

**TOWN OF RICO  
ORDINANCE NO. 2017-1**

AN ORDINANCE OF THE TOWN OF RICO, AMENDING THE RICO LAND USE CODE  
BY THE ADDITION OF ON-SITE WASTEWATER TREATMENT SYSTEM  
REGULATIONS

WHEREAS, the Colorado legislature has declared that minimum standards and rules for on-site wastewater treatment systems in the state are a matter of statewide concern pursuant to C.R.S. §31-10-201;

WHEREAS, the Town of Rico Board of Trustees (Board of Trustees) has the power to appoint a board of health and prescribe its powers and duties pursuant to C.R.S. §31-15-201(1)(c);

WHEREAS, the Board of Trustees appoints itself as the board of public health for the sole purpose of regulating on-site wastewater treatment system regulations and designates the Town Manager to act as the Director of Public Health with regard to on-site wastewater treatment systems within the Town of Rico;

WHEREAS, Dolores County shall act as the board of public health for all other purposes other than the Town of Rico on-site wastewater treatment systems; and

WHEREAS, the Board of Trustees, acting as the board of public health shall adopt on-site wastewater treatment system regulations attached as Exhibit A and the Director of Public Health shall implement these regulations.

THE BOARD OF TRUSTEES OF THE TOWN OF RICO ORDAINS, as follows:

SECTION 1.

Town of Rico Land Use Code is amended by the addition of the following:

**On-site Wastewater Treatment System Regulations**

**100.1 Title and Authority**

These requirements will be known as the Town of Rico On-site Wastewater Treatment System Regulations, and are located within the Town of Rico

These requirements have been adopted by the Rico Colorado Board of Trustees, 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 Town Manager, acting as the Director of Public Health to implement these regulations on behalf of the Board of Health.

**100.2 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 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 the Town of Rico.
- C. Jurisdiction
1. These regulations apply to all new or altered OWTS within the territorial limits of the Town of Rico.
- 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.

### **100.3 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, June, 30, 2017", are made a part of these 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 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. Copies of Regulation 43 and any amendments are available for inspection at the office of the Town Clerk.
  2. Allowable local options identified in Regulation 43 and the designated decisions for these regulations, if any, are identified in the attached "Appendix A to OWTS for Town of Rico Appendix A is made a part of these 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 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 Division.

### **100.4 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 Town of Rico. All OWTS must be designed and plans must be stamped by a professional engineer.
2. The permit application must include information identified in section 43.4(B)(3) of Regulation 43.
3. An OWTS permit expires one 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 Town of Rico. 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 Town of Rico 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 Town of Rico, an applicant may request review by the local board of health by filing a request for reconsideration with the Town Clerk within thirty (30) days of the date of denial. Upon receipt of the written request for reconsideration, the Town Clerk will schedule a hearing at the next regular meeting of the Rico Board of Trustees, who serve as the Board of Health for the purposes of implementation of the OWTS. The applicant will have the burden of proof in demonstrating that the applicant meets all requirements of Regulation 43 and should be granted a permit. The Board of Health will make a final determination, which determination will be final agency action for the purposes of any further judicial appeal.

**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 and are available from the Town of Rico upon request.
2. Waiver of fees [43.4(B)(4)(c)] A waiver of a portion or all of the applicable fees may be requested for good cause shown. Such a request shall be made in writing to the Town of Rico, along with documentation supporting the request. The Town of Rico staff shall make a determination of such waiver within fifteen (15) business days of the request. An appeal to the Board of Health may be made of a denial of such request as provided in Subsection B above.

**D. Surcharge [43.4(B)(5)]**

1. A surcharge of 23.00 will be collected for each permit issued by the Town of Rico. Of that fee, the Town of Rico will retain three dollars to cover administrative costs and twenty dollars must be transmitted to the state treasurer.

**100.5 Inspections [43.4(E)]**

**A. Septic Tank [43.9(B)(3)(c)]**

1. The applicant must notify the local public health agency or its designee one business day prior to completing construction so the local public health agency or its designee 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 local public health agency or its designee one business day prior to completion 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.

Additional Requirements

1. In addition to the inspection required as described in sections A and B above, the design engineer or other professional engineer engaged by the applicant shall make a final inspection of the completed OWTS and its components, prior to back filling, and shall certify that the system has been completed as designed.
2. This certification, stamped by the professional engineer shall be provided and filed with the Town of Rico.
3. Record drawings, which include a scale drawing showing all components of the OWTS including their location from known and findable points, dimensions, depths, sizes, manufactures' names and models as available, and other information relative to locating and maintaining the OWTS components shall be provided to the Town of Rico in both paper and electronic form.

