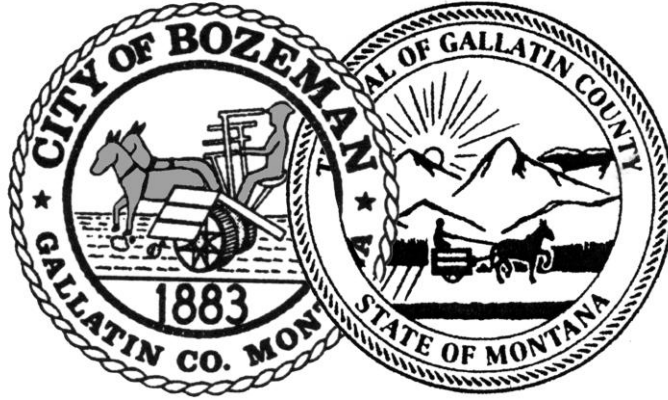


# **HEALTH CODE CHAPTER 3**



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## **Regulations for Wastewater Treatment Systems**

**Effective August 23, 2015**

**Gallatin City-County Health Department  
Environmental Health Services**

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# Health Code Chapter 3 Regulations

## Section 1 GENERAL PROVISIONS

- 1.1 The Gallatin City-County Board of Health (“Board”) recognizes the importance of the proper treatment and disposal of wastewater. Wastewater has been shown to contaminate ground water and surface water (drinking water). Fecal matter in wastewater can transmit parasites, bacteria and viruses to drinking water. Such contamination can cause diseases such as dysentery, infectious hepatitis, typhoid, paratyphoid, and various diarrheal infections. Wastewater has also been shown to carry many chemicals at levels that are above background conditions and which are known to directly or indirectly cause health hazards. Examples include ammonia, ammonium, nitrate, nitrite, phosphate, metals, pharmaceuticals, and personal care products. The regulations in Chapter 3 have been developed using standards which are based on proven technology for the siting, design, construction, installation, and maintenance of wastewater treatment systems, and are adopted to assist with the proper treatment and disposal of wastewater in order to reduce potential public-health hazards.
- 1.2 The authority and scope of these regulations are based on Title 50, Chapter 2, Part 1, Montana Code Annotated (“MCA”). These regulations apply to Gallatin County, Montana.
- 1.3 The Board adopts the following by reference in its current edition and also prospectively adopts any amendments made thereto by the State of Montana:
- A) Administrative Rules of Montana (“ARM”) Section 17.36, Subchapter 9 (“Treatment Rules”); and
  - B) Circular DEQ 4, “Montana Standards for Subsurface Wastewater Treatment Systems.” (“DEQ 4”)
- 1.4 The Board authorizes the Health Officer to administer and enforce these regulations.
- 1.5 Section 50-2-116, MCA allows the Board to charge reasonable and necessary fees for services as determined by the Board. This Regulation contains a Fee Schedule for services. Fees adopted in these regulations are based on, but do not exceed, the actual cost of service as determined by Gallatin County.
- 1.6 For orderly administration and enforcement of these regulations the Board may adopt policies consistent with these regulations and Montana law.
- 1.7 The Health Officer may develop procedures consistent with these regulations and Board policies to provide the means and methods for EHS to assist in the administration and enforcement of these regulations.
- 1.8 These regulations govern those individual, multiple-user, commercial and certain types of public subsurface wastewater treatment systems set forth in DEQ 4.
- 1.9 As used in these regulations the following definitions apply:

**Apply** • the act of any person who owns real property, in order to obtain any permit or authorization for a WWTS. In order to Apply a person must provide the Health Officer a COSA or a Site Evaluation.

**Applicant** • one who Applies or makes Application or an agent thereof.

**As-built** • a post-construction drawing, which accurately depicts WWTS components and other on-site features.

**Authorization to Construct** • upon issuance this authorization allows the construction, repair, replacement, or alteration of a WWTS.

**C & R** • Gallatin County Clerk and Recorder’s Office.

**Certificate of Subdivision Approval (COSA)** • a certificate issued by MDEQ pursuant to 17-36-110, ARM reviewing and approving real property which requires a water supply and sewer (also known as Release of Sanitary Restrictions (RSR)).

**EHS** • Gallatin City-County Health Department, Environmental Health Services, an agent of the Health Officer.

**Final Approval** • is granted upon review and acceptance of the System Certification and an As-built.

**Health Officer** • the individual appointed by the Board as the Health Officer pursuant to Section 50-2-116(1)(a), MCA or an agent of the Health Officer.

