

HEALTH AND ENVIRONMENT REGULATIONS
Chapter 3: Lincoln County Wastewater Treatment and Disposal Regulation
10 May 2017 (Revised 10 October 2018)

SUBCHAPTER 1: GENERAL PROVISIONS

3.1.101 INTENT: The purpose of this regulation is to protect the health, safety and welfare of the people of Lincoln County by requiring that on-site wastewater treatment and disposal be accomplished in a manner that prevents the creation of health hazards, adverse environmental effects, the pollution of water, and the use and enjoyment of property.

3.1.102 AUTHORITY:

- (1) Authority for regulations promulgated in this rule is provided for in MCA 50-2-116.
- (2) As required by M.C.A. 50-2-116 (1)(i), the Lincoln County Board of Health hereby adopts by reference A.R.M. Title 17, Chapter 36, Subdivisions/On-Site Subsurface Wastewater Treatment as a part of the Lincoln County Wastewater Treatment and Disposal Regulation.

3.1.103 DEFINITIONS: The following definitions shall apply in the interpretation and enforcement of this rule:

- (1) "Altered" - to have physically changed a wastewater treatment and disposal system
- (2) "Board of Health" - is the City-County Board of Health of Lincoln County
- (3) "Department" - Lincoln County Health Department
- (4) "Health Officer" - Lincoln County Health Officer or their designated representative
- (5) "Licensed Installer" - a contractor holding a current license, issued by the Department, to install, alter or repair wastewater treatment and disposal systems regulated by the Board of Health
- (6) "Person" - any individual, institution, corporation, association, or other private or governmental entity
- (7) "Primary Treatment" - a treatment system, such as a septic tank, that provides retention time to settle the solids in raw wastewater and that retains scum within the system
- (8) "Secondary Treatment" - the further treatment of wastewater after primary treatment, such as in a subsurface drain field
- (9) "System" - any on-site wastewater collection, treatment, or disposal system, such as a septic system, holding tank, composting toilet, or portable toilet, that provides primary or secondary treatment or containment.
- (10) "Wastewater" - water-carried waste including, but not limited to, household, commercial, or industrial wastes, chemicals, human excreta, or animal and vegetable matter in suspension or solution

SUBCHAPTER 2: COMPLIANCE REQUIREMENTS

3.2.101 PROHIBITED ACTS: It shall be unlawful to violate any provision of this regulation. It shall be unlawful for any person to install, construct, alter, extend, repair, or use a wastewater treatment and disposal system that is in violation of this regulation. It shall be unlawful to use a malfunctioning system, to remove wastewater or human excreta from a system and dispose of it in or at an unauthorized location, or to collect and/or dispose of wastewater or human excreta in an unpermitted manner.

3.2.102 PERMIT: A valid permit issued by the Department is required before a wastewater treatment and disposal system can be installed, constructed, altered, extended, placed or replaced.

- (1) An application for a permit shall be made to the Department. The application shall be made by the owner of the property, or his authorized agent, on a form provided by the Department; signed and dated by the applicant and shall include the following information:
 - (a) The name, address and telephone number of the applicant.
 - (b) A legal description, size and address of the property on which the system is located or proposed.

- (c) A site plan. A site evaluation shall be made as required by A.R.M. 17.36.101(55) to determine if a site is suitable for the installation of a subsurface wastewater treatment system. The evaluation and site plan shall be made by the property owner or a licensed installer on forms provided by the Department and shall include the information necessary to complete the forms and any additional information deemed necessary by the Department to ensure compliance with this regulation.
- (2) A permit shall be issued upon approval of the application by the Department, and the payment of the permit fee. Once a permit has been issued by the Department, construction may begin.
- (3) Permit fees are included in the Wastewater Fee Schedule and approved by the Board of Health. The current Wastewater Fee Schedule is by this reference incorporated herein. Checks shall be payable to Lincoln County. This fee is non-refundable.
- (4) A new waste water source may be connected into an existing system provided the system meets the following criteria:
 - (a) The system has been described as to its location, composition, capacity and soundness in written notice provided to the Department.
 - (b) The system has adequate capacity to treat anticipated maximum daily wastewater discharges.
 - (c) The system provides primary and secondary treatment.
 - (d) The system generally complies with this regulation.
- (5) A permit shall be issued to replace a system provided the following conditions are met:
 - (a) The existing system cannot be effectively repaired.
 - (b) The replacement system complies with this regulation.
 - (c) A variance has been granted by the Board of Health in accordance with A.R.M. 17.36.922, if one is needed.
- (6) If a permit has not been used for its intended purpose, and the system has not been approved within twelve (12) months of the date the permit was issued, the permit shall expire and will be invalid.
- (7) Any changes in plans, details or specifications of construction not approved by the Department, after the permit is issued, shall invalidate the permit and a new permit will be required for installation.
- (8) The Department shall disapprove an application for a permit if they determine that any of the following conditions exist:
 - (a) The system will not comply with this regulation.
 - (b) The application is incomplete.
 - (c) The permit fee has not been paid in full.
 - (d) The tract of land on which the system is proposed is being reviewed under the Sanitation in Subdivision Act.
 - (e) The system would violate the provision of a Certificate of Survey (COS) plat approval.
- (9) A permit denial may be appealed to the Board of Health as provided in A.R.M. 17.36.922. The appeal must be made in writing and submitted to the Board of Health within sixty (60) days of the denial. If a request for variance is denied by the Board of Health, the appellant may seek a variance from the State, according to the provisions in A.R.M. 17.36.924.

