

RESOLUTION NO. 2018- 30
BOARD OF COUNTY COMMISSIONERS OF
RIO BLANCO COUNTY, COLORADO

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF RIO BLANCO COUNTY, COLORADO AMENDING THE TEXT OF RESOLUTION 2018-26, A RESOLUTION ADOPTING ONSITE WASTEWATER TREATMENT SYSTEMS REGULATIONS (OWTS) FOR RIO BLANCO COUNTY.

WHEREAS, Rio Blanco County is a legal and political subdivision of the State of Colorado, for which the Board of County Commissioners, hereinafter "BOCC" is authorized to act; and

WHEREAS, the BOCC is authorized by Sections 29-20-101 through 104, 30-11-103, 30-28-111 through 115, 30-28-133 C.R.S. as amended and other powers authorized by the Constitution of the State of Colorado or Colorado State Statutes to adopt land use regulations governing the unincorporated areas of Rio Blanco County; and

WHEREAS, on the 18TH day of June, 2018, the BOCC adopted Resolution 2018-26, adopting an amendment to the 2016 Rio Blanco County Land Use Regulation establishing OWTS regulations for Rio Blanco County, Colorado; and

WHEREAS, the BOCC is authorized by the provisions of 30-28-116, C.R.S., as amended, and Section 1-102 of the 2016 Rio Blanco County Land Use Resolution to provide for the approval of amendments to the 2016 Rio Blanco County Land Use Resolution; and

WHEREAS, the Board of County Commissioners of Rio Blanco County, Colorado, (hereinafter the "Board"), acting as the Board of Health, is authorized, pursuant to state enabling legislation including but not limited to § 25-10-101, et seq. C.R.S., and under the authority contained in the On-site Wastewater Treatment System Act to adopt regulations regarding On-site Wastewater Treatment Systems; and

WHEREAS, the requirements of the Colorado Water Quality Control Commission's On-site Wastewater Treatment System Regulation, Regulation 43, 5 CCR 1002-43, effective date of April 30, 2018, are made a part of these regulations and will apply except where identified as an option in Appendix A, or where these regulations are more stringent than Regulation 43, and included in these regulations. All aspects of an On-site Wastewater Treatment System including, but not limited to, permits, design, performance, location, construction, alteration, inspection, maintenance and use must be as provided in Regulation 43 and any additional requirements contained in these regulations.

WHEREAS, the Board finds that the following amendments to the 2018 Rio Blanco County On-Site Wastewater Treatment Systems Resolution are in the best interests of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of Rio Blanco County;

NOW THEREFORE BE IT RESOLVED, the OWTS Regulations adopted by Resolution 2018-26 are amended as follows:

A. The referenced Sections of Exhibit "A" to Resolution 2018-26 are amended to read as follows:

3. Inspections [43.4(E)]

Septic Tank [43.9(B)(3)(c)]

1. The applicant must notify the local public health agency or its designee the Rio Blanco County Building Division 2 days prior to inspection so the local public health agency or its designee can conduct a field inspection of the septic tank before backfilling.

Soil Treatment Area and Related Components [43.4(F)(3)]

2. The applicant must notify the local public health agency or its designee the Rio Blanco County Building Division 2 days prior to inspection so the local public health agency or its designee can conduct a final field inspection of the soil treatment area and all related components of the OWTS before backfilling.
3. Inspection Process:
 - a) During the installation of the onsite wastewater treatment system, all system components shall be inspected and approved by the Building Division and the design Engineer prior to back-filling.
 - b) The owner shall be responsible for providing the Building Division and the design Engineer, with sufficient notice to perform all inspections required by the permit.
 - c) The owner shall assure reasonable and safe access for the inspection of any excavation required in the installation of the permitted system. For the purpose of these Regulations, a ladder is not considered reasonable and safe access.
 - d) If during the installation of the system an inspection reveals any significant departure from the design of the permitted system or change in the proposed water supply, or if any aspect of the system fails to comply with these Regulations, the Building Division shall provide the owner with written notice of the deficiencies.
 - e) If upon final inspection the Building Division finds the system is installed in accordance with these Regulations and the permit conditions, the Building Division shall approve the completed system.
 - f) No onsite wastewater treatment system shall be approved for use without a final inspection by the Building Division.

