

LEWIS AND CLARK CITY-COUNTY
BOARD OF HEALTH MEETING
LEWIS AND CLARK PUBLIC HEALTH CONFERENCE ROOM

ZOOM Web Meeting

July 23, 2020

(Note: Meeting time 1:00-2:30pm)

REGULAR BOARD MEETING AGENDA

1:00	CALL TO ORDER	
1:00	REVIEW OF AGENDA	
	1. Review and Revision of Agenda.....	Pg. 1
1:05	MINUTES	
	2. Minutes of June 25, 2020.....	Pg. 2
1:10	ACTION ITEM	
	3. Regulations Governing Soil Displacement and Disposal Adoption	Pg. 7
	4. Inclusiveness Resolution.....	Pg. 8
1:50	BOARD DISCUSSION	
	5. –Staff Introduction-Jolene Jennings.....	Pg. 11
2:00	HEALTH OFFICER’S REPORT	
	6. Report on Current Health Department Issues - COVID-19 Update	Pg. 12
2:30	PUBLIC COMMENT	
	7 . Public comments on matters not mentioned above.....	Pg. 13

Adjourn

Our mission is to improve and protect the health of all Lewis and Clark County Residents

ADA NOTICE

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**LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana**

BOARD AGENDA ITEM

Meeting Date

July 23, 2020

Agenda Item No.

1

Minutes Board Member Discussion Staff & Other Reports Action Hearing of Delegation

AGENDA ITEMS: Review of Agenda

PERSONNEL INVOLVED: Board Members

BACKGROUND: Time is allowed for board members to review the agenda and to add any new agenda items.

HEALTH DIRECTOR'S RECOMMENDATION: Approval

ADDITIONAL INFORMATION ATTACHED

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
Bedell						
Berg						
Collins						
Eck						
Hunthausen						
Johnson						
Murgel						
Oliver						
Ream						

LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana

BOARD AGENDA ITEM

Meeting Date

July 23, 2020

Agenda Item No.

2

Minutes Board Member Discussion Staff & Other Reports Action Hearing of Delegation

AGENDA ITEMS: Minutes June 25, 2020

PERSONNEL INVOLVED: Board Members

BACKGROUND: Upon approval, the minutes represent official actions of the Board of Health. Every effort is made to have these recommended minutes accurately portray the proceedings and procedures of the board.

HEALTH DIRECTOR'S RECOMMENDATION: Approval

ADDITIONAL INFORMATION ATTACHED

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
Bedell						
Berg						
Collins						
Eck						
Hunthausen						
Johnson						
Murgel						
Oliver						
Ream						

**LEWIS AND CLARK CITY-COUNTY
BOARD OF HEALTH – MINUTES
1930 9th AVE, HELENA, MONTANA 59601
Zoom Meeting, 1:00 p.m.
June 25, 2020**

Members Present by Zoom

Commissioner Andy Hunthausen, vice chair
Brie Oliver
Kammy Johnson (Arrived at 1:14 p.m.)
Dr. Mikael Bedell
Tyler Ream
Raymond Berg

Staff Present by Zoom

Drenda Niemann	Laurel Riek
Jolene Helgerson	Nathan Wellington
Jacqueline Isaly	Julie Bir
Eric Merchant	Beth Norberg
Kathy Moore	Jan Williams
Frank Preskar	Laura Hendley

Members Absent

Justin Murgel, chair
Mayor Wilmot Collins
Jenny Eck

Guests Present by Zoom

Mary Ann Dunwell, State Representative
Nicho Hash, Deputy County Attorney

Commissioner Andy Hunthausen, vice-chair, called the meeting to order at 1:00 p.m. A quorum was established. Introductions of board members, staff, and guests were made.

REVIEW OF AGENDA

Drenda Niemann, Health Officer, requested adding an additional action agenda item to discuss the cooperative agreement amendment between the Lewis and Clark Board of Health and Public Health and the State of Montana regarding work conducted by licensed establishments.

MINUTES

Ms. Niemann said that after reviewing the recording of the April 23, 2020, meeting, the health officer's report reflects what was originally written in the minutes. She would recommend changing the following: "Ms. Eck announced that if the Board would like to move forward with the plan as is and not go forward with the 2 motions," to read "Ms. Eck announced that if the Board would like to move forward with the plan as is and table the 2nd motion,". Raymond Berg was okay with the changes.

Commissioner Hunthausen asked if there were any corrections or additions to the May 28, 2020, minutes. There being none, the Board approved the minutes as written.

ACTION ITEM

Hearing Officer Recommendation, Larry & Laurie Chapman Variance:

Kammy Johnson, Hearing Officer, and Beth Norberg, Sanitarian, gave a brief account of the Chapman variance hearing held on June 23, 2020. Ms. Johnson recommended approval of the variance. She said the request met all of the Montana Department of Environmental Quality criteria for granting a variance. Mr. Berg moved to ratify the hearing officer recommendation for approval. Tyler Ream seconded the motion. The motion carried 6-0.

