliance with these regulations and with the conditions and specifications given in the ~~Installati~~-permit.

2. 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. 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.

~~X. Unless authorized by the Department, 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.~~

~~X. The Licensed or Authorized Installer responsible for the system shall be on site at all times during the installation.~~

~~X. The installer shall request a final inspection by the Department not less than forty-eight (48) hours before the inspection is to be made.~~

~~X. 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.~~

~~X. As per Section XXX.XXX (Use Permit) the installer who is responsible for the system installation must certify on the Use Permit that the system has been installed in compliance with these regulations and all permit specifications.~~

D. Denial or Revocation of a Lake 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 A license may be denied or revoked by the Lake County Board of Health, Health Officer or Lake County Environmental Health Department for any of the following: reasons:

a. Having a ~~Lake County~~ Wastewater Treatment System Installer License revoked within twelve months preceding the application.

b. Failure to meet the requirements of the license application or license renewal including any required demonstration of knowledge. ~~Failure to meet the requirements of the license application including any required demonstration of knowledge (for example: a written test exam).~~

2. **REVOCATION:**

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 ~~Lake County~~ Wastewater Treatment System Installer License
- b. Having been found in violation of these regulations or an order by the Department, Health Officer, or Board. ~~of Health.~~
- c.. Deliberately falsifying any aspect of the system permitting, installation or inspection process.
- e. 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, or other written authorization, is issued by the Department.
- f. Failure to request any inspection required by these regulations or as specified by the Department.
- g. Failure to correct deficiencies noted during the inspection of an installation within the specified time given by the Department
- h. Repeated or multiple errors in system installation regarding the requirements of these regulations or permit specifications. The Department shall issue two written warnings within a two-year period prior to revoking an installer's license for repeated or multiple errors.

E. Written notice of denial or revocation signed by the Department ~~or Health Officer, or Board of Health~~ stating the reason(s) for denial or revocation shall be delivered to the applicant by certified mail or personal delivery.

F. ~~±~~ Appeal to the Board ~~of Health~~: Upon denial or revocation of a ~~Lake County~~ Wastewater System Installer License, the applicant or installer may make appeal to the ~~Lake County~~ Board ~~of Health~~ per Section 8.1.

SECTION 3.7 Licensed Septage Disposal Sites Septic Tank Pumpers

INFORMATIONAL NOTE: Septage cleaning and pumping services Septic tank pumpers shall be are licensed by the Montana Department of Environmental Quality; see in accordance with A.R.M. 17.50 SubChapter 8.

A. Disposal sites for wastewater ~~or septage~~ pumped from wastewater treatment systems shall be reviewed and approved by the ~~Lake County~~ Board ~~of Health~~ in accordance with A.R.M. 17.50 SubChapter 8. An inspection fee as set by these regulations A \$200.00 inspection fee 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 A.R.M. 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 A.R.M. 17.30 SubChapter 7*.

SECTION 4.2 General Standards

- A. If a Montana Department of Environmental Quality approved ~~public municipal or publicly owned wastewater~~ 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 a failed~~ 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 municipal or publicly owned~~ 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 rule, a connection is economically impractical if the cost of the connection ~~to the public system is equals to or exceeds greater than~~ three times the cost of installation of a Department-approvable wastewater treatment system on the site.
- B. The components of any wastewater treatment system shall be located ~~so as~~ to comply with the minimum horizontal separation requirements in accordance with A.R.M. 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 Multi-user Wells/Springs	100	100
Other wells	50	100
Suction lines	50	100
Cisterns	25	50
Roadcuts/Escarpments	10 (4)	25
Slopes > 25% (5)	10 (4)	25
Property boundaries	10	10
Subsurface drains	10	10
Water lines	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 sewer and effluent lines, sewer mains, septic tanks, grease traps, dosing tanks, pumping chambers, holding tanks and sealed pit privies. 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 intermittent and recirculating sand filters, package plants and evapotranspiration (ET) systems.
- (3) Absorption systems include absorption trenches, absorption beds, sand mounds, and other drainfield-type systems that are not lined or sealed. This term also includes seepage pits and unsealed pit privies.
- (4) Sewer and effluent lines and sewer mains may be located in roadways and on steep slopes if the lines and mains are safeguarded against damage
- (5) Down gradient of the sealed component, other component, or drainfield/sand mound.

X. 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 Table B, 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.

- C. 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.