3.2.103 INSTALLER LICENSE

- (1) It shall be unlawful for any person, except as delineated in this section, to construct or alter a wastewater treatment and disposal system within Lincoln County unless that person holds a valid Lincoln County Wastewater Treatment and Disposal System Installer's License. A homeowner constructing or altering an individual system for his/her own residence upon his/her own property is exempt from this requirement but remains subject to all provisions of this regulation, including permitting, and inspections as deemed appropriate by the Department. Builders who may own several parcels of land and who build structures on these parcels for sale, rent or lease and not for the purpose of their residing in said structures, shall not be considered a "homeowner" and are not exempt from this requirement.
- (2) All first-time applications for installer licenses shall be made to the Department who may grant the license upon completion of the following:
 - (a) Name, address and telephone numbers of the applicant.
 - (b) Passing the required examination.
 - (c) Receipt of the license fee payment. License fees are included in the Wastewater Fee

Schedule and approved by the Board of Health. The current Wastewater Fee Schedule is by this reference incorporated herein. Checks shall be payable to Lincoln County. This fee is non-refundable.

- (3) All applications for license renewal shall contain all the elements of a first-time application except that the examination requirement may be waived if the applicant has demonstrated knowledge of good wastewater treatment and disposal system design and/or installation in the year immediately preceding the application.
- (4) Installer licenses shall be valid for the two years stated on the license unless revoked and shall be renewable prior to expiration. Licenses are not transferable.
- (5) Installer licenses may be denied for any of the following reasons:
 - (a) Having constructed or altered a wastewater treatment and disposal system without a valid permit, and/or,
 - (b) Having a license revoked within twelve (12) months preceding the application, and/or,
 - (c) Failure to meet the terms of the License Application.
- (6) Installer licenses are the property of the Department and may be revoked by the Department at any time for the following reasons:
 - (a) Installation of a wastewater treatment and disposal system prior to the issuance of a permit, and/or,
 - (b) Failure to gain approval for a wastewater treatment and disposal system installation, and/or,
 - (c) Having provided false evidence or information to obtain a permit or gain approval of an installation.
- (7) In the event that a revocation of the license is deemed appropriate, the Department shall notify the licensee in writing that the license has been revoked. Reasons for the revocation shall be specified in the letter and it shall be given to the licensee by registered mail.
- (8) The term of revocation will be for a minimum of one calendar year from the date of violation or longer as determined by the Board of Health.

3.2.104 INSPECTION AND OPERATION

- (1) All new or altered systems shall be inspected by the Department, or by a Department licensed installer, prior to backfilling, unless the Department has determined that an inspection is not necessary.
- (2) The applicant shall notify the Department at least forty-eight (48) hours prior to backfilling, so that arrangements for an inspection can be made.
- (3) If the inspection shows that the system is not in compliance with the permit, the system cannot be backfilled until it is brought into compliance.
- (4) The Department inspector, or licensed installer, shall provide the Department with a signed endorsement attesting that the system has been installed in compliance with the permit.

3.2.105 DESIGN AND CONSTRUCTION STANDARDS: On-site wastewater treatment and disposal systems shall be designed and constructed in accordance with the requirements described in A.R.M. Title 17, Chapter 36 and Montana Department of Environmental Quality Circular 4 which are included in A.R.M. Title 17, Chapter 36 by reference. Copies of the Regulation and Circulars can be obtained from the Department.

SUBCHAPTER 3: ENFORCEABILITY AND PENALTIES

3.3.101 ENFORCEABILITY: The provisions of this regulation are enforceable by the Lincoln County Sheriff's Office, the Health Officer, the Department, or any other law enforcement personnel with jurisdiction.

3.3.102 POWERS AND DUTIES OF THE DEPARTMENT:

- (1) The Health Officer is hereby authorized to enter upon private property to make such inspections as are necessary to determine satisfactory compliance with this regulation.
- (2) The owner or occupant of a property shall give the Health Officer free access to the property at reasonable times for the purpose of making such inspections as are necessary to determine

compliance with the requirements of this regulation.

- (3) The Health Officer will determine whether or not this regulation applies after an inspection of the property or area.
- (4) The Health Officer will serve a written Notice of Violation and/or Notice to Appear and Complaint on the person who owns, leases or occupies the property on which a violation of this regulation exists. The notice(s) may be served in person or by certified mail with return receipt.
- (5) The Health Officer can set a deadline for compliance and approve/disapprove a proposed compliance plan.
- (6) If the violation has not been corrected by the deadline, the Health Officer, or their contractor or designee, may enter onto the property for the specific purpose of abating or mitigating the violation.


3.3.103 PENALTIES:

- (1) Violation of any part of this regulation shall constitute a misdemeanor punishable by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00). Each day of violation will constitute a separate offense. The first day of violation shall be the date of the Notice of Violation.
- (2) Actions to recover the expenses incurred under 3.3.102(6) shall be brought in the name of the county as provided by MCA 50-2-123.

SUBCHAPTER 4: SEVERABILITY AND CONFLICT OF ORDINANCE

3.4.101 CONFLICT: 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 of Lincoln County, existing on the effective date of this regulation, the provision which establishes the higher standard for the protection of public health and safety shall prevail.

3.4.102 SEVERABILITY: If any provision of this regulation is declared invalid by any court or tribunal, the remaining provisions of this regulation shall not be affected thereby.



Board Chair
City-County Board of Health for Lincoln County, MT

10/10/18

Date