Hearing Officer Recommendation, Alec & Amy Vander Giessen Variance:

Kammy Johnson, Hearing Officer, and Frank Preskar, Sanitarian, gave a brief account of the Vander Giessen variance hearing held on June 23, 2020. Ms. Johnson recommended approval of the variance. She said the request met all of the Montana Department of Environmental Quality criteria for granting a variance. In answer to a question from Commissioner Hunthausen, Mr. Preskar said that the applicant's new septic system would have a level 2 recirculating trickling filter. The required maintenance of that filter depends on which Department of Environmental Quality approved filter the applicant chooses. Mr. Ream moved to ratify the hearing officer recommendation for approval. Dr. Mikael Bedell seconded the motion. The motion carried 6-0.

E-Cigarette Sales Restriction: Ms. Niemann announced that the Department of Public Health and Human Services (DPHHS) made an announcement last week of a proposed rule to restrict the sale of all flavored e-cigarette products excluding tobacco flavors to the persons within the State of Montana. The goal of the rule is to protect the kids of Montana who are specifically targeted with flavored e-cigarette products and use these products at alarming rates. This proposed rule would make the Governor's emergency rule that expired on April 15, 2020, a permanent rule. Nathan Wellington, Community Health Promotion- Health Educator for Tobacco Use Prevention, discussed the Governor's e-cigarette emergency rule, Federal Tobacco 21 ruling, types of e-cigarettes cartridges, and the difference between the new rules vs. the old rule. He presented the Board of Health resolution in support of the DPHHS permanent E-cigarette flavor ban ruling (page 16 of the board packet). In answer to a question from Commissioner Hunthausen, Ms. Niemann said that the resolution is in support of DPPHS's ban on flavored e-cigarettes. Kammy Johnson made a motion to approve the resolution in support of the DPHHS permanent e-cigarette flavor ban ruling. Mr. Bedell seconded the motion. The motion carried 6-0.

Board Appointments for Fiscal Year 2021: Ms. Niemann enumerated the board positions that needed to be filled for FY 2021. The Board made the following appointments:

- Justin Murgel as board chair
- Commissioner Andy Hunthausen as vice-chair
- Kammy Johnson as board representative on the Water Quality Protection District Board
- Kammy Johnson as acting hearings officer

Mr. Ream made a motion to approve the board appointments for FY 2021. Brie Oliver seconded the motion. The motion carried 6-0.

Licensed Establishment Cooperative Agreement Amendment: Laurel Riek, Licensed Establishment Program Supervisor, said the purpose of the Cooperative Agreement between DPHHS and Lewis and Clark County Board of Health is to establish a payment schedule for maximizing the disbursement of funds to the BOH to support inspections of licensed establishments and to determine which optional programs the BOH will conduct. The amendment will facilitate reimbursement to Lewis and Clark Public Health for the COVID-19 related work conducted by licensed establishments in our jurisdiction. Ms. Oliver made a motion to approve the Licensed Establishment Cooperative Agreement Amendment. Ms. Johnson seconded the motion. The motion carried 6-0.

BOARD DISCUSSION

CONNECT Referral Update: Julie Bir, Regional CONNECT Referral Coordinator, gave a presentation on the CONNECT Referral System (see Attachment "A"). Ms. Bir gave an overview of the system, benefits for providers and clients, program upgrade, and FY 2021 goals.

HEALTH OFFICER’S REPORT

Ms. Niemann highlighted the State of Montana’s COVID-19 Map of current number of confirmed, active, and recovered cases, the number of hospitalizations, and deaths. Ms. Niemann announced that sentinel testing is occurring in Lewis and Clark County with emphasis on tourist communities. In answer to a question from Mr. Ream, Ms. Niemann said that PureView Health Center held three sentinel-testing events recently and all had no positives cases. Ms. Niemann also reviewed the Public Health COVID-19 dashboard. In answer to questions from Mr. Berg, Ms. Niemann said that the “Average number of direct contacts per positive case” question in our dashboard refers to the direct number of contacts contacted during a COVID positive case. Ms. Niemann continued to describe what a close contact is to a positive case. Eric Merchant, Disease Control and Prevention Division Administrator, will need to get back to Mr. Berg on what the reproductive rate of COVID-19 is in Lewis and Clark County. Mr. Merchant further described what a close contact means and the need for face masks. In answer to a question from Mr. Ream, Ms. Niemann said that a positive case’s contacts are considered a close contact 48 hours before symptoms.

Ms. Niemann read phase 2 of the Governor’s directive. She discussed the process that the licensed establishment program is following regarding requests for large events; presented the challenges the team is facing during the event review process, collaboration between the City of Helena Permit office and Public Health, joint messaging between the city and county, and collaboration between business communities and advocates. Ms. Niemann is requesting an Order of the Health Officer, in conjunction with the Lewis and Clark City-County Board of Health, to limit events and gatherings to no more than 250 people. Mr. Berg expressed his concerns that events of 250 is still too large and the need for mandatory face masks. In answer to a question from Mr. Ream, Ms. Niemann said that event planners would be required to come up with environmental controls to ensure their events do not exceed 250 people. Mr. Ream said that at his next meeting with Ms. Niemann they would discuss if a school is considered a gathering.