- x. The Department may require a scientific study, professional environmental assessment or other investigation for any wastewater treatment system proposed in a unique, environmentally sensitive, or other location that may have substantial adverse environmental and/or public health impacts. The purpose of the study is to demonstrate that any proposed horizontal or vertical setback distances and/or proposed design will provide the necessary protection as required by Section 2.1. Examples include but are not limited to gravelly soils near groundwater or surface water, bedrock settings, etc.
- X. For existing or replacement wastewater treatment systems, current state and local wastewater treatment system regulations shall apply to all new or increased design flow of wastewater flow proposed for these systems, unless otherwise approved by the Board or Department.
- D. Uniform pressure distribution of effluent shall be used for all new and replacement wastewater treatment systems using a subsurface absorption drainfield unless the Department determines it is not feasible or reasonable to do so.
- D. 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 in a manner that will not affect the wastewater treatment system.
- E. 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 may be located over any subsurface absorption drainfield.
- F. 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 ~~No vehicles shall be driven over the system or after installation~~ except those portions properly designed and installed to accept such traffic 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 determined void.
- X. 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.
- X. Stormwater and irrigation water shall be managed to effectively direct water away from wastewater treatment system drainfield areas.
- G. 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.
- X. The access ports given in G. 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.

- H. 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 as to the which kinds of easements that are non-compatible with the installation of a wastewater treatment system.
- ~~X. The Department may require time-dosing or dose counting for any wastewater treatment system in order to assure proper functioning of the wastewater treatment system.~~
- ~~X. Timed dosing shall be required in the design specification for evapo-transpiration absorption (ETA) systems.~~
- I. 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.
- J. Any existing septic tank proposed for use in a replacement or altered wastewater treatment system shall be pumped by a licensed septage pumper and inspected and tightness tested by a licensed septage pumper, licensed wastewater treatment system installer, or other qualified party 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.
- ~~X. 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).~~
- ~~K. Septic tanks, seepage pits, dry wells, 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. Additionally, septic tanks shall be pumped prior to abandonment if required by the Department.~~
 - ~~1. Completely remove the component.~~
 - ~~2. Thoroughly crush the component in place.~~
 - ~~3. Fill the component with an inert material such as sand or gravel.~~
 - ~~4. A method specified by a state or local government entity or wastewater district that manages a public or community wastewater treatment system that will provide wastewater service to the parcel.~~
- L. The Department may require the owner of a wastewater treatment system to maintain and submit to the Department records of inspection, maintenance, pumping, cleaning, and testing performed on any wastewater treatment system as deemed necessary to assure proper system function.

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 Department determines that 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. ~~Installation Permit~~

~~applications for these systems must include verification that other systems described in Circular DEQ4 alternatives to wastewater treatment have been considered and determined not to be feasible.~~

- C. The wastewater treatment systems described in this section must meet the design and construction requirements in Circular DEQ4.
- F. Holding tanks may only be approved if the conditions of (A), (B) and (C) are met and:
1. ~~If~~ 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.
- X. ~~An~~ applications for a holding tank systems ~~shall~~ must include the following:
1. ~~Proposal of~~ Tank liquid level monitoring system with alarm and/or telemetry as determined by the Department.
 2. Means of waterproofing tank.
 3. ~~If A~~ deed restriction signed and notarized by the owner stating the conditions of the permit to be filed with the Lake County Clerk and Recorder as per Section 3.1(N) of these regulations.
 3. 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.
 4. If seasonal high groundwater is expected to come within 12 inches of the tank's base, a ~~the method of~~ tank stabilization stabilizing design stamped by a professional engineer
- D. Absorption beds may be used for replacement systems only, only if the conditions of (A), (B), and (C) are met, and may not be constructed in unstabilized fill.
- E. Seepage pits may be used only for replacement systems, only if the conditions of (A), (B), and (C) are met, only and only when no other means of treatment and disposal is available. Seepage pits must be located a minimum of 25 vertical feet from bedrock or seasonally high groundwater. ~~or bedrock.~~
- G. A sealed pit privies may be approved only if the conditions of (A), (B), and (C) are met and only if:
- a. 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.
 - b. the privy is in a location that is readily accessible for pumping.
 - c. if seasonal high groundwater is expected to come within 12 inches of the vault,
a the method of stabilization stabilizing design stamped by a professional engineer is required.
- ~~The use of and plans for the sealed pit privy must be approved by the Department. Sealed pit privy systems must meet the design and construction requirements of Circular DEQ4.~~
- H. 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.
- 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 pumps, ~~and it is determined by the Department that Section 2.1 of these regulations will not be violated; provided~~

SECTION 4.4 Composting Toilets, Incinerator Toilets, Chemical Toilets and ~~Non-Discharging Toilets Gray Water Systems, and Portable Chemical Toilets~~

