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## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Conejos County Commissioners acting as the Board of Health will conduct a public hearing to adopt the Amended Onsite Waste Water Treatment System regulations at their regular meeting on Tuesday, January 15, 2019 at 10:00 AM. The hearing will be held at the Conejos County Courthouse, Commissioners Meeting Room, 6683 County Road 13, Conejos CO 81129. Pursuant to the Board's authority contained in the C.R.S. 25-10-104, the Board will consider adoption of the amended regulations. Copies of the proposed regulation may be obtained by visiting the Conejos County Website, Land Use Department. The proposed regulation is available for review at the Conejos County Land Use Office at the County Courthouse and the Conejos County Public Health Office in La Jara. You may contact Chris DeHerrera at 719-376-2014 or [cdeherrera@co.conejos.co.us](mailto:cdeherrera@co.conejos.co.us) with any questions.

By: Linda DeHerrera, Land Use Administrator  
Publish on: 12/ 21/ 2018 and 01/02/2019

### PROPOSED REGULATIONS AS FOLLOWS:

## CONEJOS COUNTY ON-SITE WASTEWATER TREATMENT SYSTEM REGULATIONS

### I. Title and Authority

These requirements will be known as the "Conejos County On-Site Wastewater Treatment System Regulations."

These requirements were reviewed by the Conejos County Planning Commission and have been adopted by the Conejos County Board of County Commissioners, acting as a Board of Health pursuant to and under authority contained in the On-site Wastewater Treatment System Act, 25-10-101, et seq. C.R.S. and has designated the Conejos County Land Use Department to implement these Conejos County On-Site Wastewater Treatment System Regulations on behalf of the Board of Health.

### II. Scope and Purpose

#### A. Declaration

1. This regulation applies to On-site Wastewater Treatment Systems as defined in section 25-10-103(12), C.R.S.

#### B. Purpose

1. The purpose of these On-site Wastewater Treatment Systems Regulations is to establish the minimum standards for the location, design, construction, performance, installation,

alteration and use of OWTS with a design capacity less than or equal to 2,000 gallons per day within Conejos County.

C. Jurisdiction

1. These Conejos County On-Site Wastewater Treatment System Regulations apply to all OWTS in the unincorporated areas of the county and over all municipal corporations within the territorial limits of Conejos County.

D. Prohibition of OWTS Where Public Sewer Service is Available and Feasible

1. An OWTS permit must not be issued to any person when the subject property is located within a municipality or special district that provides public sewer service, except where such sewer service to the property is not feasible in the determination of the municipality or special district, or the permit is otherwise authorized by the municipality or special district. [43.4(B)(11)]

E. Severability

1. Should any section, clause, or provision of these Regulations be declared by a court of competent jurisdiction to be invalid, such decision will not affect the validity of these Regulations as a whole, or any part thereof other than the part declared to be invalid.

**III. Incorporation of Regulation 43**

A. Included By Reference

1. The requirements of the Colorado Water Quality Control Commission's "On-site Wastewater Treatment System Regulation, Regulation 43, 5 CCR 1002-43," Effective date, APRIL 30, 2018, are made a part of these Conejos County On-Site Wastewater Treatment System Regulations and will apply except where identified as an option of the local public health agency or where these regulations are more stringent than Regulation 43, 5 CCR 1002-43, and included in these Conejos County On-Site Wastewater Treatment Systems 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 Conejos County On-Site Wastewater Treatment Systems Regulations.
2. Allowable local options identified in Regulation 43 and the designated decisions for these Conejos County On-Site Wastewater Treatment Systems Regulations are identified in the attached "Appendix A to OWTS for Conejos County Appendix A is made a part of these Conejos County On-Site Wastewater Treatment Systems Regulations.

B. Excluded

1. Reductions in soil treatment area size or separation distances, and wide beds with higher level treatment units are not allowed under these Conejos County On-Site Wastewater Treatment Systems Regulations. All designs must be based on TL-1 parameters as defined in Regulation 43. Area or separation distance reductions and wider beds for higher level treatment can only be allowed in the future if these Regulations are amended to include a program of oversight for inspection and maintenance of higher level treatment units, and this amendment is accepted by the Water Quality Control Division.

