



Use Permit Program FAQs

1. What is a Use Permit program?

As of January 1, 2011, prior to the sale of a dwelling or structure (including commercial structures) served by an on-site wastewater treatment system (OWTS), the owner (seller) must have in his possession a Use Permit issued by the Agency.

2. Why did the County adopt such a program?

The Board of Health was concerned that OWTS were not always being properly inspected and that failing or marginal systems were being passed along to unsuspecting buyers, who could then be responsible for costly repairs.

3. Aren't most systems already being inspected when properties sell?

Not always, and even if they are there are no consistently applied inspection criteria. In addition, there are no requirements for certification of non-OWTS inspectors. Previously, anyone who wanted to call themselves an inspector could do so and use whatever criteria they deemed appropriate to make their inspection.

4. How does this program change that?

The Use Permit program:

- mandates the inspection of all systems at time of sale
- establishes standardized inspection criteria in the form of a check list, and
- requires certification of inspectors by nationally recognized professional associations

5. Are there exceptions to the requirement for obtaining a Use Permit?

Yes. A dwelling or structure that was first occupied less than 5 years ago, and an existing dwelling (of any age) with an OWTS that is less than 5 years old are exempt from the Use Permit requirement.

6. What about other property transfers or changes in ownership?

The following are also exempt from the Use Permit requirement:

- change in ownership solely to include or exclude a spouse or children;
- transfer subject to life estate;
- transfer to effect foreclosure or forfeiture of real property (when the foreclosed property is subsequently sold, a Use Permit WOULD BE required);
- transfer by redemption from a tax sale;
- transfer creating or ending joint ownership if at least one person is an original owner of the property and / or his or her spouse or children;
- transfer of property containing premises that shall be demolished (or already has been) and shall not be occupied after the property transfer;
- transfer for the vacation or granting of a public right of way;

- transfer from a person to a trust or to themselves as trustee(s) of a trust estate; or
- new homes that have not yet been occupied.

7. Need I have a buyer lined up before getting a Use Permit?

No, you may obtain a Use Permit prior to having a purchase contract for the property. Exceptions are those properties with failing systems (see questions #25 - #27 below).

8. How will the Use Permit program work?

Prior to a real estate closing, the owner (or other responsible party) obtains the services of a Gilpin County licensed inspector to perform an inspection of the OWTS. In addition, they would contact a Gilpin County licensed company to have the septic tank pumped and inspected. Many local companies are licensed to do both the inspection and pumping required.

9. Must I contact separate companies for these services?

Not necessarily. Many septic tank pumpers are also certified to perform inspections so they could do the entire job. A list of inspectors may be found at <http://www.gilpincounty.org/cms/One.aspx?portalId=9285259&pageId=11339131>

10. What will the inspectors look for?

The inspection covers a number of aspects that relate to both the structural integrity of all system components, site conditions, and operational status of the system. Basically, to be approved an OWTS must have:

- some kind of septic or aeration tank in good repair and functional,
- some kind of absorption or evaporation system in good repair and functional (unless the system is a non-discharging vault), and
- a current maintenance contract for any mechanical components

11. What forms will the inspectors use?

There are three basic standardized forms:

- FORM 701 for the general system inspection,
- FORM 702 for the tank pumping and inspection, and
- FORM 703 for mechanical systems.

12. What types of violations can be noted?

Basically there are two different types: "critical" items must all pass inspection. These would involve leaky tanks, mechanical systems not working, etc. These items must be fixed prior to applying for the Use Permit. Other minor items such as cracked tank lids, erosion etc, would trigger an information statement that would be included on the Use Permit, but would not be in themselves a reason to fail the inspection.

13. What happens when the ground is snow covered?

Even under those conditions it is possible to perform a reasonably thorough inspection. However, the presence of snow cover would be noted on the permit as a limiting inspection factor.

14. How much will this inspection cost?

The inspectors set their own fees. We estimate that it would take about 1-2 hours to perform the work. Since all inspectors must use the same forms and criteria, be sure to compare prices. Costs could range between \$500 and \$1,000.