- ~~X. The wastewater treatment systems described in this section may be allowed only if the Department determines that: the requirements of Section 2.1 are met.~~
- ~~X. Composting toilets, incinerator toilets, and gray water systems are subject to the permitting application and fee requirements of Article 3 of these regulations.~~
- A. ~~Composting and incinerator toilets Non discharging toilets such as composting toilets, incinerator toilets and non portable chemical toilets may be approved are acceptable~~ provided design and construction details are supplied to the Department and are found to be acceptable.
- ~~X. Chemical toilet (porta-potties and similar toilets) that are rented and maintained by a licensed septage pumper business are not subject to the permitting requirements of these regulations.~~
- ~~X. Chemical toilets (porta-potties and similar toilets) that are not rented and maintained by a licensed septage pumper business are subject to permitting and the same requirements as sealed pit privies, Section 4.3.~~
- ~~X. Portable chemical toilets are not subject to permitting requirements of these regulations. Use of portable chemical toilets in a an permanently occupied buildings or facilities shall be prohibited except during construction projects and other temporary uses or for seasonal recreational use as approved by the Department. Portable 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.~~
- B. Gray water disposal shall ~~be provide a wastewater treatment system~~ in compliance with the requirements of these regulations for general wastewater or with state standards for gray water systems using separated wastewater.
- C.

SECTION 4.5 Cesspools and Open Slit Trenches

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

SECTION 4.7 WASTEWATER FACILITIES FOR GATHERING PLACES

- A. Public or private facilities or properties intended to be and/or advertised to be routinely available to large gatherings must provide permanent wastewater treatment facilities in compliance with these regulations or be connected to a municipal wastewater treatment system.

SECTION 4.8 LARGE EVENT FACILITIES

A. An entity planning a large event, greater than XXX people expected, shall provide a plan for wastewater facilities to the department with any pertinent information required by the Department to assure public health and safety concerns have been addressed. A fee based on projected hours needed by the Department to review, approve and inspect the plan and event shall be provided at the time of application and is not refundable. Should the county adopt a separate ordinance for large events, this requirement may be removed by the Board without public hearing or notice.

PRE-EXISTING AND OTHER EXISTING WASTEWATER TREATMENT SYSTEMS

SECTION 5.1 Continuation of Pre-Existing Systems

A. Per SECTION 1.6 Definitions (23), a pre-existing wastewater treatment system is one installed before July 1, 1969 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 is in violation of these regulations and 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. It shall be unlawful to alter, enlarge, repair or extend any pre-existing such system.—This article shall not be construed to permit a use when the pre-existing system violates Section 2.1. of these regulations.

SECTION 5.2 Repair, Alteration, Enlargement or Extension of Pre-Existing Systems

A. It shall be unlawful to repair or, alter, enlarge or extend a pre-existing wastewater treatment system. All pre-existing systems for which major alterations or repairs are required shall be either permanently abandoned or replaced under an Installation Permit.

B. When application is made for an additional 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 must be replaced under these regulations before or at the same time the additional new or replacement system is installed unless otherwise approved by the Department.

SECTION 5.3 Wastewater Treatment Systems Installed by Another Government Agency

A. 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 and is consistent with the purposes of these regulations.

ARTICLE 6 EXPERIMENTAL WASTEWATER TREATMENT SYSTEMS

SECTION 6.1 Purpose

The ~~Lake County~~ Board of Health 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 on the acceptable design list from the Montana Department of Environmental Quality may petition the ~~Lake County~~ Board of Health for an Experimental Installation Permit.

SECTION 6.2 Authorization

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

SECTION 6.3 Application

A. Any 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 ~~Lake County~~ Board of Health, or its authorized agents, deems necessary to properly evaluate the proposal. The required ~~\$250.00 application~~ fee shall accompany the application. ~~permit.~~

B. The ~~Lake County~~ Board of Health 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 back-up system.

SECTION 6.4 Requirements for Experimental Wastewater Treatment Systems

- A. Requirements for an Experimental Installation Permit:
1. The design specifications, in compliance with the requirements given in DEQ Circular 4 for experimental wastewater treatment systems, along with any previous laboratory or field tests shall be submitted with the application.
 2. ~~The Installation Permit fee shall be submitted with the application.~~
 3. The necessary field tests or system information that will produce adequate data shall be agreed upon between the manufacturer and the ~~Lake County~~ Board of Health.
 4. ~~Installation shall be made as stipulated by the Board.~~
 6. The ~~Lake County~~ Board of Health shall determine the duration of the testing period and shall collect a fee for administrative costs associated with the testing period.
 7. 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 ~~Lake County~~ Board of Health, within the time limit stipulated by the Board.
 8. A backup system of an approved design shall be provided.
 - X. 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 XX. 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 3.1(N) of these regulations and shall be reversible only upon satisfactory performance as given in (B).
 5. 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 ~~of Health~~ 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 consent of and observation of the ~~Lake County~~ Board of Health. However, the Board ~~of Health~~ may limit the duration of the testing period, and may declare the design and installation to be unsatisfactory and to be replaced by an acceptable installation or to be removed from the designated parcel.

