

TRI-COUNTY ENVIRONMENTAL HEALTH

Serving Deer Lodge, Granite and Powell Counties

Onsite Wastewater Treatment Regulations

Adopted by Anaconda- Deer Lodge County, Granite County and Powell County
Boards of Health

Effective January 1, 2014

Revised : Sections 4.1; 8.1-8.2; 9.1-9.4; 11, adopted Nov. 1, 2014

Effective January 1, 2015

Main Office: Tri-County Environmental Health
800 Main, ADLC Courthouse
Anaconda, MT 59711
(406) 563-4035

TABLE OF CONTENTS

PART I GENERAL INFORMATION, ADMINISTRATIVE REQUIREMENTS

SECTION 1:	Authority and Scope of Regulation	Pg. 3
SECTION 2:	Effective date, Repealer Severability	Pg. 3
SECTION 3:	Definition	Pg. 4
SECTION 4:	Adopted by Reference	Pg. 9
SECTION 5:	Permit Application	Pg. 9
SECTION 6:	Expiration of Permits	Pg. 12
SECTION 7:	Denial of Permits, Variance	Pg. 12
SECTION 8:	Inspection of Onsite Wastewater Treatment System	Pg. 14
SECTION 9:	Certified Installer	Pg. 14
SECTION 10:	Violations, Penalties, & Enforcement	Pg. 14
SECTION 11:	Fee Schedule	Pg. 17

PART II GENERAL REQUIREMENTS

SECTION 1:	Separation Distances, general requirements	Pg. 18
SECTION 2:	Replacement Systems	Pg. 18
SECTION 3:	Increased use, Changes of use and Enlargement of structures	Pg. 19
SECTION 4:	Public sewer availability	Pg. 19

APPENDIX

A1-	Permit application	Pg. 21
A2-	Site plan example	Pg. 24
A3-	DEQ Illustrations	Pg. 25
A4-	Variance application	Pg. 29

PART I: GENERAL INFORMATION, ADMINISTRATIVE REQUIREMENTS

SECTION I - AUTHORITY AND SCOPE OF REGULATIONS

1.1 These regulations have been written pursuant to Title 50-2-116 (MCA) -- Powers and Duties of Local Boards “subject to the provisions of 50-2-130 MCA, adopt necessary regulations that are not less stringent than state standards for the control and disposal of sewage from private and public buildings and facilities that are not regulated by Title 75, chapter 6, or Title 76, chapter 4. The regulations must describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the board of environmental review and must provide for appeal of variance decisions to the department as required by 75-5-305 MCA.”

1.2 The permit system established through these regulations governs *only* the installation and operation of Onsite wastewater treatment systems. The permit is not to be construed as being a building permit, zoning compliance permit or any other permit that may be required by other agencies or offices to erect a structure in Deer Lodge, Granite or Powell Counties.

1.3 The Permit itself establishes the minimum sizes and distances adopted in Deer Lodge, Granite and Powell Counties. The Counties do not design the system nor does the Permit bind or obligate the Counties to guarantee the operation of any system.

1.4 Any property not served by municipal sewer in which there is human occupancy shall be equipped with wastewater facilities approved by the Tri-County Environmental Health Department.

1.5 It shall be unlawful and constitute a violation of these regulations to own, operate or use a malfunctioning or failing onsite wastewater treatment system.

SECTION 2- EFFECTIVE DATE, REPEALER, and SEVERABILITY

2.1 All provisions established under this regulation shall become effective as of January 1, 2014.

2.2 Repealer- Conflicting of Ordinances, Effect of Partial Invalidity: In any case where a provision of this regulation is found to be in conflict with a provision of any zoning, building, fire, safety or health regulation or code of Deer Lodge, Granite or Powell Counties existing on the effective date of this regulation, the provision which, in the judgment of the Boards of Health or authorized agents, establishes the higher standard for the protection of the health and safety of the people, shall prevail. These regulations supersede all prior regulations or amendments thereof established by the Deer Lodge, Granite, or Powell County Boards of Health pertaining to Onsite Wastewater treatment systems in those counties.

2.3 If any section, subsection, sentence, clause or phrase of this regulation should be declared invalid for any reason whatsoever, such invalidity shall not affect the remaining portions of this regulation, which shall remain in full force and effect, and to this end, the provisions of this regulation are hereby declared to be severable.

2.4 If Montana law affecting state minimum standards for *Onsite* Wastewater treatment systems is either created or amended, the Deer Lodge, Granite, or Powell County Boards of Health reserves the right to amend these regulations without public notice or hearing in order to meet required minimum state standards.

2.5 If Montana law governing the duties, responsibilities and authorities of Local Boards of Health and Health Officers is either created or amended, the Boards of Health reserves the right to amend these regulations without public notice or hearing as necessary to be consistent with such state law.

2.6 **Severability:** If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment will affect only the part held invalid.

SECTION 3 – DEFINITIONS

3.1 “Absorption Bed” shall mean an Absorption System that consists of excavation greater than three (3) feet in width, where the distribution system is laid for the purpose of distributing pretreated waste effluent into the ground (DEQ 4).

3.2 “Absorption System” or “Drainfield” means any secondary treatment system including absorption trenches, elevated sand mounds, and evapotranspiration absorption (ETA) systems used for the subsurface disposal of pretreated waste effluent (DEQ 4).

3.3. “Alteration” shall mean physically changing a Sewage treatment system by lengthening, shortening, widening, building structures over or changing the flow into a system by changing or adding Dwelling units or adding to the living capacity of a Dwelling unit. This shall not be construed to mean changing Dwellings in a campground or a trailer court currently licensed by the Montana Department of Public Health and Human Services (DPHHS).

3.4 “Applicant” shall mean any Person, institution, public or private corporation, partnership or other entity that submits an application for a Permit to install, alter, construct or repair a Sewage treatment system.

3.5 “Approved” shall mean official consent given in writing, or verbally in the case of an emergency, by the Board of Health and/or Health Officer, the Tri-County Environmental Health Department or the Board of Health's designated representative.

3.6 “ARM” means Administrative Rules of Montana.

3.7 “Bedrock” shall mean 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 (DEQ 4).

3.8 “Board” or “BOH” shall mean the Deer Lodge, Granite, or Powell County Board of Health, as formed in accordance with 50-2-106 MCA.

3.9 “Cesspool” shall mean a Seepage Pit without a Septic Tank to pretreat the Wastewater (DEQ 4).

3.10. “Cistern” shall mean a watertight receptacle of non-toxic material that is designed for the storage of potable water, in accordance with circular DEQ 17, ARM 17.38.

3.11 “Community, Municipal, or Public Treatment System” shall mean Sewage systems owned or operated by city, town, municipal corporation, county, or state, or other ownership, approved by the State Department of Environmental Quality (DEQ), consisting of a collection system and necessary trunk lines, pumping facilities, and means of final treatment and disposal, and under Permit from the DEQ (See ARM 17.38.101 et.seq.).

3.12 “Department” shall mean the Tri-County Environmental Health Department, working as representatives of the Deer Lodge, Granite or Powell County Health Officer and County Board of Health.

3.13. “DEQ” or “MDEQ” shall mean the Montana Department of Environmental Quality.

3.14. “DEQ 2” shall mean the circular published by DEQ entitled “Design Standards for Wastewater Facilities” 1999 edition, or most current edition.

3.15. “DEQ 4” shall mean the circular published by DEQ entitled “Montana Standards for Subsurface Wastewater Treatment Systems” 2013 edition, or most current edition.

3.16. “DEQ 17” shall mean the circular published by DEQ entitled “Montana Standards for Cisterns (Water Storage Tanks) for Individual Non-Public Systems, 2002 edition, or most current edition.