15. Once I have the inspection report forms, what is the next step?

You submit the application, inspection reports and the application fee to the Agency, Use permits may be applied for and paid by following this link:

<https://gilpincountyco.viewpointcloud.com/categories/1086/record-types/6440>

16. What is the Agency's application fee?

The Board of Health has adopted an application and permitting fee of \$100.

17. What will the Agency do prior to issuing the Use Permit?

We will:

- review the submitted inspection reports,
- check our files to determine the size, capacity and components of the system, and
- check the records to determine if there are past or current reported operational problems with the system and, if everything is acceptable,
- issue the permit with the appropriate conditions.

18. What information will be reported from the original installation file?

If available, we will report the original design parameters of the system in terms of number of bedrooms and persons the system was designed for. We would also report the date of installation, permit and file numbers, if any.

19. How long will it take to issue a Use Permit?

You should plan on 10 working days.

20. How long will Use Permits remain valid?

The permit is valid until the date of the real estate closing, or six months have elapsed, whichever comes first.

21. Can I renew a Use Permit if the house doesn't sell in six months?

Yes, by submitting FORM 704 PRIOR to the expiration of the original Use Permit you can obtain ONE additional 6 month extension. After that you must reapply.

22. Can I obtain a Use Permit for a vacant dwelling or structure?

Yes, although it may not provide as accurate a picture of the operational suitability of the septic system. If a property is vacant, that condition would be noted on the permit.

23. What about structures that have been burned or are otherwise uninhabitable when sold?

A Use Permit is not required for these sales. However, an inspection of the existing system would be required prior to obtaining permits to rebuild the dwelling or structure

in the future.

24. If the house is listed for sale as having 5 bedrooms but the original permit was for 3 bedrooms, would the system need to be made larger to qualify for a Use Permit?

That depends on the circumstances. If no unpermitted room additions and/or interior remodel work has been completed since the original structure and OWTS was issued a CO, then no changes to the OWTS would be necessary. However, if unpermitted additional and/or interior remodel work was completed, it is likely that the OWTS would need expansion as part of after-the-fact permitting process.

25. Are there any types of systems that will not be approved for a Use Permit?

Certain systems will not qualify, such as:

- systems with major components that fail inspection.
- systems that do not have a septic tank (cesspools),
- "straight pipes" discharging sewage with no treatment. and
- systems that are currently under investigation by the Agency as a reported malfunction.

26. What must be done in those cases?

The system must be repaired or upgraded to meet the current minimum regulatory standards. An engineering report detailing the proposed repair must be submitted along with an application for a repair permit.

27. Must this repair work be done before the property is sold?

Not necessarily. If the owner obtains a repair permit from the Agency to repair or upgrade the system AND the prospective buyer signs a written agreement to repair or upgrade the system within 60 days of occupying the structure, the Agency will waive the requirement for a Use Permit prior to sale.

28. Will a dwelling with a pit-privy or outhouse qualify for a Use Permit?

Gilpin County Building Codes require approved toilet facilities, which may be a flush toilet, composting or incineration unit, along with provisions for water and disposal of gray water for seasonal properties. Pit privies could not qualify and would need to be upgraded to meet these minimum standards. Gilpin County adopted updated regulations in 2018 that requires all existing outhouses and pit privies be abandoned.

29. Will a Use Permit inspection include wells or other water sources?

No, the Use Permit is specifically limited to the OWTS. However, the Agency recommends that the production and capacity of the well and the quality of the water be checked to make sure that the well is an adequate and safe source of water.

30. Will there be a penalty for not obtaining a Use Permit?

Currently, anyone who violates provisions of the Gilpin County OWTS regulation commits a Class I petty offense. Failure to obtain a Use Permit may subject the owner who sold the property to a penalty as assessed under the provisions of Colorado State Law (C.R.S. §25-10-106). The purchaser is not subject to this penalty.

31. What if the inspector makes a mistake and approves a system that should have failed?

Since the written inspection criteria are very clear and specific, that isn't likely. However, if it becomes apparent that a particular inspector is doing a poor job, the Agency would report that information to the organization that issued the inspector's credential for disciplinary action, which may include a requirement for additional training. If the system is failing, the current owner would be required to fix it. Deciding who would pay for the repairs would be a civil matter between the parties.

32. Who should I contact for additional information on Use Permits?

For additional information please contact Gilpin County Community Development at 303.582.5831