**100.6 Variances [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.

B. Variance Procedure

1. Variance seekers must request review by the local board of health by filing a request for consideration with the Town Clerk. Upon receipt of the written request for a variance, the Town Clerk will schedule a hearing at the next regular meeting of the Rico Board of Trustees, who serve as the Board of Health for the purposes of implementation of the OWTS. The applicant will have the burden of proof in demonstrating that there would be no injury to public health, water quality or the environment and should be granted a variance.
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 Board of Health must determine if this item has been addressed prior to granting a variance.

4. The Board of Health has the authority to impose site-specific requirements and conditions on any variance granted.

**Appendix A to OWTS Regulations for the Town of Rico**

Appendix A to OWTS Town of Rico  
On-Site Wastewater Treatment  
System Regulations

Local Public Health Agency:				
<b>CROSSWALK</b>				
ITEM	REQUIREMENTS See Check Box for Decision Chosen.		Citation Reg #43	Citation Local Reg
Occupancy – Residential	Bedrooms 1 through 3: 2 people per bedroom All additional Bedrooms: 1 person per bedroom	X	43.6.A.2e	
	All bedrooms: 2 persons per bedroom	<input type="checkbox"/>	43.6.A.2.f	
How the number of bedrooms in a home will be defined for flow requirements	Bedrooms: flow estimates will be determined from the number of bedrooms originally finished.	X		
	If unfinished area is present in house, system must also be sized for 1 or 2 more bedrooms based on an assumption that 150 square feet of unfinished space can be converted into a bedroom, if the space can meet applicable code requirements for a bedroom.	<input type="checkbox"/>	43.6.A.2.h	
Effluent Screen	May be used ( <i>owner's option</i> )	<input type="checkbox"/>	43.9.J.1	
	Required in all new septic tanks	X	43.9.J.1	
Length of Distribution Laterals (e.g., trenches or beds)	Limit the length of distribution lines to a maximum of 100 feet.	<input type="checkbox"/>	43.10.E.2.c	
	100 feet maximum for gravity fed from one end, and up to 150 feet if pressure dosed or effluent applied at center of lateral or chamber	X	43.10.E.2.b & c	
Inspection ports at initial (front) end of distribution line (e.g., lateral or chamber)	Not required	X		
	Required		43.10.F.6.d	
Vault Privies – new	Allow new vault privies		43.12.D.1.a	
	Prohibit new vault privies	X	43.12.D.1.a	
Vault Privies - existing	Allow continued use of existing vault privies	X	43.12.D.1.b	
	Require abandonment of existing vault privies	<input type="checkbox"/>	43.12.D.1.b	
Pit Privies - new	Allow new pit privies	<input type="checkbox"/>	43.12.D.2.c	
	Prohibit new pit privies	X	43.12.D.2.a	

Pit Privies - existing	Allow continued use of existing pit privies	X	43.12.D.2.c	
	Require abandonment of existing pit privies	<input type="checkbox"/>	43.12.D.2.b	
Slit trenches	Allow slit trenches	<input type="checkbox"/>	43.12.F	
	Prohibit slit trenches	X	43.12.F	
Reductions in STA size or separation distances for higher level treatment systems; OWTS O/M and LPHA oversight required	Allow reductions for higher level treatment.	<input type="checkbox"/>	43.14.D.2	
	Reductions for higher level treatment not allowed	X	43.14.D.3	
Transfer of Title inspections	Inspection of OWTS required prior to transfer of title	<input type="checkbox"/>	43.4.L.1	
	Inspection of OWTS NOT required	<input type="checkbox"/>	43.4.L.1	

SECTION 2: EFFECTIVE DATE.

The provisions of this Ordinance shall become effective immediately upon final passage as defined in Rico Home Rule Charter, § 3.5.

SECTION 3: SEVERABILITY.

If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

INTRODUCED, READ, APPROVED AS INTRODUCED, AND ORDERED PUBLISHED on first reading by Town of Rico Board of Trustees this 20<sup>th</sup> day of September, 2017.

READ, APPROVED AMD ADOPTED BY FINAL READING by Town of Rico Board of Trustees this 18th day of October, 2017

TOWN OF RICO, COLORADO

\_\_\_\_\_  
Zach McManus, Mayor

ATTEST:

\_\_\_\_\_  
Linda Yellowman, Town Clerk