3.17. “Distribution Box” shall mean a watertight receptacle that receives Septic Tank effluent and distributes it equally into two or more pipes leading to the absorption area (DEQ 4).

3.18. “Drainrock” shall mean the rock or coarse aggregate used in the Absorption System, Drainfield, sand mound, or sand filter. Drainrock must be washed, be a maximum of 2 1/2 inches in diameter and larger than the orifice size unless shielding is provided to protect the orifice, and contain no more than 2 percent passing No. 8 sieve. The material must be of sufficient competency to resist slaking or dissolution. Gravels of shale, sandstone, or limestone may degrade and may not be used (DEQ 4).

3.19. “Dwelling or Residence” means any structure, building, or portion thereof, which is intended or designed for human occupancy and is supplied with water by a piped water system (DEQ 4).

3.20 “Effluent” means partially treated Wastewater from a Septic Tank or other treatment facility (DEQ 4).

3.21. “Effluent Filter” shall mean an effluent treatment device installed on the outlet of a Septic Tank designed to prevent the passage of suspended matter larger than 1/8 inch in size (DEQ 4).

3.22. “Experimental Alternative System” means a Wastewater treatment system for which specific design standards are not provided in MDEQ Circular DEQ-4 or DEQ-2 (See also DEQ 4,Chaper 8.6).

3.23. “Fill” shall mean soil materials that have been displaced from their original location.

3.24. “Floodplain” shall mean the area adjoining the watercourse or drainway that would be covered by the floodwater of a flood of 100-year frequency except for sheet flood areas that receive less than one foot of water per 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 36.15.101.

3.25. “Grey Water” means Wastewater other than toilet wastes or industrial chemicals, including, but not limited to, shower and bath Wastewater, kitchen Wastewater, and laundry Wastewater (DEQ 4).

3.26 “Grease Trap” means a device designed to separate grease and oils from the effluent (DEQ 4).

3.27. “Groundwater Table” shall mean the upper surface of groundwater in the zone of saturation of a geologic formation. The upper surface of a perched water table is included in this definition.

3.28. “Health Officer” shall mean an individual who is a physician or a Person with a master’s degree in public health or the equivalent and with appropriate experience as designated by the County Board of Health per 50-2-166(1)(a) MCA.

3.30. “Holding Tank” shall mean a watertight receptacle that receives Wastewater for retention and does not, as part of its normal operation, dispose of or treat the Wastewater (DEQ 4, Chapter 24).

3.31. “Installation Permit” means a written authorization issued by Tri- County Environmental Health, Permitting the installation, alteration, repair, or extension of an Onsite Wastewater Treatment System.

3.32. “Impervious Layer” shall mean any layer of material in the Soil Profile that has a

percolation rate slower than 120 minutes per inch (DEQ 4).

3.33. “Individual Sewage Treatment System” shall mean a Wastewater system that serves one Living Unit or commercial structure. The total number of people served may not exceed 24 (DEQ 4)

3.34. “Industrial Wastewater System” means any Sewage system, treatment works, point source, disposal system, stockpile of pollutants or pond containing process wastes or pollutants used or operated so that the same may be reasonably expected to discharge effluent to groundwater. Excluded from this definition are all activities and/or facilities listed under ARM 17.30.1022.

3.35. “Licensed or Certified Installer” shall mean an individual, partnership, or company that holds a current license or certificate issued by this Department to install, alter or repair Individual Sewage Treatment Systems under the terms of these regulations.

3.36. “Licensed Professional Engineer” means a Person licensed as an engineer by the state of Montana (37-67-101(8) MCA).

3.37. “Licensed Septic Tank Pumper” means a Person licensed under state law to remove and dispose of Wastewater treatment system residues in an approved manner at a site approved by DEQ and the County Board of Health (75-10-1022 MCA).

3.38. “Licensed Site Evaluator” means a Person licensed by the Board of Health to perform necessary testing and to compile necessary data to complete the environmental Site Evaluation for a parcel of land. The testing includes, but is not limited to the following: Soil Profiles, Percolation Testing, groundwater determinations and monitoring, slopes of land, well isolation zones, Floodplains, lot layouts, non-degradation analysis, and the rules, regulations and technical information regarding onsite Wastewater treatment systems.

3.39. “Limiting Layer” means Bedrock, an Impervious Layer, or Seasonally High Groundwater. (ARM 17.36.101(21))

3.40. “Living Unit” means the area under one roof occupied by a family. For example, a duplex is considered two Living Units (ARM 17.36.101(22)).

3.41. “Malfunctioning or Failing Sewage Treatment System” shall mean any Sewage treatment system not properly performing in accordance with its design.

3.42. “Multiple User Water and/or Wastewater System” shall mean a non-public water supply or Wastewater system designed to serve three to 14 Living Units or three to fourteen commercial structures. The total number of people served may not exceed 24. In estimating the population served, the reviewing authority shall multiply the number of Living Units times the county average of Persons per unit based on the most recent census data (DEQ 4).

3.43. “Owner” shall mean the Person who is shown to be the legal titleholder of land onto which an Onsite Wastewater Treatment System has been or is to be placed.

3.44. “Percolation Test” shall mean a standardized test used to assess the infiltration rate of soils (DEQ 4, Appendix A).

3.45. “Permit” shall mean a written authorization issued by the Health Officer or his/her representative allowing construction, alteration, installation, or repair of an Onsite Wastewater Treatment System under the provisions of this regulation.

3.46. “Person” means the state, a political Subdivision of the state, institution, firm, corporation, partnership, individual, or other entity and includes Persons resident in Canada (See 75-5-103(23) MCA).

3.47. “Pit Privy” means a structure with a hole, or pit, in the ground that receives non-water carried toilet wastes (ARM 17.36.912(23)).

3.48. “Premises” shall mean a definite portion of real estate or land with its appurtenances, also to include a building or part of a building. This shall include but not be limited to residential dwellings, commercial or industrial structures, apartments, condominiums, and townhouses.

3.49. "Public Wastewater System" means a system for collection, transportation, treatment, or disposal of Wastewater that serves 15 or more families or 25 or more Persons daily for a period of at least 60 days in a calendar year. In estimating the population served, the department shall multiply the number of Living Units times the county average of Persons per Living Unit based on the most recent census data (DEQ 4).

3.50. “Sealed Pit Privy” means an enclosed receptacle designed to receive non-water carried toilet wastes into a watertight vault. The vault must be regularly pumped clean by a Licensed Septic Pumper (DEQ 4)

3.51. “Seasonally High Groundwater” means 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 year when the water table is the highest. Evidence of past high groundwater levels may be indicated by staining or mottling in the soil. Ground water monitoring may be required if there is evidence of Seasonally High Ground Water (ARM 17.36.101(42)).

3.52. “Seepage Pit” means a covered underground receptacle that receives Wastewater after primary treatment in a Septic Tank and allows the Wastewater to seep into the surrounding soil (ARM 17.36.101(43)).

3.53. “Septic Tank” shall mean a storage settling tank in which settled sludge is in immediate contact with the Sewage flowing through the tank while the organic solids are decomposed by anaerobic bacterial action (DEQ 4).

3.54. “Sewage” shall be synonymous with “Wastewater” for purposes of these regulations.

3.55. “Shared Wastewater System” means a Wastewater system that serves or is intended to serve two Living Units or commercial structures. The total number of people served may not exceed 24. In estimating the population served, the reviewing authority shall multiply the number

of Living Units times the county average of Persons per Living Unit based on the most recent census data (DEQ 4).

3.56. “Site Evaluation” shall mean an evaluation to determine if a site is suitable for a subsurface Wastewater treatment system in accordance with ARM 17.36.325 and DEQ 4.

