

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado held in Hugo, Colorado on October 30, 2024, there were present:

Steve Burgess, Chairman	Present
Wayne Ewing, Vice Chairman	Present
Douglas D. Stone, Commissioner	Present
Stan Kimble, County Attorney	Present
Corinne Lengel, Clerk of the Board	Present
Jacob Piper, County Administrator	Present

when the following proceedings, among others, were had and done, to-wit:

RESOLUTION #1138 It was moved by Commissioner Stone and seconded by Commissioner Ewing to adopt the following resolution:

A RESOLUTION TO AMEND THE LINCOLN COUNTY REGULATIONS CONCERNING DOMESTIC SEPTAGE APPLIED TO AGRICULTURAL LANDS IN LINCOLN COUNTY, STATE OF COLORADO

WHEREAS, Lincoln County has previously adopted Solid / Liquid Waste Regulations which regulations address a number of solid waste and disposal concerns, all identified in Sections 360-1.1 through 360-1.15 of the Lincoln County Solid and Liquid Waste Regulations; and

WHEREAS, the Board of County Commissioners, hereinafter referred to as the "Board" has determined that some of the regulations should be amended to represent the current state of local, state, and federal law; and

WHEREAS, the Board particularly desires to address the application of domestic septage since this is an area that is not monitored by the State of Colorado and would be subject to County regulations; and

WHEREAS, the Board has reviewed the regulations of other Colorado counties and now wishes to adopt regulations solely applicable to the storage and application of domestic septage upon agricultural lands within unincorporated Lincoln County;

NOW THEREFORE, BE IT RESOLVED BY THE LINCOLN COUNTY BOARD OF COUNTY COMMISSIONERS:

1. Upon adoption of this Resolution, any regulations set forth in the original Lincoln County Solid and Liquid Waste Regulations concerning the storage and application of domestic septage on agricultural lands in unincorporated Lincoln County are hereby revoked. Henceforth, all regulations concerning domestic septage shall be by separate regulations set forth as follows:

ARTICLE I Domestic Septage

Division 1 Definitions

Sec. 1-1. Definitions.

As used herein, the following words have the following meanings:

Adjacent, when used to indicate land in the immediate vicinity of a lot, means land which shares a boundary line with the lot in question or which would share a boundary line were it not for the separation caused by a street or alley.

Agronomic rate means the rate of application of nitrogen to plants that is necessary to satisfy the plants' nutritional requirements, accounting for any applicable nitrogen credits, as published in the most current guidance by the Colorado State University Cooperative Extension Service and such that the amount of nitrogen which passes below the root zone of the crop to groundwater is minimized.

County means the County of Lincoln, a statutory county in the State of Colorado.

Development means the placement, construction, erection, reconstruction, movement and/or alteration of buildings and/or other structures, the placement of paved areas, drainage improvements or alterations on the historic flow of drainage patterns or amounts and the placement of lighting and/or other appurtenances related to any and all uses.

Domestic septage means liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device or similar treatment works that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool or similar treatment works that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.

Dwelling, multi-family means a building containing four (4) or more dwelling units, other than mobile homes or manufactured homes, arranged, designed, and intended to be occupied by four (4) or more living units.

Dwelling, single-family (single-family dwelling) means a dwelling unit or manufactured home, other than a mobile home, arranged, designed, and intended to be occupied by not more than one (1) living unit. The projected view of any exterior wall of a dwelling unit or manufactured home shall not be less than twenty (20) feet.

Dwelling, three-family or triplex means a building containing three (3) dwelling units, other than mobile homes or manufactured homes, arranged, designed, and intended to be occupied by not more than three (3) living units.

Dwelling, two-family or duplex means a building containing two (2) dwelling units, other than mobile homes or manufactured homes, arranged, designed, and intended to be occupied by not more than two (2) living units.

Master plan or *Comprehensive plan* means a document or series of documents prepared and adopted according to state law which sets forth policies for the future of a county.