**Installer** • an individual possessing a valid Registration of Competency to construct, repair, replace, or alter a WWTS based on demonstration of sufficient evidence of competence to install WWTS components in accordance with manufacturer's instructions and requirements of DEQ 4.

**MDEQ** • the Montana Department of Environmental Quality.

**Permit Number** • the number assigned in sequential fashion by the Health Officer which applies to both an Applicant's individual Authorization to Construct and Permit to Operate a single WWTS.

**Permit to Operate** • upon Final Approval the authorization to operate a WWTS.

**Person (person)** • an individual, business association, limited liability company, partnership, corporation, government, or other legal entity.

**Registration of Competency** • a registration issued by the Health Officer to an individual who has demonstrated sufficient evidence of competence as required in DEQ 4 to perform Site Evaluations or to be an Installer in Gallatin County.

**Site Evaluation** • the act of evaluating the location of a proposed WWTS in accordance with DEQ 4. The Health Officer, in accordance with DEQ 4, may require prior authorization to conduct a Site Evaluation including any corresponding ground water monitoring. A Site Evaluation shall disclose the location of any previous or existing WWTS for a Tract of Record.

**Site Evaluator** • an individual who holds a Registration of Competency to perform Site Evaluations or an individual is qualified as a Site Evaluator based solely on the individual's education, licenses or credentials that satisfy DEQ 4.

**System Certification** • a written acknowledgment that a WWTS or component(s) was installed in accordance with the Authorization to Construct and applicable regulations.

**Tract of Record** • a discrete parcel of real property as defined in Section 76-3-103(16)(a), MCA.

**Unpermitted WWTS** • any WWTS that does not have Authorization to Construct or Permit to Operate.

**Wastewater** • "Wastewater" located in Gallatin County, Montana as defined in the Treatment Rules.

**WWTS** • a "Wastewater treatment system" located in Gallatin County, Montana as defined in the Treatment Rules including any pipes, conduits, or other stationary method by which water, sewage, or solid wastes might be transported or distributed through the system.

- 1.10 A person violates these regulations or does not comply with the rules set forth in these regulations if the person:
- A) Constructs, repairs, replaces, or alters a WWTS unless the person holds an Authorization to Construct.
  - B) Allows, promotes or facilitates the construction, repair, replacement or alteration of a WWTS without an Authorization to Construct.
  - C) Operates or uses a WWTS without a Permit to Operate.
  - D) Generates or disposes of Wastewater in a manner or with a WWTS that does not comply with DEQ 4, in violation of the Treatment Rules, or without a Permit to Operate the WWTS.
- 1.11 A Permit to Operate may be subject to no more than a 5-year termination date from the date of issuance for re-examination to determine compliance with these regulations
- 1.12 An Authorization to Construct or a Permit to Operate may be denied if an Applicant does not comply with other agencies, districts, or other governmental entity's bylaws, ordinances, laws, rules or regulations.
- 1.13 An Authorization to Construct will only be issued if the following are properly recorded with the C & R:
- A) A Tract of Record where the WWTS will be located; and
  - B) A COSA or a Health Officer approval (if applicable) for the Tract of Record where the WWTS will be located.
- 1.14 A WWTS authorization or permit governs only the installation and operation of wastewater treatment systems. A WWTS approval or inspection by the Health Officer does not guarantee the workmanship, operation or longevity of any system. Subdivision covenants are not enforceable under these regulations. No WWTS approval or permit is considered a building permit or any other permit that may be required by other agencies to build in Gallatin County.
- 1.15 An Application or request for assistance with a Site Evaluation or ground water monitoring establishes the Applicant's consent to allow the Health Officer or agents thereof to enter the property for determining compliance with state and local approvals and regulations.
- 1.16 Any new construction, repair, replacement, or alteration of any portion of or all of an existing WWTS, or change in use of improvements to real property, may require that the entire system meet these regulations for location, design and construction of a WWTS based on a determination of the Health Officer regarding substantial compliance with these regulations, Montana law and the health, safety and welfare of the public.
- 1.17 The Health Officer shall apply the Treatment Rules, DEQ 4 and these regulations to any Application notwithstanding the terms of any COSA that applies to the real property. For the purpose of evaluating any Application, the Health Officer shall assume that any COSA requirements are for one single-family dwelling per Tract of Record if not already specified in the COSA.
- 1.18 The owner of the property served by the WWTS is responsible for system operation and maintenance in accordance with the Treatment Rules, DEQ 4 and these regulations. The Health Officer may require proof of compliance with these regulations.
- 1.19 In any case where a provision of these regulations is in conflict with a provision of any law, zoning, building, fire, safety or health ordinance, regulation or code of the federal, state or a local government the Health Officer shall interpret these regulations to establish the greater protection of public health, safety and welfare.
- 1.20 If any section, subsection, paragraph, sentence, clause, or phrase of the regulation should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of these regulations, which shall remain in full force and effect.