3.57. “Soil Profile” shall mean a detailed description of the soil strata to a depth of at least eight (8) feet using the U.S. Department of Agriculture’s Soil Classification System (ARM 17.36.101(51)). Soil descriptions must be observed, reported, and submitted by a Professional Engineer, Registered Sanitarian or other qualified person.

3.58. “Standard Absorption Trench” or “Drainfield Trench” shall mean a ditch or trench with vertical sides and substantially flat bottom dug to a width of two (2) feet and to a maximum depth of three (3) feet, which is gravity fed (DEQ 4).

3.59. “Subdivision” shall mean a division of land as defined in the most current revision of the Sanitation in Subdivision Act (Title 76, Chapter 4, MCA).

3.60. “Surface Water” shall mean any body of water or watercourse, including lakes, ponds, rivers, creeks, streams, swamps or irrigation ditch (ARM 17.36.101(58)).

3.61 “Wastewater” means liquid 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 (DEQ 4).

SECTION 4 - ADOPTED BY REFERENCE

4.1 As provided by 50-2-116(1)(I), MCA, the County Board of Health hereby adopts by reference ARM Title 17, Chapter 36, Subchapters 1-8, Subdivision Rules and Title 17, Chapter 36, Subchapter 9, Onsite subsurface Wastewater treatment and MDEQ Circular DEQ 4 (most current edition) as part of the Tri- County Onsite Wastewater Treatment Regulations. Copies of the MCA’s, ARM’s and Circulars can be obtained from the Environmental Health Office or online at: <http://www.deq.mt.gov/wqinfo/Circulars.mcp>. In addition, portions of the Uniform Plumbing Code as adopted by Montana, which correlates to the Onsite Wastewater Regulations, are adopted by reference.

SECTION 5 – PERMIT APPLICATION

5.1 It shall be unlawful for any Person to construct, alter or repair an Individual Onsite Wastewater Treatment System within the County unless that Person holds a valid Permit issued by Tri-County Environmental Health, in the name of such Person for which the specific construction, alteration, repair or operation is proposed.

5.2 It shall be unlawful

(1) To violate any provision of these regulations.

- (2) To construct, alter, extend, or utilize a Wastewater treatment or disposal system that may:
- (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 this subchapter
 - (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.

5.3. All applications for Permits shall be made to Tri- County Environmental Health, acting for the Health Officer or his/her representative. Permits shall be issued upon compliance by the applicant with provisions of these regulations.

5.4. Application for an Onsite Wastewater Treatment System Permit shall be made only by the Owner or lessee of the property for which the system is proposed or his/her duly authorized agent or assigns. Application for a Permit shall be made to the Tri-County Environmental Health Department, on forms provided by the Department and shall include the following:

- 1.) representation of the property, for example, a copy of a Certificate of Survey (COS).
- 2.) Name, mailing address, and phone number of property owner.
- 3.) The physical address of the property.
- 4.) Legal description of property including the Geocode. This information can be found on the Tax statement or on the Montana Cadastral at <http://gis.mt.gov>
- 5.) DEQ Approved lot layout (if the property has gone through a Sanitation in Subdivision review) or similar map of the property that includes the following:
 - a. all existing and proposed wells or water sources within 100' of property lines or a statement/verification from adjacent property owners that there are none of these features within 100' of property lines.
 - b. all existing and proposed drainfields or approved drainfield locations on adjacent properties within 100 feet of property lines, or a statement/verification from adjacent property owners that there are none of these features within 100 feet of the property boundary:
 - c. all streams, lakes, springs, ponds, irrigation ditches and other surface water sources within 100 feet of property lines
 - d. roads, driveways, parking areas; proposed and existing utility lines and any easements: this includes all water lines and drainfields, pipelines, cables, power lines, access easements, or other similar lines and easements;
 - e. the scale used (for example: 1 inch = 200 feet)

- f. percentage and direction of slope in the proposed drainfield area(s);
- g. Location of slopes greater than 15%;
- h. proposed and existing primary and secondary Drainfield areas;
- i. North arrow;
- j. legend;
- k. location of soils profiles, perc tests and groundwater monitoring sites; and any site conditions that may impact the onsite Wastewater treatment

5.5 If there is no DEQ Sanitation in Subdivision Review, permit applications must include the following information obtained from a Site Evaluation from a qualified person such as a Sanitarian, Engineer or Site Evaluator.

1.) Soil Profile and/or Percolation Test data in accordance with state law. A minimum of one test hole must describe soils a minimum of 8' below natural ground surface (ARM 17.36.101(51) and be within 25 feet of each proposed drainfield location (ARM 17.36.325(3). Information must include:

- a. Soil texture and structure in accordance with USDA-NRCS soil characteristics (see also DEQ 4, Appendix B).
- b. Approximate percentage of gravel, cobbles, and boulders.
- c. Limiting Layers including Bedrock, impermeable clay layers, groundwater or other limiting conditions in the Soil Profile.
- d. Mottling or signs of high water levels or saturated conditions.
- e. Date the holes were dug and weather conditions.

2.) If required, Non-degradation analysis performed in accordance with state laws and statutes and DEQ guidelines "How to Perform Non-degradation Analysis".

3.) Flood plain information per currently adapted Flood Insurance Rate Map (FIRM) from the Federal Emergency Management Agency (FEMA).

4.) Groundwater monitoring information, if applicable. If groundwater, or evidence of groundwater, is found within 7' of the natural ground surface, groundwater monitoring must be performed in accordance with DEQ 4, Appendix

5.) Percolation data may be required. Perc tests must be performed per DEQ Circular 4, Appendix A.

6.) The Department shall not issue a Permit for a Sewage treatment system installation, Alteration, or repair until all pertinent site data has been received, reviewed and determined to be in full compliance with all provisions contained in these regulations.

7.) No Permit shall be issued until all appropriate fees have been paid.

SECTION 6 - EXPIRATION OF PERMITS

6.1 If an Onsite Wastewater Treatment System for which a Permit has been issued has not been installed, inspected and approved by the Department within one year after the issuance of such Permit, said Permit shall expire and be officially voided by the Department. Should the Department officially void a Permit, the applicant must re-apply for installation, alteration or repair of a Sewage treatment system in the same manner and subject to all requirements that exist at the time the re-application is made. If there is no change from the conditions in which the permit was approved, an extension of one year may be granted for an additional fee.

6.2 Should an Onsite Wastewater treatment system be installed, altered or repaired after such time the Permit initially issued to install, alter or repair the system, has been voided, this shall constitute a violation of these regulations. All violations will be handled as declared under Section 10 - Violations, Penalties and Enforcement.

6.3 The Department is not obligated in any way to issue a Permit to an Applicant, should the initial Permit be allowed to expire, if information becomes available indicating that a Permit cannot now be issued and be in full compliance with the regulations that exist at the time of re-application.

6.4 Any changes in plans, details or specifications of construction not approved by the Department after the Permit has been issued, invalidates the Permit.

6.5 There will be no reimbursement of fees received for the issuance of the Permit to any Applicant.

SECTION 7 - DENIAL OF PERMITS

7.1 The Department may deny an application for the installation, alteration or repair of the Onsite Wastewater Treatment System if:

- 1) The Individual Onsite Wastewater Treatment System, as proposed, will not comply with the requirements or specifications of these regulations, or;
- 2) The Applicant has failed to supply all data necessary to make a determination as to whether or not the proposed Individual Onsite Treatment System complies with the requirements or specifications of these regulations, or;
- 3) The Applicant has failed to pay the required fees and has failed to make such payment for thirty (30) days after notice of non-payment has been filed.