ARTICLE X – VARIANCES

SECTION X.1 - Variance Request

- A. As provided in A.R.M. 17.36.922, the ~~Lake County~~ Board of Health may grant a variance from the requirements of these regulations, A.R.M. 17.36 Subchapter 9, and Circular DEQ-4, except for the requirements established by statute.
- B. Any person wishing to request apply for a variance shall make application on a forms provided by the Department. The applicant and shall supply such information as the ~~Lake County~~ Board of Health or its authorized agent deems necessary to properly evaluate the ~~proposal request. A \$250.00~~ The variance request fee shall accompany the application.

SECTION X.2 – Variance Hearing

- C. Upon receipt of the completed application and fee, the Department shall schedule ~~and~~

~~hold~~ a public hearing before the Board in accordance with Section 8.3 of these regulations. The date of the hearing shall be the next regularly scheduled or special Board meeting that will allow for the required public notice, provide available agenda time, and provide for adequate staff time to prepare information for the Board.

SECTION X.3 Variance Decision

A. ~~The Lake County Board of Health~~ may grant a variance from a requirement of state minimum standards given in ARM 17.36 Subchapter 9, Circular DEQ 4, and/or these regulations only if it finds determines that granting a variance will not violate Section 2.1 of these regulations. 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 SubChapter 9 or these regulations 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.
- B.** The Board may deny, approve with conditions, or approve the variance request. 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 conditions or stipulations that were made part of the terms under which the variance was granted.

SECTION X.4 Standard Variance

E. 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.

F. ~~Appeal: A The Lake County Board of Health's decision on a the variance may be appealed to the Montana Department of Environmental Quality pursuant to A.R.M. 17.36.924.~~

SECTION X.5 Appeal to the Montana Department of Environmental Quality

A ~~the Lake County Board of Health's~~ decision regarding a variance of a requirement of ARM 17.36. SubChapter 9 or Circular DEQ-4 on the variance may be appealed to the Montana Department of Environmental Quality pursuant to A.R.M. 17.36.924.

ARTICLE 7 ENFORCEMENT AND PENALTIES

SECTION 7.1 Right to Inspect

The ~~Lake County~~ Board of Health or its authorized agents may inspect any wastewater treatment system in Lake County to ensure it is being used, operated and maintained in proper working order and in compliance with these regulations. 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. ~~s as are necessary.~~ Where practical, the inspections shall be made only after reasonable notice to the owner or occupant. Per MCA 50-2-122, it is unlawful to hinder a local health officer in the performance of duties under that same chapter which includes regulating wastewater treatment systems.

SECTION 7.1 Notice of Violation or Order of the ~~Lake County~~ Board of Health

If any inspection or information discloses there is, has been, or may be a violation of these regulations or order of the Board of Health 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 reasonable time for correction. Service of such notice shall be by means of certified mail, personal delivery, or other means to provide effective notice.

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 7.3. If the violation has not been corrected or an order has been violated, the Board of Health or its authorized agents may seek criminal prosecution as per Section 7.3.

SECTION 7.2 Cease and Desist Order

The ~~Lake County~~ Board of Health 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 found not to be functioning in compliance with these regulations or the conditions under which the system was permitted. ~~In addition, the Health Officer, as per M.C.A. 50-2-123, may issue an order to cease and desist from any further installation, alteration, repair or extension of any wastewater treatment system for which a valid Installation Permit has not been issued under the provisions of these regulations.~~

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.

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 7.1 Notice of Violation or Order for Corrective Action.

~~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 7.3. If the violation has not been corrected or an order has been violated, the Board of Health or its authorized agents may seek criminal prosecution as per Section 7.3. The order shall require the responsible party bring the wastewater treatment system into compliance within a reasonable given period of time, not to exceed thirty (30) days.~~

~~A re-inspection shall be made by the Department upon receipt of notification that the wastewater treatment system has been brought into compliance or at the end of the time period allowed for~~

~~corrective action.~~ 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 7.3. If the order is ~~violation has not been corrected or an order has been~~ violated, the Board ~~of Health~~ or ~~its~~ authorized agents may seek criminal prosecution as per Section 7.3.