Neighborhood, when used in this Chapter in reference to a particular lot, is intended to describe in a general way the land area which is in the vicinity of the lot in question and which will be affected to a greater extent than other land areas in the County by uses which exist on the lot or are proposed for it. A neighborhood always includes lots which are adjacent to the lot under consideration and, depending upon the land use in question, may include more remote areas as well.

Nonpublic contact sites means sites that are not frequently visited by the public. This includes but is not limited to agricultural land, forests and reclamation sites located in unpopulated areas (e.g., a strip mine located in a rural area).

Structure means an object constructed or installed by man, including but not limited to buildings, towers, smoke stacks, overhead transmission lines, signs, drill rigs and cranes. (This definition applies only to structure when used in the A-P [Airport] Overlay District defined in Chapter 23 of this Code.)

Suitable soil means a soil which will effectively filter effluent by removal of organisms and suspended solids before the effluent reaches any highly permeable earth such as joints in bedrock, gravel or very coarse soils and which has percolation rates slower than five (5) minutes per inch and has a vertical thickness of at least five (5) feet beneath the plow line of the site and the top of the high groundwater table.

Use means any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained, or occupied and also any activity, occupation, business or operation which is carried on in or on a structure or on a tract of land.

Division 2 Domestic Septage Regulations

Sec. 1-2-. Intent and applicability of domestic septage regulations.

- A. The intent of the domestic septage permit procedure is to ensure that the quality of material applied on land in the County for beneficial uses is applied in a manner which will protect and promote the health, safety, and general welfare of the present and future residents of the County.
- B. A domestic septage permit shall be required for the application of domestic septage in the unincorporated areas of the County.
- C. Any contiguous parcels, up to six hundred forty (640) acres, which are owned by the same individual or group of individuals may be permitted one (1) domestic septage permit. The required evaluations and analysis results shall be submitted for each one hundred sixty (160) acres or fraction thereof.

There shall be an initial application fee of \$100 (one hundred dollars), and a permit fee of \$2.50 (two dollars and fifty cents) per acre. The County may require more intensive sampling where multiple crops are grown and may assess the applicant with the cost of the County analysis.

- D. Domestic septage disposal sites and facilities that have been issued a certificate of designation from the Board of County Commissioners are exempted from the provisions of this Section of the Code.
- E. Any person filing an application for a domestic septage permit shall comply with the County procedures and regulations in this Article.
- F. Applications for a domestic septage permit shall be completed as set forth in Section 1-3 of this Article. The completed application and application fee shall be submitted to the Lincoln County Land Use Administrator.
- G. A domestic septage permit shall be for a period of one (1) year and is renewable for additional one-year periods only by grant of the Board of County Commissioners. The permit shall be considered for renewal upon submittal sixty (60) days prior to the expiration date of the permit. Any expansion or enlargement of the area for which the domestic septage permit is issued shall require a new application under the provisions of this section. The applicant shall be entitled to twenty-one (21) days' notice prior to any hearing at which the Board of Public Health may refuse to renew any portion of the permit.
- H. The Board of County Commissioners hereby delegates the authority to review, issue and revoke domestic septage permits to the Lincoln County Land Use Administrator. The Lincoln County Land Use Administrator may enlist the assistance of an expert familiar the Department of Public Health and Environment and the technical requirements of the septage application industry. The cost of review, analysis, or other assistance shall be the responsibility of the applicant.

Sec. 1-3 Operating standards for domestic septage permit.

Prior to incorporation of the domestic septage into the soil, an applicant for a domestic septage permit shall demonstrate conformance with the EPA 40 C.F.R. Part 503 Rule for land application of domestic septage to nonpublic contact sites and with the following operation standards. The applicant shall continue to meet these standards if the domestic septage permit is approved, including all of the terms and conditions set forth in the permit.

- A. Domestic septage must meet one (1) of three (3) conditions in order to meet the requirements for pathogen destruction and vector attraction reduction.
 - 1. The domestic septage must be subsurface injected.