7.2 If a tract of land is presently under review as a Subdivision, NO Permit can be issued for any structure on that tract of land, until the review of said Subdivision has been completed, in full, and approved.

7.3 A Permit for an Onsite Wastewater treatment system may be denied if it is found that such installation is in conflict with the requirements of the Sanitation in Subdivision Act or its

regulations, or if such installation is intended as a means of avoiding the requirements of the Sanitation in Subdivision Act or its regulations.

7.4 Any denial of a Permit shall be made with detailed reasons for such a denial and should the Applicant request a variance from any provision of these regulations that may have caused or resulted in the denial, the variance request shall be made in writing and submitted to the County Board of Health.

7.5 Variances

1.) As provided in A.R.M. 17.36.922, the 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. A variance may be granted only if it does not violate any other regulations except for the rule the variance is requested from.

2.) Any Person wishing to apply for a variance shall submit written application to the County Board of Health. The Applicant must supply all information deemed necessary by the County Board of Health or its representative to properly evaluate the proposal.

3.) A fee determined by the Board of Health, must accompany the written request

4.) Upon receipt of the completed application and fee, the department shall schedule a public hearing before the Board. 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.

5.) A variance may be approved only in the event that all of the following circumstances are found to exist:

A.) 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

B.) Compliance with the requirement from which the variance is requested would result in undue hardship to the applicant

C.) The variance is necessary to address extraordinary conditions that the applicant could not

have reasonably prevented

D.) No alternatives that comply with the requirement are reasonably feasible; and

E.) The variance requested is not more than the minimum needed to address the extraordinary conditions.

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

SECTION 8 – INSPECTION OF ONSITE WASTEWATER TREATMENT SYSTEM

8.1 Once a Permit application has been reviewed and approved by the Department the applicant may begin construction of that system. The Department must inspect all systems installed by **non-certified** installers. **Certified** installers may perform self-inspections but are asked to give twenty four (24) hours notice before burying the system, for the purpose of allowing staff the option of inspecting. Requests for inspections must be made for normal Department work hours, excluding Saturdays, Sundays, and declared County Holidays.

8.2 As-Built Drawings

A complete as built of the system must be provided to the Department within 30 days of the completed installation. All information required is located on the Tri-County Self-Inspection form. This form, or a similar form with the same requested information must be supplied to the Department.

SECTION 9- CERTIFIED INSTALLER

9.1 A person may become certified to install onsite wastewater treatment systems as required by the following regulations:

9.2 Certification will be granted by the Department when the following requirements are met:

- 1.) A completed application has been submitted.
- 2.) A filing fee of fifty dollars (\$50.00) has been paid.
- 3.) The applicant has passed the required examination with a score of at least 80% correct.
- 4.) An Installer already licensed or certified in other Montana counties may be certified without examination (except for the administrative portion) if proof of licensure/certification in good standing is received and is acceptable to the Department, the application is completed and the fee is paid.

9.4 Certificate Expiration and Renewal

- 1.) Certificates shall be valid from January 1- December 31 of each year.

- 2.) Renewal will be granted upon receipt of the renewal fee of twenty-five dollars (\$25.00) by March 1st of the new renewal year. Renewal request forms will be mailed in November prior to the renewal year.
- 3.) Failure to renew within the required time period will require a new filing fee and re-examination
- 4.) Certificates are not transferable.
- 5.) Employees of the Certified Installer are not required to be certified. The Certified Installer is responsible for seeing that the permit is followed and the system is installed according to the permit/regulations.

SECTION 10– ENFORCEMENT AND PENALTIES

10.1 Notice of Violation: If any inspection discloses there has been a violation of these regulations, an order of the Board of Health or authorized agents, a notice of such violation will be sent to the responsible Person or Persons. 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 or Personal delivery. If the responsible Person or Persons cannot be found or served after a diligent effort to do so, service may be made by posting a notice in a conspicuous place on or about the property affected by the notice. A re-inspection shall be made by the Department upon receipt of notification the violation has been corrected or at the end of the time period allowed for the corrective action. 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 10.4

10.2 Misrepresentation: Any Permit or approval granted under these regulations which is based upon or is granted in reliance upon any misrepresentation, or failure to make a material fact or circumstances known or should have been known, by the Applicant or his agent, shall be void. Any construction, Alteration, repair or use of a Sewage treatment system after the Permit for said system has been voided shall constitute a violation. (See subsection 10.1)

10.3 Cease and Desist Order- the County Board of Health or its authorized agents may issue an order to cease and desist from the use of any wastewater treatment system that is found not to be functioning in compliance with these regulations. 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 provision of these regulations. The order shall require the responsible party to bring the wastewater treatment system into compliance within a reasonable period of time, not to exceed thirty (30) days.

10.4 Penalty for Violation: Any violation of these regulations or order of the County Board of Health is subject to criminal prosecution in accordance with 50-2-123-124, MCA

As per 50-2-123, MCA: **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 50-2-124, MCA: **Penalties for violations.**

(1) A Person who does not comply with rules adopted by a local board is guilty of a misdemeanor. On conviction, he shall be fined not less than \$10 or more than \$200.

(2) Except as provided in subsection (1) of this section and 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, he shall be fined not less than \$10 or more than \$500, imprisoned for not more than 90 days, or both.

(3) Each day of violation constitutes a separate offense.

(4) Fines, except for justice's court fines, shall be paid to the county treasurer of the county in which the violation occurs.

SECTION 11: FEE SCHEDULE

Installation/Use Permit

Septic Application		
Certified Installer	\$100	
Uncertified Installer	\$150	
Septic Tank/Pump Chamber ONLY		\$50
Extension of septic permit (1 additional year)		\$50
Second or Subsequent Inspection		\$25
Site Evaluation, per lot		\$25
Groundwater Monitoring Verification, per lot (April-June 30, up to 5 monitoring visits)		\$125
Additional GW monitoring visit		\$25
Variance Application (includes public notice cost) (site visits will be charged separately as needed)		\$100

PART II: GENERAL REQUIREMENTS

1.1 Details and Technical requirements of Onsite Wastewater Treatment Systems can be found ARM Title 17, Chapter 36, Subchapters 1-8: Subdivision Rules, Title 17, Chapter 36, Subchapter 9, Onsite subsurface Wastewater treatment and MDEQ Circular DEQ 4 (most current edition).

1.2. The components of any wastewater treatment system shall be located so as to comply with the minimum separation requirements in accordance with A.R.M. 17.36.918 as shown in the following table:

SETBACK DISTANCES (IN FEET)

- 1) Sealed components include, holding tanks, sealed pit privies, and the components addressed in Department Circular DEQ-4, Chapters 4 and 5. Holding tanks and sealed pit privies must be located at least ten feet outside the floodplain or any openings must be at least two feet above the floodplain elevation.
- (2) Other components include the components addressed in Department Circular DEQ-4, Chapter 7.
- (3) Absorption systems include the systems addressed in Department Circular DEQ-4, Chapters 6 and 8 subject to the limitations in ARM 17.36.916.
- (4) Other wells include, but are not limited to, irrigation and stock watering, but do not include observation wells as addressed in Department Circular DEQ-4.
- (5) Sewer lines and sewer mains may be located in roadways and on steep slopes if the lines and mains are safeguarded against damage.
- (6) Down-gradient of the sealed component, other component, or drainfield/sand mound.
- (7) Easements may be used to satisfy the setback to property boundaries.
- (8) Sewer mains that cross water mains must be laid with a minimum vertical separation distance of 18 inches between the mains.