## **Section 2**

### **AUTHORIZATION AND PERMITTING PROCESS**

- 2.1 In order to obtain an Authorization to Construct an Applicant must Apply on forms provided by the Health Officer and pay all fees. The Application may be denied if it does not comply with these regulations.
- 2.2 Upon receipt of a complete Application the Health Officer will:
- A) Determine if a COSA has been recorded with the C & R with sufficient information to determine compliance with these regulations; or
  - B) Review and verify a Site Evaluation to determine if suitable conditions exist for on-site wastewater treatment and disposal.
- 2.3 The Health Officer will issue an Authorization to Construct and issue a Permit Number upon determination that the Application complies with these regulations. An Authorization to Construct is valid for 24 months unless modified upon showing of good cause to the Health Officer.
- 2.4 The Applicant must schedule an inspection with the Health Officer after installation of WWTS components by the Applicant.
- 2.5 A System Certification and As-built must be submitted to the Health Officer. Upon review of the System Certification and As-built, and determination of compliance with these regulations, the Health Officer will grant Final Approval and the Authorization to Construct becomes a Permit to Operate.
- A) An Unpermitted WWTS may receive a Permit to Operate and Permit Number when it is likely that public health will not be adversely affected after the Health Officer applies consistent criteria and standards in order to determine substantial compliance with these regulations and Montana law.
  - B) The Health Officer is authorized to adopt procedures to issue an Authorization to Construct, Permit to Operate or Permit Number for a WWTS in exigent or other circumstances in order to protect the public health after the Health Officer applies consistent criteria and standards in order to determine substantial compliance with these regulations and Montana law. The Health Officer may reasonably condition any such permit, approval or registration.
- 2.6 An Authorization to Construct or Permit to Operate may be reasonably conditioned by the Health Officer if such conditions are consistent with the Treatment Rules and DEQ 4.
- 2.7 In evaluating an Application, the Health Officer shall take an abandoned WWTS or components thereof into consideration when identified in a Site Evaluation or by inspection. The Health Officer may condition any new Authorization to Construct or Permit to Operate on providing proof that WWTS components including septic tanks, grease traps, dosing tanks or pumping chambers are emptied by a person licensed by MDEQ to do so and:
- A) Removed and disposed of at an approved facility;
  - B) Filled with sand, gravel or soil and buried in place or
  - C) Crushed and buried in place.
- 2.8 A Permit Number may be issued for a permit or authorization of another governmental authority in order to create a record of a WWTS.

- 2.9 The Health Officer may invalidate or revoke any permit or authorization upon good cause shown that a provision of these regulations, the Treatment Rules or DEQ 4 have not been followed. The Health Officer may deny an Application or may invalidate, revoke, suspend, or modify any permit, authorization, approval, or registration for any person who has:
- A) Failed or refused to comply with the provisions of these regulations or any other law regulating the operation of a WWTS; or
  - B) Obtained or attempted to obtain a permit or any other required certificate or approval by fraud, misrepresentation, purposeful omission or submits false or inaccurate information in support of its Application.

### **Section 3 SUBSTANTIVE PROVISIONS**

- 3.1 A WWTS or a WWTS for which a Permit Number is issued must comply with the Treatment Rules, DEQ 4 and these regulations in order to obtain or maintain an Authorization to Construct or Permit to Operate.
- 3.2 The following regulations in this subsection are more stringent than the Treatment Rules and requirements of DEQ 4. The Health Officer shall maintain specific records of the Board's written findings which are based on evidence in the record made after a public hearing and public comment that these regulations: 1) protect public health and the environment; 2) can mitigate harm to the public health or environment; and 3) are achievable under current technology. The Health Officer's records must show the basis of the findings from information and peer-reviewed scientific studies that form the basis for the Board's conclusion. The written findings must also include information from the hearing record regarding the costs to the regulated community that are directly attributable to these Regulations that are more stringent than the Treatment Rules and requirements of DEQ 4.
- A) Systems installed in medium sand, sandy loam soils with percolation rates faster than 10 mpi or with application rates greater than or including 0.6 gpd/ft<sup>2</sup> must be pressure dosed.
  - B) To construct, repair, replace, or alter a WWTS a person must hold a valid Registration of Competency as an Installer.
- 3.3 The Health Officer may require monolithic, sealed or ballasted tanks in high ground water areas in order to meet the requirements of DEQ 4.
- 3.4 Public Wastewater Treatment Systems: Plans for public WWTS shall be reviewed and approved by MDEQ pursuant to Section 75-6-102, MCA and the Health Officer will issue a Permit Number based on approved MDEQ plans. Replacement or additional system components not covered under the originally MDEQ approved design may require a review and local approval prior to construction.