2. County residents may surface apply their own collected domestic septage to their own associated land without filing an application. The domestic septage must be surface applied and incorporated into the soil within six (6) hours of application.
 3. The pH of the domestic septage must be raised to twelve (12) or higher by alkali addition and, without the addition of more alkali, shall remain at twelve (12) or higher for thirty (30) minutes. It is recommended that all applications of domestic septage be incorporated into the soil.
- B. Domestic septage shall not be applied on saturated soil during precipitation events.
 - C. No domestic septage shall be applied in a quantity which would result in the domestic septage running off the application site identified in the domestic septage permit.
 - D. No domestic septage shall be applied to frozen or snow-covered land.
 - E. No domestic septage shall be applied in a manner which results in ponding of the septage or overloading of a portion of the field with nutrients, or be allowed to collect in low areas and road ditches and create a nuisance condition.
 - F. A domestic septage application site shall not be irrigated within twenty-four (24) hours after domestic septage application has taken place.
 - G. No domestic septage shall be applied to land which is currently receiving biosolids from a wastewater treatment plant, has received such material within the previous eighteen (18) months or is permitted for such use under this Section.
 - H. Food crops with harvested parts that touch the septage/soil mixture and are totally above the land surface shall not be harvested for fourteen (14) months after application of domestic septage.
 - I. Food crops with harvested parts below the surface of the land shall not be harvested for thirty-eight (38) months after application of domestic septage.
 - J. Animal feed, fiber and those food crops that do not touch the soil surface shall not be harvested for thirty (30) days after application of domestic septage.
 - K. Animals shall not be grazed on the land for thirty (30) days after the application of domestic septage.
 - L. Turf grown on the land where domestic septage is applied shall not be harvested for one (1) year after application of the domestic septage when the harvested turf is placed on either land with a high potential for public exposure or a lawn.

- M. Domestic septage shall only be applied on land with a low potential for public exposure. Access shall be restricted for thirty (30) days after the application of domestic septage.
- N. Domestic septage shall be applied uniformly by either subsurface injection or surface application. If applied on the surface, a deflector must be used on the discharge tube of the vehicle to sufficiently and evenly spread the domestic septage.
- O. Domestic septage applied on the surface shall be incorporated into the soil within six (6) hours of application, with the exception of lime-stabilized domestic septage. Surface application can only be done for in-county residents who are surface applying domestic septage to their own land associated to their in-county property.
- P. Annual domestic septage application rates shall not exceed twenty-five thousand (25,000) gallons per acre, per year.
- Q. No domestic septage shall be applied:
 - 1. Within a minimum of five hundred (500) feet of a residence, business or recreational area.
 - 2. Within a minimum of fifty (50) feet of the property line of the application site.
 - 3. Without the depth of the annual high groundwater level having been established as greater than five (5) feet in depth.
 - 4. Within five hundred (500) feet of the wellhead of any water well.
 - 6. On land located upgradient, and within one (1) mile of the point at which surface waters are diverted for use in a public water system.
 - 7. Within the boundaries of a one-hundred-year floodplain.
 - 8. On land within three hundred (300) feet of any body of surface water.
 - 9. On land within fifty (50) feet of a dry streambed.

10. With pollutant levels in excess of the following maximum septage pollutant concentration limits contained in the Table, below:

Maximum Septage Pollutant Concentration Limits

Pollutant	Mg/kg, dry weight basis
Arsenic	41.0
Cadmium	39.0
Copper	1,500.0
Lead	300.0
Mercury	17.0
Molybdenum	
Nickel	420.0
Selenium	100.0
Zinc	2,800.0

11. On land having a trace element level that equals or exceeds the following maximum cumulative standards contained in the Table below:

Maximum Cumulative Soil Standards (Mg/kg)

Pollutant	Mg/kg
Arsenic	20.0
Cadmium	2.0
Copper	60.0
Lead	150.0
Mercury	1.0
Molybdenum	4.0
Nickel	25.0
Selenium	5.0
Zinc	125.0

- R. Soil sampling shall be conducted prior to septage application and on a once-per-application basis thereafter. Sampling conducted subsequent to the initial application event shall occur after completion of the cropping cycle, i.e., after harvest, but prior to any additional application.
- S. Soil samples shall be analyzed for pH, nitrate as N, phosphorus and those metals described in the second Table above.
- U. All domestic septage applied at permitted sites shall be analyzed using a method approved by the Lincoln County Land Use Administrator (through his or her public health expert), for the following parameters: pH, nitrate as N,

phosphorus, potassium, sodium, arsenic, cadmium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc. Composite samples of domestic septage from different septic tanks may be tested to determine the character of the sludge. Composite samples shall be taken in a manner that provides for a good representation of all domestic septage included.