From	To Sealed Components (1) and Other Components (2)	To Drainfields/Soil Absorption Systems (3)
Public or multiple-user drinking water wells/springs	100	100
Individual and shared drinking water wells	50	100
Other wells (5)	50	100
Suction lines	50	100
Cisterns	25	50
Roadcuts, escarpment	10 (5)	25
Slopes > 35 percent (6)	10 (5)	25
Property boundaries (7)	10	10
Subsurface drains	10	10
Water mains (8)	10	10
Drainfields/Sand Mounds (3)	10	-
Foundation walls	10	10
Surface water ,springs	50	100
Floodplains	- Sealed components - no setbacks (1) Other components - 100 (2)	100

1.3 New 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.

1.4 Only wastewater as defined in these regulations may be discharged into the wastewater treatment system. 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.

1.5 No structure shall be located over any part of the wastewater treatment system unless the structure is designed to accommodate operation and maintenance of the system.

1.6 No component of any wastewater treatment system shall be located under driveways, roads, parking areas or areas subject to heavy loading and no vehicles shall be driven over the system after installation, except those portions properly installed to accept traffic loads.

1.7 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.

1.8 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 as to which kinds of easements are non-compatible.

1.9 If an easement has been requested to install a septic system on adjacent property, there must be proof of a filed, legal easement supplied to the department prior to issuing of the septic permit.

1.10 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.

2. REPLACEMENT SYSTEMS

2.1 A person may not operate a wastewater treatment and disposal system that has failed. Failed systems must be replaced and meet the following requirements.

(1) Replacement systems must be designed and constructed to allow the best treatment practicable and must meet all separation distances whenever possible. Drainfields are required where there is adequate room or there is potential for contamination of groundwater or surface water.

(2) If room is unavailable for a drainfield, an absorption bed or seepage pit may be allowed as a replacement system.

(3) Soil profiles and percolation tests may be required to determine proper sizing of replacement systems.

3. INCREASED USE, CHANGES OF USE AND ENLARGEMENT OF STRUCTURES.

3.1 No person may increase the number of bedrooms to an existing structure or operate an existing system that has increased wastewater use unless the system meets all current requirements of this regulation or the Board of Health has approved a variance.

3.2 There must be adequate physical room on the property to install a septic system to accommodate the number of bedrooms that will be present after the proposed construction. There must be adequate room to reserve an area the same size for replacement of the system in the future.

3.3 No person may connect to a wastewater treatment and disposal system when the system has been unused or disconnected from any residence or structure for more than one (1) year unless there is adequate information to determine that the system is functioning and is of adequate size to accommodate the existing or proposed structure.

3.4 On properties requiring Onsite Wastewater Treatment Systems, no person may begin construction on a structure enlargement until the Department issues either a septic permit or a determination that no septic permit is needed for the proposed project.

4. PUBLIC SEWER AVAILABILITY

4.1 If a DEQ approved public collection and treatment system is readily available within a distance of 200 feet of the property line for connecting to a new source of wastewater, or as a replacement for a failed system, and the owner or managing entity of the public collection and treatment system approves the connection, wastewater must be discharged to the public system unless considered “not readily available” or “economically impractical” See ARM 17.36.914 (6)

APPENDIX

A1- Installation Permit Application

A2- Sample Site Map

A3- DEQ Septic System Illustrations

A4- Variance Request

ON-SITE WASTEWATER TREATMENT APPLICATION
 Tri-County Environmental Health (Deer Lodge*Granite*Powell Counties)
 800 Main Street, Anaconda, MT 59711 (406) 563-4066 or (406) 563-4067

Date of Application		County	
---------------------	--	--------	--

Purpose of Application	New	Upgrade/Expansion	Replacement	Tank	Drain Field
------------------------	-----	-------------------	-------------	------	-------------

Single Residence	Multiple User (3-14 connections)	Commercial
------------------	----------------------------------	------------

Property Owner Name		Phone	
---------------------	--	-------	--

Mailing Address	
-----------------	--

City		State		Zip Code	
------	--	-------	--	----------	--

Contractor Name		Mailing Address		Phone	
-----------------	--	-----------------	--	-------	--

Legal Description of Property **GEOCODE -**

Resource: <http://gis.mt.gov/>

Subdivision Name	Lot #
------------------	-------

DEQ #		Certificate of Survey (COS) Number /Date	
-------	--	--	--

Section		Township		Range		Size of Parcel (acres)	
---------	--	----------	--	-------	--	------------------------	--

Physical address of Property	
------------------------------	--

Proposed / Or Existing Development

Single Family	Number of Bedrooms		Unfinished Basement	Water Softener
---------------	--------------------	--	---------------------	----------------

Multiple Dwelling Units	Total Number of Bedrooms for Multiple Dwelling	
-------------------------	--	--

Type of Water Supply

Well	Spring	Municipal
------	--------	-----------

Required Attachments: DEQ approved site plan OR a site plan including the following:

- 1) A site plan drawn to scale including all of the following information;

<ul style="list-style-type: none"> *All lot boundaries *North arrow *100-year floodplain *The scale used (ex. 1 inch=200feet) *All buildings *Slopes greater than 15% 	<ul style="list-style-type: none"> *All existing or proposed wells within 100 feet of property lines *All surface waters, including irrigation ditches within 100' * Roadways, driveways, Easements *Location of any existing septic systems within 100 feet of property *Location of proposed septic system and same size replacement area *Location of soil profiles, perc tests, groundwater monitoring sites
---	--

- 2) A copy of the COS (Clerk and Recorder Office) or State DEQ approval
- 3) If no DEQ, copies of the Soil Profile Test Hole information (make appointment with Sanitarian or hire consultant)
- 4) If required, a non-degradation review
- 5) Fee, checks payable to County Treasurer where property is located



Authorization:

I hereby declare the above information and the attachments' to this application are true, complete and correct to the best of my knowledge. I understand that Tri-County Environmental Health Department will need to enter the property for the purpose of conducting a site evaluation and / or inspecting this system.

--	--

Property Owner or Authorized Agent's Signature*

Date

Check # _____ Cash \$ _____ Fees: \$100 CERTIFIED INSTALLER (Tank and Drainfield)
 \$150 UNCERTIFIED INSTALLER (Sanitarian Inspection req'd)
 \$50 INSTALL SEPTIC TANK ONLY

PERMISSION TO CONSTRUCT:

Minimum Requirements (based on # of bedrooms/GPD proposed)

Septic Tank _____ gallons Pump Tank Chamber _____ gallons

Maximum Trench Depth _____

Absorption Area; Gravel & Pipe _____ Gravel-less _____

Other _____

Number & Length of Laterals _____

NOTES:

AS-BUILT OF INSTALLED SYSTEM MUST BE SUBMITTED TO THIS OFFICE WITHIN 30 DAYS OF THE SYSTEM BEING INSTALLED.