SECTION 7.3 Penalty for Violation

- A. The ~~Lake County~~ Board ~~of Health~~ or its authorized agents may assess an administrative a penalty for violation of these regulations. The penalty shall not exceed \$500 per violation and shall be assigned according to the severity of the violation. Each day of violation may be considered a separate violation.
- B. Any violation of these regulations or order of the ~~Lake County~~ Board ~~of Health~~ 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 ~~he~~ 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 ~~and M.C.A. 50-2-123~~, 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 ~~he~~ 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 7.4 Misrepresentations

Any permit, license, or approval granted under these regulations which is based upon ~~or is granted in reliance 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 Lake County under Section 7.3 of these regulations.

ARTICLE 8 MISCELLANEOUS PROVISIONS

SECTION 8.1 Appeals to the Department or ~~Lake County~~ Board of Health

- A. All decisions regarding permits, licenses, or other matters made by the Department staff may be presented to the Department director ~~administrator~~ for review.
- B. Upon denial of a permit or license or a decision by the Department or Health Officer, ~~a~~ person individual may make appeal to the ~~Lake County~~ Board ~~of Health~~. ~~The appeal to the Board of Health must be received within sixty (60) days of the denial of a permit, license or other decision by the Department.~~ The Board ~~of Health~~ or its authorized agents shall ~~within forty five (45) days either deny the appeal or~~ set a date for the appeal or a hearing. The date shall ~~be~~ 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 ~~of Health~~, a public hearing shall be held and notice of public hearing shall be in accordance with Section 8.3 of these regulations. If the applicant requests the public hearing, the cost of the legal notice for the public hearing shall be borne by the applicant.

SECTION 8.3 Public Hearings

- A.** When the ~~Lake County~~ 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 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 ~~twice~~ in a newspaper of general ~~paid~~ circulation, published at least weekly in Lake County.
 2. The notice shall be published twice with at least six (6) days separating each publications. ~~The first publication must be no more than twenty one (21) days prior to the action and the last no less than three (3) days prior to the action.~~
 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.
 4. ~~Each notice of public hearing shall be published twice in the official newspaper of the county and/or a newspaper of general circulation in the county at least fifteen (15) days prior to the date of the hearing.~~
- B.** ~~In addition,~~ At least ten working ~~fifteen (15)~~ 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 ~~may be~~ determined by the latest tax assessment records of the county.
- C.** Any hearing may be continued ~~recessed~~ by the Board to obtain additional information or to serve further notice upon other property owners. Upon the decision to continue, recessing, the time and date when the hearing is to be resumed shall be announced.
- D.** ~~The decision of the Board of Health shall be in writing and kept of record by the Board.~~

SECTION 8.5 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 ~~Lake County~~ Board ~~of Health or its~~ authorized agents, establishes the higher standard for the promotion and protection of the health and safety of the ~~people~~ public shall prevail.
- B.** ~~In any case where a provision of any other ordinance or code of the county existing on the effective date of this regulation which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of these regulations shall be deemed to prevail and such other ordinance or codes are hereby declared to be repealed to the extent that they may be found in conflict with these regulations.~~
- C.** These amended regulations supercede all prior versions of the regulations or amendments thereof established by the ~~Lake County~~ Board ~~of Health~~ pertaining to wastewater treatment systems in Lake County, Montana.

SECTION 8.6 Effect of Partial Invalidity

If any section, subsection, paragraph, sentence, clause or phase of these regulations ~~is 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.

SECTION 8.7 Amendment of Regulations Continuing Compliance With State Minimum Standards

A. These regulations may be amended at any time the Board deems necessary or as per Section 8.8 to remain current with state law.

B. The process of amendment is as follows:

1. The Board or Department prepares a resolution of intention to amend the regulations.
2. The Board approves the resolution of intention.
3. The Board or Department prepares a draft of the proposed amendments.
4. The Board reviews the proposed amendments with the Department and prepares a final proposal for public review.
5. The Board holds a public hearing per the requirements of Section 8.3 to review the proposed amendments.
6. Based upon information from the public hearing, the Board approves, denies, or approves with changes the amendments proposed.

SECTION 8.x. 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 ~~Lake County~~ Board ~~of Health~~ reserves the right to amend these regulations without public notice or hearing in order to meet required minimum state standards.

SECTION 8.x 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 ~~Lake County~~ Board ~~of Health~~ reserves the right to amend these regulations without public notice or hearing as necessary to be consistent with such state law.

SECTION 8.9 Effective Date

The effective date of these regulations shall be ~~October 2, 1006.~~ XXXX, X 2012.