- V. All foreign and nonorganic objects must be screened from the domestic septage prior to land application.

Sec. 1-4 Duties of Lincoln County Land Use Department for issuance of domestic septage permit.

- A. The Lincoln County Land Use Administrator, through his or her Public Health and Environment expert, shall be responsible for processing all applications for domestic septage permits in the unincorporated areas of the County.
- B. The Board shall approve all or any portion of the domestic septage permit unless it finds that the applicant has not met one (1) or more of the standards or conditions of Paragraphs 1 through 9 below. The applicant has the burden of proof to show that the standards and conditions of Paragraphs 1 through 9 below are met. The applicant shall demonstrate:
 - 1. That the septage will be applied either by direct injection or surface application with immediate incorporation into the soil.
 - 2. There shall be no application of domestic septage during the Winter season.
 - 3. That a minimum of sixty (60) feet from County roads will be maintained when off-loading.
 - 4. That at no time shall an application site have an odor reading of greater than a seven-to-one (7:1) dilution/threshold according to Regulation #2 of the Colorado Air Quality Control Regulations.
 - 5. That the ability to prevent, control and abate spillage of domestic septage shall be maintained.
 - 6. That the methods of handling, storage, and application of the domestic septage shall control fugitive dust, blowing debris, odor, and other potential nuisance conditions.
 - 7. That the use will be compatible with the existing surrounding land uses.
 - 8. That the use will be compatible with the future development of the surrounding area as permitted by the existing zone or the adopted master plans of affected municipalities.
 - 9. That there is adequate provision for the protection of the health, safety, and welfare of the inhabitants of the neighborhood and the County.

- B. Where reasonable methods or techniques are available to mitigate any negative impacts which could be generated by the approval of the domestic septage permit upon the surrounding area, the Board may condition the decision to approve all or any portion of the permit upon implementation of such methods or techniques, and may require sufficient performance guarantees to be posted with the County to guarantee such implementation.
- C. Upon the Board making its decision on the domestic septage permit, a record of such action and a copy of the permit shall be kept in the files of the Lincoln County Land Use Department and a copy sent to the Clerk to the Board's office.
- D. If the Board determines that the applicant has not met the standards or conditions of Paragraphs B.1 through B.9 above and denies all or any portion of a domestic septage permit, the applicant may address the Board's concerns and reapply for the permit following a follow up hearing.

Sec. 1-6 Permit renewal application for domestic septage permit.

- A. The purpose of the renewal application for a domestic septage permit is to give the applicant an opportunity to demonstrate, through written and graphic information, how the renewal complies with the standards of this Chapter. The following information shall be submitted as a part of the renewal application to renew all or any portion of a domestic septage permit:
 - 1. A renewal application form as provided by the Lincoln County Land Use Administrator.
 - 2. An explanation of any changes that are requested or that have occurred since the issuance of the domestic septage permit.
 - 3. All other domestic septage permit renewal requirements shall be the same as outlined in this Article.
- B. The Lincoln County Land Use Department shall be responsible for processing all applications for the renewal of domestic septage permits in the unincorporated areas of the County. The duties of said Department for processing a domestic septage permit renewal shall be the same as outlined in this Article. At the discretion of said Department upon the request of the permittee, the notice and posting requirements on all or any portion of the permit may be waived when a domestic septage permit is considered for renewal based upon the remoteness, nature of the domestic septage, characteristics of the soil, type of crop, enforcement actions and prior public comments or complaints.
- C. The duties of the Board of Public Health for considering a renewal of a domestic septage permit shall be the same as outlined in this Article.