Approved by		Date Issued	
-------------	--	-------------	--

Registered Sanitarian

Authorization of Agent to Act on Property Owner's Behalf

I hereby authorize the following person(s) to act as my agent(s) to apply for, sign, and file the documents necessary to obtain a permit for the construction of a septic system for subject construction project:

PROJECT ADDRESS:

1. Name of Authorized Agent :

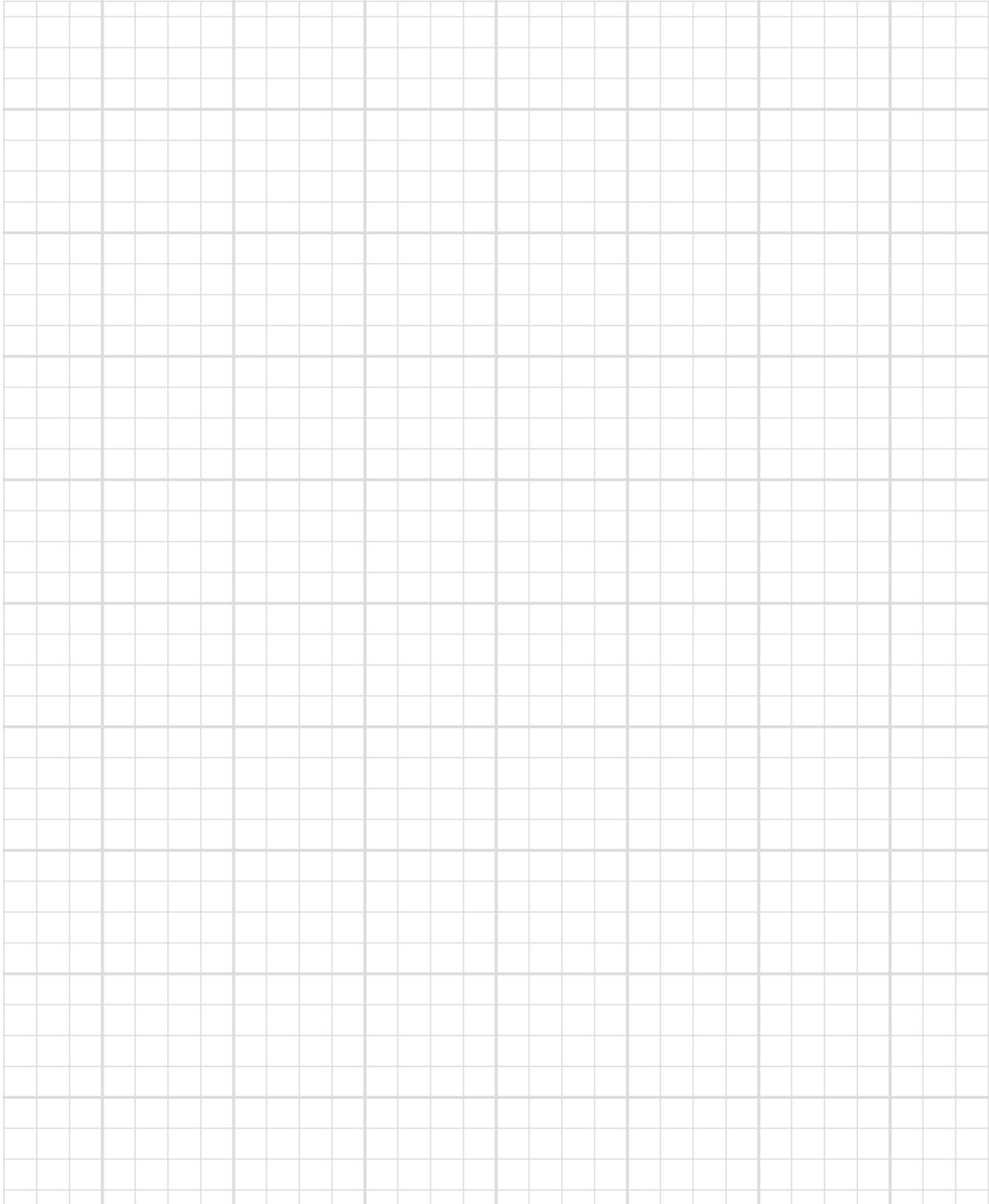
2. Address of Authorized Agent: (Street & No., City, State, ZIP)

3. Authorized Agent Phone No.

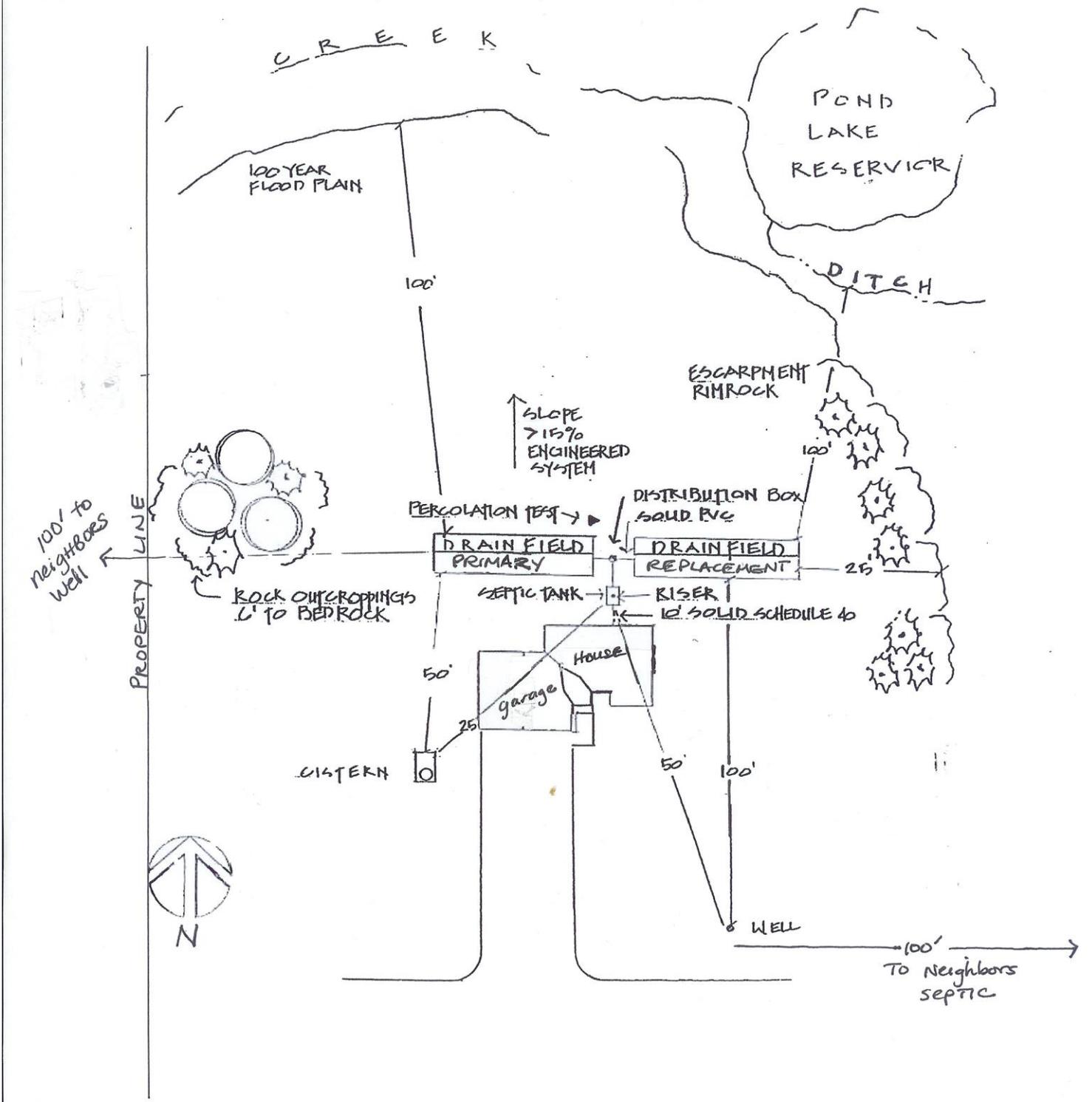
I DECLARE that I am the property owner for the address listed above and that I personally filled out the above information and certify its accuracy.