**IV. Permits and Fees**

A. Permits [43.4(B)]

1. Prior to installing, altering, expanding or repairing an OWTS, the applicant must obtain a permit from The Conejos County Land Use Office.
  2. The permit application must include information identified in section 43.4(B)(3) of Regulation 43.
  3. An OWTS permit expires 365 days/1 Year after the date of issuance if construction has not commenced. After expiration, a new application must be required to begin construction.
  4. Any change in plans or specifications of the OWTS after the permit has been issued invalidates the permit unless the permittee receives written approval from The Conejos County Land Use Office. After a permit is invalidated, a new application and subsequent permit is required to begin construction.
  5. Repair permits must identify a reasonable period of time in which the owner must make repairs prior to expiration of the permit.
  6. Application for a product development permit may be approved by The Conejos County Land Use Office consistent with requirements of section 43.4(I) of Regulation 43.
- B. Board of Health Review [43.4(B)(9)]
1. When an application is denied by the Conejos County Land Use Office, an applicant may request review by the local board of health. A written request for review must be received within 30 days of the denial notice.
- C. Fees [43.4(B)(4)]
1. Permit fees and fees for other services and tests associated with OWTS will be set by the Board of Health, in conformance with section 43.4(B)(4) and (5) of Regulation 43 and 25-10-107, C.R.S.
- D. Surcharge [43.4(B)(5)]
1. A surcharge of \$23.00 will be collected for each permit issued by the Conejos County Land Use Office. Of that fee, The Conejos County Land Use Office will retain three dollars to cover administrative costs and twenty dollars must be transmitted to the Colorado Department of Public Health and Environment for use in funding the state's OWTS program.
- V. Inspections [43.4(E)]**
- A. Septic Tank [43.9(B)(3)(c)]
1. The applicant must notify the Conejos County Land Use Office or its designee within twenty-four hours so the Conejos County Land Use Office can conduct a field inspection of the septic tank before backfilling.
- B. Soil Treatment Area and Related Components [43.4(F)(3)]
1. The applicant must notify the Conejos County Land Use Office or its designee within twenty-four hours so the Conejos County Land Use Office or its designee can conduct a

final field inspection of the soil treatment area and all related components of the OWTS before backfilling.

**VI. Prohibition of OWTS in Unsuitable Areas [43.4(J)]**

1. The Conejos County Board of Health may prohibit issuance of OWTS permits in accordance with applicable land use laws and procedures for defined areas in which the Conejos County Board of Health determines that construction and use of additional OWTS may constitute a hazard to public health or water quality.
2. OWTS will not be allowed in subdivisions or platted lots with lots smaller than one (1) acre unless the system is designed and approved by an engineer. (The communities of Rocky Mountain Estates and Platoro are an exception as the lots are seasonal only and vaulted/sealed systems are allowed without an engineer design.)

**VII. Licensing**

**A. Systems Contractors [43.4(K)(1)]**

1. All systems contractors shall have a current license prior to providing services in Conejos County. All systems contractors must pass a test to install On-site Wastewater Treatment Systems in Conejos County. The local Board of Health may adopt a fee for the initial license and renewal. The license shall be renewed annually. The local Board of Health may adopt a separate fee for administering the OWTS test.

**B. Systems Cleaners [43.4(K)(3)]**

1. All systems cleaners shall have a current license prior to providing services in Conejos County, and must be renewed annually. The local Board of Health may adopt a fee for the initial license and renewal.

**C. Others, as may be required; i.e.; Competent Technicians, Designers, Soil Evaluators, etc.**

1. All systems soil evaluators shall be certified by Colorado Professionals in On-site Wastewater (CPOW) or National Association of Wastewater Technicians (NWAT.)

**VIII. Variances [43.4(N)]**

**A. Variance Allowed**

1. The Board of Health/Variance Review Board 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: would not be injurious to public health and that the regulations would cause undue hardship to the applicant. The burden of proof is upon the applicant to show the variance will not injure adjacent properties, will not conflict with the purposes of these regulations, and will not adversely affect the health of any person.
3. Variances must not be granted under the items identified in section 43.4(N)(5) of Regulation 43.

**B. Variance Procedure**

1. Variance requests must be provided within 60 days after denial of an application by the Board of Health/Variance Review Board.
2. Variance requests must include all items identified in section 43.4(N)(2)(d) of Regulation 43.
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 Conejos County Land Use Department must determine if this item has been addressed prior to granting a variance.
4. The Board of Health/Variance Review Board has the authority to impose site-specific requirements and conditions on any variance granted.

C. Variances Requiring Public Hearings

1. A Public Hearing must be held for all variance requests. The hearing shall be the subject of a Public Notice or notice shall be sent via certified mail, with a minimum 20-day reply time from the date of mailing, to all adjacent property owners. The public hearing will be held within 60 days from the date of receipt of the variance request.

**IX. Transfer of Title Inspections [43.4.L] NOT REQUIRED IN CONEJOS COUNTY.**

**X. Requirement for Soil Profile Test Pits or Percolation Holes to Remain Open [43.5(E)]**

- A. Soil Profile Test Pit Excavations and Percolation Holes
  1. Soil profile test pit excavations and Percolation Holes must remain open until an evaluation by the local inspector has been conducted.

**XI. Oversight program of inspections, maintenance, recordkeeping and enforcement for higher level treatment systems. [43.14(D)]**

**CONEJOS COUNTY WILL NOT IMPLEMENT THIS PROGRAM.**

**XII. Additional local requirements, as needed. RESERVED**

**Appendix A to OWTS Regulations for CONEJOS COUNTY.**

Attached