Division 3 Enforcement and Penalties

Sec. 1-7 Enforcement and Penalties.

- A. Notice of violations. Whenever the County representative determines that there has been a violation of any provision of these regulations, he or she shall give notice of such violation to the responsible person. Such notice shall be in writing, specify the violation, provide a reasonable time for correction, and be addressed to the owner and occupant of the property. Service of such notice shall be as provided by the Colorado Rules of Civil Procedure or by certified mail, return receipt requested, deliverable to the addressee only. Service by certified mail shall be completed upon receipt by the County of the return receipt or upon refusal to accept delivery by the addressee. If the property owner cannot be found or served after a reasonable effort to do so by the County, service may be made by posting a notice in a conspicuous place on or about the property affected by the notice. A statement by the County representative as to why the posting was necessary shall be included in the county records.
- B. Cease and desist orders. The County representative or his or her designee may issue an order to cease and desist from the improper applications of septage upon real property which is found by the County representative to be in violation of these regulations or is found to constitute a hazard to public health. Such an order may be issued and enforced immediately. Thereafter, a hearing shall be conducted by the County representative in the Lincoln County Court not less than forty eight (48) hours after written notice thereof is given to the owner or occupant of the property on which the application of septage has occurred. The order shall require that the owner and occupant cure the faulty application or bring the application into compliance or eliminate the health hazard within thirty (30) days. A cease and desist order issued by the County representative shall be reviewable by the Lincoln County Court wherein the system is located and upon a petition filed not later than ten (10) days after the order is issued.
- C. Penalties. Any person who commits any of the following acts or violates any of the provision of these regulations commits a Class 1 petty offense as defined in Colorado Revised States 18-1.3-503:
1. Applies domestic septage to real property within Lincoln County without first obtaining a permit pursuant to these regulations and complying with all requirements herein.
 2. Applies septage in a manner which involves a knowing and material variation from the terms or specifications contained in the application or permit.

3. Fails to adequately test or analyze the septage in a way required by these regulations to confirm compliance with these regulations prior to applying the septage.
 4. Violates the terms of a cease and desist order that has become final under the terms of these regulations or state law.
- D. In addition to the penalty that may be imposed pursuant to the regulations, the County representative, may assess a monetary penalty as set forth herein.
- E. Upon a finding by the County representative that a person is in violation of these regulations, a penalty of up to fifty dollars (\$50.00) for each day of violation may be assessed. In determining the amount of the penalty to be assessed, the County representative shall consider the seriousness of the danger to the public health caused by the violation, the duration of the violation, and whether the person has previously been determined to have committed a similar violation.
- F. A person subject to a penalty assessed pursuant to these regulations may appeal the penalty to the Lincoln County Board of Commissioners. The request must be filed within thirty (30) days after the penalty assessment is issued. The local board of health shall conduct a hearing upon the request of the fined landowner.

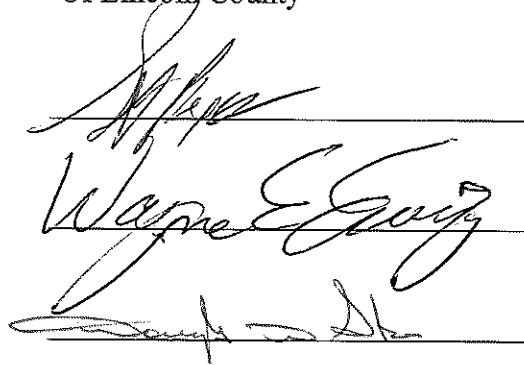
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Resolution #1138
October 30, 2024

Upon roll call the vote was:

Commissioner Stone, Yes; Commissioner Ewing, Yes; Commissioner Burgess, Yes.

The Chairman declared the motion carried and so ordered.

Board of County Commissioners
Of Lincoln County



The image shows three handwritten signatures, each written over a horizontal line. The top signature is the most stylized, the middle one is 'Wayne E. Ewing', and the bottom one is 'Joseph W. Stone'.

Attest:



The image shows a handwritten signature 'Cassi S. Long' written over a horizontal line.

Clerk of the Board