4. Property Owner's Signature

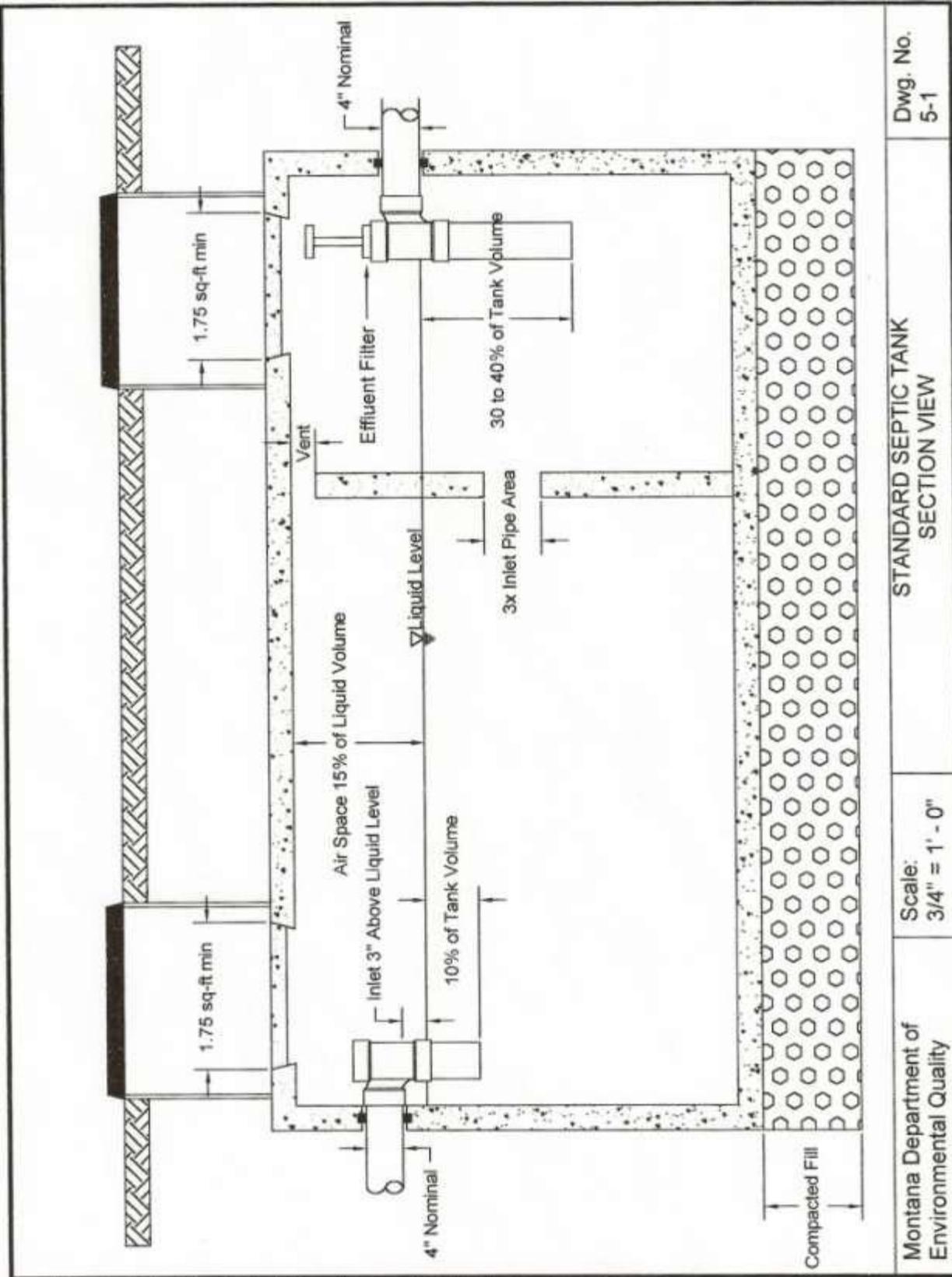
_____ Date _____



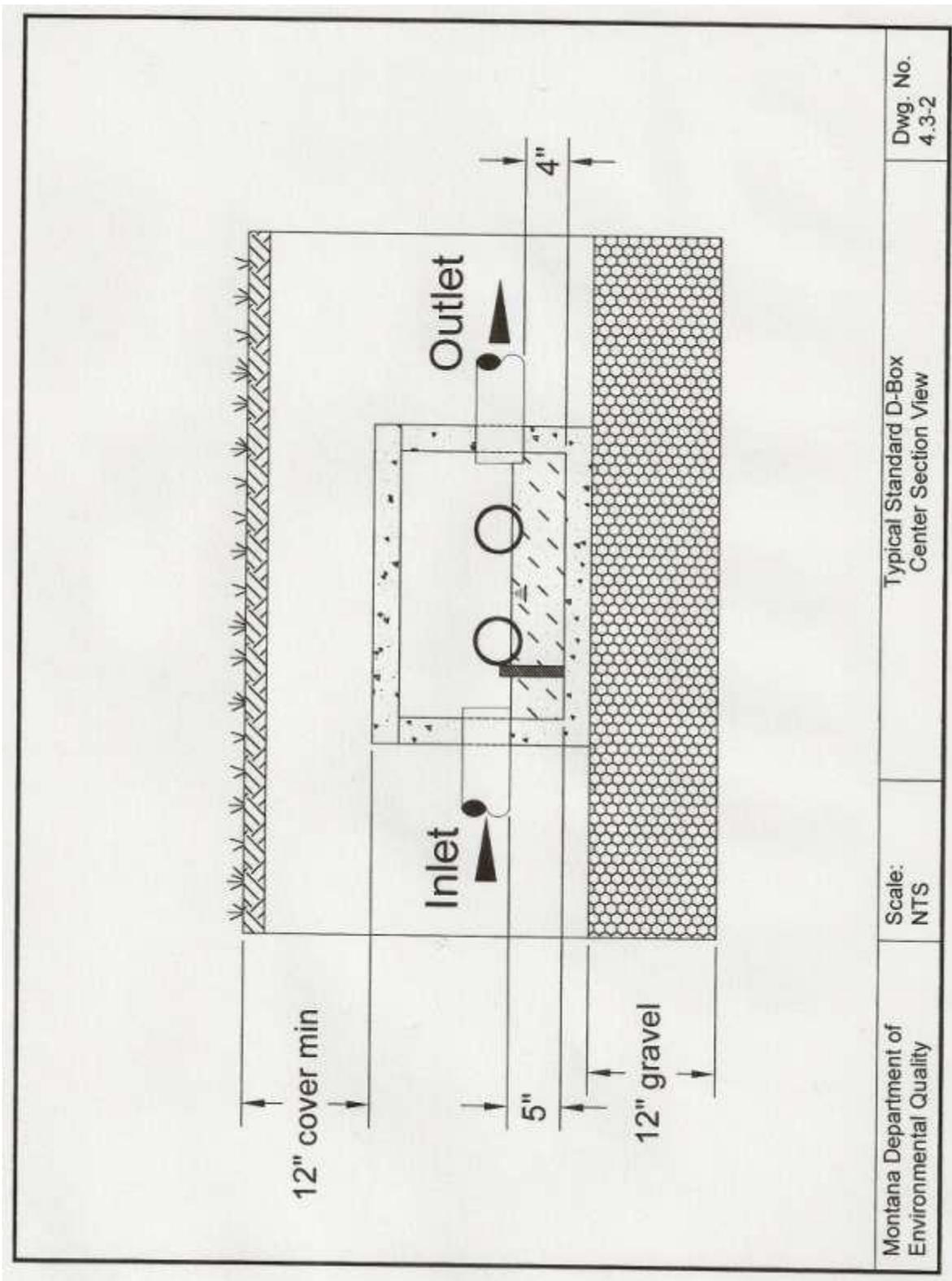
A P P E N D I X 2



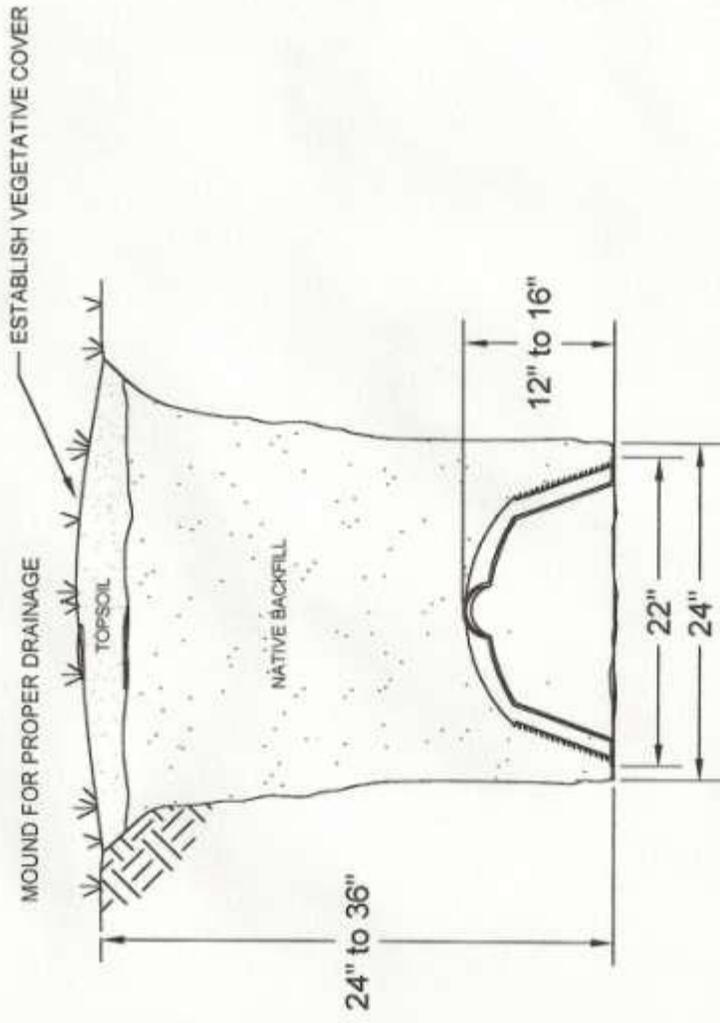
DEQ Septic Tank Illustration



<p>Montana Department of Environmental Quality</p>	<p>Scale: 3/4" = 1' - 0"</p>	<p>STANDARD SEPTIC TANK SECTION VIEW</p>	<p>Dwg. No. 5-1</p>
--	----------------------------------	--	-------------------------



DEQ Standard Septic Trench Illustration

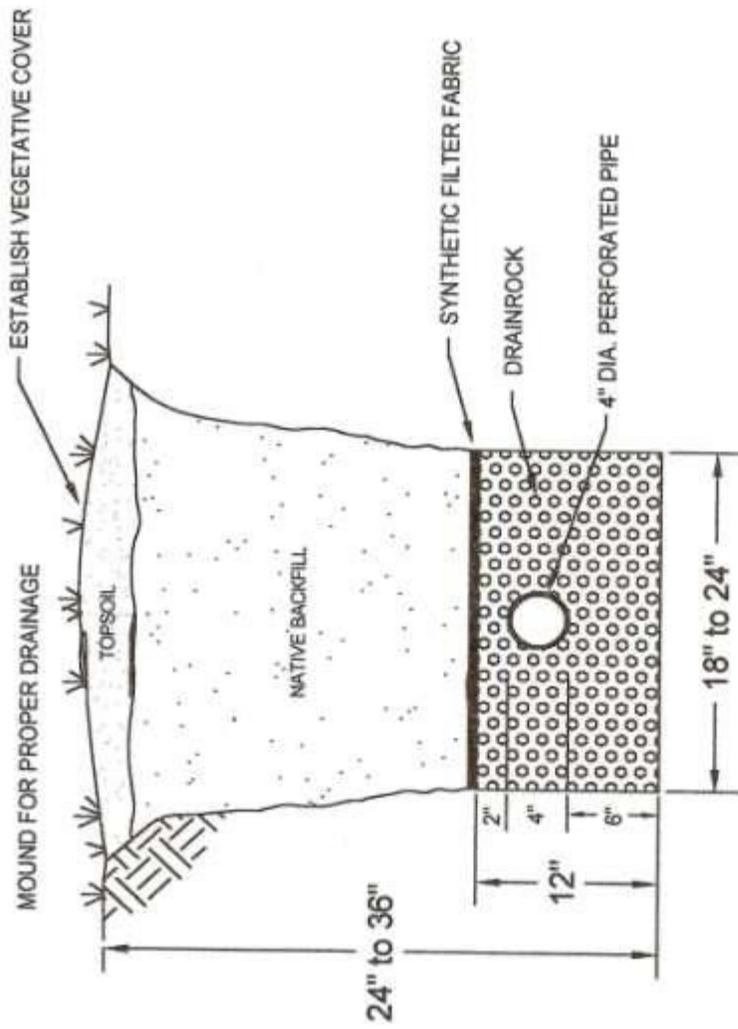


Montana Department of
Environmental Quality

Scale:
1" = 1' - 0"

Leaching Chamber Absorption Trench
Gravity Fed

Dwg. No.
6.5-1



Montana Department of
Environmental Quality

Scale:
1" = 1' - 0"

Standard Absorption Trench
Gravity Fed

Dwg. No.
6.1-1

**Tri-County Environmental Health Department
Anaconda/Deer Lodge - Granite - Powell Counties
Anaconda-Deer Lodge County Courthouse
800 South Main Street
Anaconda, Montana 59711**

Application for Variance from Onsite Septic Regulations

1. Applicant Information
First Name Last Name Phone Number
Address City State Zip
2. Legal Description (Property for which variance is requested)
3. Variance Requested (cite specific Rule/Regulation requesting variance for)

4. Items requested for the boards review: (Make 9 copies)

1. Lot Layout:

2. Vicinity map

Drawn to Scale

Dimensions/Property Lines

Proposed or Existing wells, septics, roads

North Arrow

Floodplain

Neighboring wells and septics

Existing or proposed structures

All surface water including irrigation ditches, ponds, streams, etc., on property and adjacent properties

