

To: Board of Health

Through: Jennifer Ludwig, Public Health Director, Arapahoe County Public Health

Prepared By:

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Steven Chevalier, Environmental Health Manager (Early Childhood, Schools and Environmental Protection), Public Health

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..presenter

Presenters: Steven Chevalier, Environmental Health Manager (Early Childhood, Schools and Environmental Protection), Public Health

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Subject:

..title

23900 E. Ohio Ave., Aurora, CO; OWTS Enforcement and Civil Penalty Assessment

Purpose and Request:

..recommended action

The purpose of this item is to inform the Board of Health (BOH) about continued violations related to an On-Site Wastewater Treatment System (OWTS) at 23900 E. Ohio Ave., Aurora, CO. The violations were identified during the transfer of title/use permit process for a real estate transaction and have remained unresolved despite repeated communication, site follow-up, and formal notices from Arapahoe County Public Health (ACPH).

ACPH is requesting that the BOH review the information presented, find that the property owner is in violation of the Arapahoe County OWTS Regulations, and assess civil penalties due to continued noncompliance. ACPH is also requesting that the BOH require corrective actions to bring the OWTS into compliance, including obtaining the required repair permit, completing required repairs, securing the damaged tank area, preventing sewage from surfacing, and obtaining ACPH approval for use of the OWTS.

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Background and Discussion: The property located at 23900 E. Ohio Ave. is served by an OWTS. During the Transfer of Title/Use Permit process for a pending real estate transaction, ACPH received information from a septic professional who performed an inspection of the system that the OWTS required repair and further evaluation before a use permit could be issued. The sale of a property served by an OWTS is an event requiring a use permit to ensure a third-party inspection of the system is completed to verify the functionality of the system prior to transfer of ownership.

On February 26, 2026, ACPH responded to the septic professional and requested that the information be forwarded to the property owner. Based on the tank condition, ACPH requested that the property owner immediately fence off the area to protect people, children, and pets from falling in, and that they take all necessary action to keep sewage off the surface of the ground, including pumping the contents of any septic tank or container of sewage as often as needed to prevent surfacing sewage.

The independent OWTS inspector reported that the tanks had never been pumped since the system was installed. The inspector also reported that no surfacing effluent was observed, but that the soil treatment area needed further investigation because it was too deep to probe and they could not determine whether it was functioning correctly. The inspector reported that the tanks were overfull but did not appear to be overflowing from the top.

On March 3, 2026, ACPH informed the then-current property owner that a Transfer of Title/Use Permit could not be issued until required repairs were completed. ACPH continued to follow up with the property owner and septic professionals in March 2026. Information received during follow-up confirmed that the secondary tank had deteriorated to the point of needing replacement, that the diverter valve was inaccessible and needed to be excavated for evaluation, and that the fields required further evaluation. The only component the OWTS inspector could clear by inspection was the primary tank, but even that had an unsecured lid. On March 16, 2026, the then-current property owner reported that caution tape had been placed around cones near the open pit and that, when the lid was off, her dog had gone down into the tank area and had to be removed. ACPH requested photographs of the fencing and signage and later advised that more caution tape and/or fencing was recommended.

On April 3, 2026, ACPH was notified that, despite the outstanding OWTS issues, the sale of the property had closed. The required repairs had not been completed and no use permit was on file.

On April 17, 2026, ACPH issued a Notice of Violation to the new property owner, Fernando Avina Garcia, for the property at 23900 E. Ohio Ave. The Notice stated that ACPH had been made aware that the property had been sold without issuance of a Transfer of Title/Use Permit. Although a Transfer of Title/Use Permit application had been submitted, required repairs had not been completed and the permit had not been issued. The NOV identified a violation of Section 18.1.D of the Arapahoe County OWTS Regulations, which states that no person shall construct or maintain any dwelling or other occupied structure that is not equipped with adequate facilities for the sanitary disposal of sewage. The Notice required the property owner to apply and pay for an OWTS repair permit within 48 hours of receipt, submit the necessary repair documents, complete required repairs, provide documentation of fencing and signage if an open excavation remained, take immediate action to keep sewage off the surface of the ground, and receive approval for use of the OWTS from ACPH.