### **Section 4 ENFORCEMENT AND VARIANCES**

- 4.1 The Health Officer may ask for assistance from the Gallatin County Code Compliance Specialist for investigation of violations of these regulations.
- 4.2 The Health Officer may:
- A) Convene a meeting with an Applicant or owner of property with a WWTS that does not conform with these regulations.

- B) Issue enforcement notices or orders directed to the owner or operator of a WWTS or other person causing or responsible for the violation of these regulations including:
  - 1) Ordering corrective measures necessary to effect compliance with these regulations which may include a compliance schedule;
  - 2) Ordering work to stop on or the use of any WWTS or portion thereof until all necessary, permits, approvals and registrations are obtained; or
  - 3) Invalidation, denial, suspension, modification, or revocation of permits, approvals, or registrations.
- C) Initiate civil or criminal actions, including a request for the assessment of penalties or fines allowed by law.

4.3 Any enforcement order issued under this section shall:

- A) Be in writing and contain a basic legal property description of the parcel(s) of land.
- B) Name the person or persons to whom the order is directed.
- C) Briefly describe each action or inaction constituting a violation of these regulations or other relevant law.
- D) Specify any required corrective action, if applicable.
- E) Specify the effective date of the order, with time or times of compliance.
- F) Provide notice of the consequences of failure to comply. Such notices may include a statement that continued or repeated violation may subject the violator to:
  - 1) Invalidation, denial, suspension, or revocation of any permit, approval, or registration;
  - 2) Request for civil enforcement and prosecution in court; or
  - 3) Other appropriate remedies.
- G) Provide the name, business address, and phone number of an appropriate staff person who may be contacted regarding an order.

4.4 Enforcement orders should be served in the manner of service of a summons in a civil action or sent by certified mail or in another manner showing proof of receipt.

4.5 As per 17.36.922, ARM, the Board will hear variance requests from the Treatment Rules and DEQ 4. The Health Officer may provide additional forms and charge fees for consideration of a variance.

4.6 If a variance request is approved, the Board's findings will be filed at the C & R's office for the subject property.

4.7 If a variance is denied, the Application is denied, and any new proposal must start with a new Application. When a variance is denied the Applicant may appeal to MDEQ under Section 75-5-305, MCA.

4.8 The Board shall hear appeals which allege error of any written decision of the Health Officer. Appeals shall be conducted in accordance with regulations, rules or policies the Board establishes for that purpose. An appeal to the Board must be made within 21 days of a written decision of the Health Officer and the Board shall either affirm, modify or reverse the decision of the Health Officer.

**Health Code Chapter 3  
Fee Schedule  
(Effective August 23, 2015)**

<b>Permit Fees</b>	
New	\$375 + Review Fee
Replacement	\$375 + Review Fee
Upgrade/Extension	\$375 + Review Fee
Multiple User	\$485 + Review Fee
Commercial	\$485 + Review Fee
Public	\$485
Public/Commercial System Component Fee	\$320
Experimental	\$590 + Review Fee
Tanks Only	\$320 + Review Fee
Unpermitted WWTS	\$375
<b>Review Fees</b>	
Lots Not Requiring Site Evaluation	\$140
Lots Requiring Site Evaluation	\$275
Additional Review Fee	\$200
Application & Permit Modifications	\$140
Design or Drainfield Location Change	\$275
Application or Auth. To Construct Extension	\$84
<b>Variance Fee</b>	
First Variance Request	\$690
Each Additional Variance Request	\$290
<b>Re-inspection Fee</b>	
	\$140
<b>Office Consultation/Service/Site Visit Fee</b>	
	\$84/hr
<b>Competency Exam/Registration</b>	
Installer Competency Exam	\$200
Site Evaluator Exam	\$275
Registration Fee	\$84
Homeowner Installation Exam	\$105