5. Report Demonstrating Compliance with Criteria Listed Below: (Need 9 copies)

REVIEW CRITERIA- (Provide evidence for each item)

The local board of health may grant a variance from a requirement only if it finds that **all** conditions in these rules regarding the variances are met, and that granting the variance will **not**:

- 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 regulation governing water pollution or wastewater treatment and disposal, including rules in ARM 17.36.22 except for the rule that the variance is requested from;
- 5) pollute or contaminate state waters, in violation of 75-5-605, MCA,
- 6) degrade state waters unless authorized pursuant to 75-5-303, MCA; or
- 7) cause a nuisance due to odor, unsightly appearance or other aesthetic consideration.

A variance may be approved only in the event that all of the following circumstances, if applicable, are found to exist:

- 1) That the situation is unique.
- 2) That through currently acceptable scientific practices and sound engineering principles, the applicant provides evidence demonstrating that the proposal for a variance would not be detrimental to the purposes of these regulations.
- 3) That no illegal actions on the part of the applicant are the cause for this variance request.

Property Owner Signature(s) _____

Date _____ Variance Fee, \$100 Received by _____

In order to accommodate any required legal notices and/or preparation of a staff report, applications must be received by the first of each month or a minimum of 3 weeks prior to the next scheduled Board of Health meeting date unless otherwise approved by the Board of Health.