Throughout June 2026, ACPH had multiple contacts with the property owner to discuss the need for repairs. On June 15, 2026, ACPH issued a Second Notice of Violation and Intent to Proceed with Enforcement.

ACPH has attempted to gain compliance through education, written communication, phone calls, direct follow-up, site visits, and formal notices. The required repairs have not been completed, a repair permit has not been obtained, and the property remains without an approved transfer of title/use permit or certificate of use for the OWTS.

The OWTS condition presents a public health and safety concern because the system includes a severely deteriorated septic tank, a damaged or open tank area has been reported, and the adequacy of the system for sanitary sewage disposal has not been demonstrated. The condition creates potential exposure concerns related to sewage, septage, or sewer gases, as well as physical safety concerns associated with the damaged tank and excavation area. Sale of property closed without the required use permit or conditional use permit, and the current property owner has not completed the required steps to bring the OWTS into compliance.

As outlined in C.R.S. § 25-10-113 and Section 18.4 of the Arapahoe County OWTS Regulations, upon a finding by the local board of health that a person is in violation of the OWTS Act or regulations, the board of health may assess a penalty of up to \$50 for each day of violation. In determining the amount of the penalty to be assessed, the board of health shall consider the seriousness of the danger to the health of the public caused by the violation, the duration of the violation, and whether the person has previously been determined to have committed a similar violation.

Fiscal Impact: N/A

Staff Recommendation: Find that the property owner is in violation of the Arapahoe County OWTS Regulations and assess appropriate civil penalties up to \$50 per day of violation.

Require the property owner to immediately apply for and obtain an ACPH OWTS repair permit and submit all required repair documentation.

Require the property owner to complete each of the following corrective actions before August 6, 2026 through a licensed or qualified OWTS professional:

1. Pump the OWTS tanks so the condition of the tanks and system components can be fully evaluated and submit pumping receipts to ACPH.
2. Evaluate the primary tank after pumping to determine whether it is in good condition or also requires repair or replacement.
3. Add risers to grade and install a secure lid or cover on the primary tank.
4. Replace the secondary tank, unless ACPH determines through the repair permit review and system evaluation that removal of the secondary tank without replacement is allowable.
5. Excavate and evaluate the diverter valve, including cleaning out debris as needed to determine its condition and function.
6. Complete a full evaluation of the soil treatment area/fields to determine whether the OWTS is functioning as intended and whether additional repair, replacement, or expansion is required.
7. Submit an updated Use Permit Inspection Report completed by a NAWT-certified OWTS inspector after the tanks are pumped, the diverter valve is exposed and evaluated, and the soil

treatment area/fields are evaluated.

8. Submit repair verification documentation for any non-permitted corrective work completed outside of the ACPH repair permit inspection process, including risers, lids/covers, access-to-grade corrections, diverter valve work, or other corrective actions required by ACPH.

9. Complete all required OWTS repairs approved by ACPH.

10. Obtain ACPH inspection approval and a certificate of use for the OWTS.

Require the property owner to maintain the OWTS, damaged tank area, and surrounding work area in a nuisance-free and secure condition until all required repairs are completed and approved by ACPH. This includes:

1. Preventing sewage from surfacing or otherwise being discharged to the ground surface.
2. Pumping the septic tanks as often as necessary to prevent surfacing sewage, sewage backup, or other nuisance conditions.
3. Securely covering any tank opening or damaged tank area.
4. Installing and maintaining fencing or barricading around the damaged tank and surrounding work area to prevent access by people, children, pets, livestock, or other animals.
5. Posting the area as restricted until the tank is repaired, replaced, or properly abandoned.
6. Providing ACPH documentation of interim protective measures, including photographs of fencing, barricading, restricted-area posting, and any other measures used to secure the area.