4. Final Permit Approval:

Final approval of the permit by the Building Division shall be granted after receipt or completion of each of the following:

- a) Receipt of a letter from the design engineer certifying construction of system as designed.
- b) Receipt of design engineer's as-built drawing, which shall include at a minimum a scaled drawing showing the OWTS as installed, including its location from known and findable points, dimensions, depths, sizes, manufacturers' names and models, as available and other information relative to locating and maintaining the OWTS components.
- c) Final inspection prior to backfilling system by the Building Division confirming that the OWTS was installed according to the permit requirements and regulations or variances to the regulations.
- d) Any other information, data, plans, specifications and tests as required by the Building Division.

43.4 (N)

A. Variances Allowed

1. The Board of Health may approve a variance from a requirement of this Regulation. Variances cannot be granted by staff.
2. Approval of a variance must be based upon evidence presented by the applicant, or their designee, showing that the variance
 - a) would not be injurious to the public health, water quality, or environment; and
 - b) would prevent a substantial hardship to the applicant.
3. Variances must not be granted under the items identified in section 43.4(N)(5) of Regulation 43.
4. The Board of Health will determine what type of variances will require public hearings. Prior to the rendering a decision on a variance request requiring a public hearing, a public hearing must be held. The hearing must be subject of a public notice or notice must be sent via certified mail, with a minimum 20-day reply time from the date of mailing, to all adjacent property owners.

B. Variance Procedure

1. Variance requests must be provided by filing an application on a form provided by the Rio Blanco County Board of Health or its designee, as permitted by Sec 43.4. Variance submittals and appropriate fees must be received by the Board of Health or its designee within 30 days of the date of the denial.

2. Variance requests must include all items identified in section 43.4(N)(2)(d) of Regulation 43 or will be considered incomplete and the applicant will be notified of the deficiencies.
3. The applicant has the burden of proof to demonstrate that the variance is justified and will pose no greater risk to public health and the environment than would a system meeting these Regulations. The Board of Health must determine if this item has been addressed and proven prior to granting a variance.
4. The Board of Health has the authority to impose site-specific requirements and conditions on any variance granted.

C. Variances for Repair of Failing Systems

1. When a proposed variance for a system repair or upgrade would result in encroachment on minimum distances to physical features on neighboring properties required by the Regulation 43, the hearing procedures in 43.4.N.2 must be followed.
2. For the repair of or upgrade to an existing system where the existing system does not meet the required separation distances and the conditions other than lot size precludes adherence to the required distances, a variance to the separation distances may be requested. The repairs or upgrade must be no closer to features requiring setbacks than the existing facilities. Variances requesting setbacks no closer than existing setbacks do not have to provide technical justification from a professional engineer or professional geologist.

D. Outcome of Variance Proceeding

1. The applicant will be notified, in writing, of the Board of Health's decision regarding the request.
2. A notice of approval will include any conditions that are required to be met. The variance and any conditions thereof, must be recorded on the deed to the property, any expenses with that recording must be the responsibility of the party obtaining the variance.
 3. A notice of a denial of a variance will include all reasons why the request was denied.

B. These regulations are adopted by the Board pursuant to and under authority contained in the On-site Wastewater Treatment System Act, 25-10-101, et seq. C.R.S.

C. A copy of the 2018 Rio Blanco County On-Site Waste Water Treatment Systems Resolution shall be maintained in the Rio Blanco County Building Division

D. If any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The Board of County

Commissioners of Rio Blanco County, Colorado, declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase, or portion herein, despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions would be declared invalid or unconstitutional.

DULY MOVED, SECONDED AND PASSED ON A VOTE OF 3 FOR AND 0 AGAINST, this 23rd day of July, 2018.



**BOARD OF COUNTY COMMISSIONERS of
RIO BLANCO COUNTY, COLORADO**

By: 
Shawn J. Bolton, Chairman

By: 
Jeff Rector, Commissioner

By: 
Si Woodruff, Commissioner


Clerk and Recorder