PUBLIC COMMENT

Maestro Scott of the Helena Symphony discussed the cancelation of symphony, his ongoing discussions regarding event planning with the Public Health Licensed Establishment Program, and his agreeance that now is not the time for large events in Helena. Maestro Scott would like to work with Public Health to come up with plans that will allow his events to move forward in the coming months.

Ms. Oliver commented that she is part of non-profit organization for childcare safety and Ms. Niemann has been supportive in taking questions to AMPHO who in turn has elevated those questions to the Governor’s office.

Zoom chat messages (see Attachment “B”).

The meeting adjourned at 2:51 p.m.

Justin Murgel, Chair

Drenda Niemann, Secretary

LEWIS AND CLARK CITY-COUNTY

BOARD OF HEALTH PUBLIC HEARING– MINUTES
1930 9th AVE, HELENA, MONTANA 59601
Zoom Meeting, 2:30 p.m.
June 25, 2020

Members Present by Zoom

Commissioner Andy Hunthausen, vice chair
Brie Oliver
Kammy Johnson (Arrived at 1:14 p.m.)
Dr. Mikael Bedell
Tyler Ream
Raymond Berg

Staff Present by Zoom

Drenda Niemann
Eric Merchant
Jolene Helgerson
Kathy Moore
Jan Williams

Members Absent

Justin Murgel, chair
Mayor Wilmot Collins
Jenny Eck

Guest Present by Zoom

Nicho Hash, Deputy County Attorney
Representative Mary Ann Dunwell

Commissioner Hunthausen opened the Public Hearing on the Regulations Governing Soil Displacement and Disposal at 2:51p.m.

PUBLIC HEARING

Kathy Moore, Environmental Services Division Administrator, said that today's hearing is to allow the public to comment on the proposed Regulations Governing Soil Displacement and Disposal in the East Helena Superfund Area in Lewis and Clark County, Montana. Ms. Moore said the U.S. Environmental Protection Agency has made some comments on the regulations. They are in support of the regulations. Ms. Moore read the summary of changes to the soil displacement regulations. Ms. Moore noted that the changes would be presented to the full board at their July meeting along with public comment. Board member comments can be emailed to Ms. Moore or Ms. Niemann. Public comment period is open until 5:00 p.m. June 26, 2020. The Regulations Governing Soil Displacement and Disposal is available to the public at the City County Building, 316 North Park, Room 230; East Helena City Hall Lead Education Office; by calling the Environmental Services Division at 406-447-8355; or emailing Ms. Moore at kmoore@lccountymt.gov

PUBLIC COMMENT

Mary Ann Dunwell thanked Ms. Moore for her excellent work.

The hearing adjourned at 3:07 p.m.

Justin Murgel, Chair

Drenda Niemann, Secretary

LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana

BOARD AGENDA ITEM

Meeting Date

July 23, 2020

Agenda Item No.

3

Minutes Board Member Discussion Staff & Other Reports Action Hearing of Delegation

AGENDA ITEMS Regulations Governing Soil Displacement and Disposal Adoption

PERSONNEL INVOLVED: Kathy Moore, Environmental Services Division Administrator

BACKGROUND The Board will consider the adoption of the Regulations Governing Soil Displacement and Disposal.

HEALTH DIRECTOR'S RECOMMENDATION: N/A

ADDITIONAL INFORMATION

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
Bedell						
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Oliver						
Ream						

SECTION 1.0 AUTHORITY, DEFINITIONS, AND SCOPE

1.1 TITLE

These regulations will be known and cited as: THE REGULATIONS GOVERNING SOIL DISPLACEMENT AND DISPOSAL IN THE EAST HELENA SUPERFUND AREA IN LEWIS AND CLARK COUNTY, MONTANA.

1.2 AUTHORITY

The Lewis and Clark City-County Board of Health promulgates these regulations under the authority of Section 50-2-116(2) (c) (v), Montana Code Annotated (MCA).

1.3 FINDINGS

The Lewis and Clark City-County Board of Health finds that:

- (1) The United States Environmental Protection Agency (EPA) has identified and designated the City of East Helena and the surrounding area as a Superfund site and in 1984 placed the site on the EPA's National Priorities List for clean-up and remediation under the Comprehensive Environmental Response, Compensation, and Liability Act); and
- (2) The East Helena Superfund Site, Operable Unit No. 2, Residential Soils and Undeveloped Lands: Final Record of Decision (ROD), September 2009, identifies institutional controls that have been selected and approved by the EPA; and
- (3) The lead smelter, formerly owned by ASARCO, was the primary source of lead and arsenic soil contamination; and
- (4) East Helena and the surrounding area, as shown on the Administrative Boundary map attached to these regulations as Attachment A, contains lead and arsenic contaminated soils; and
- (5) Regulation of soil displacement within the Administrative Boundary is necessary to prevent lead and arsenic contamination of uncontaminated areas, prevent recontamination of remediated areas, and prevent potential health risks to humans; and
- (6) These regulations are necessary to protect public health and to control environmental lead and arsenic contamination within the Administrative Boundary.

1.4 DEFINITIONS

ADMINISTRATIVE BOUNDARY means the boundary area identified in Attachment A.

BOARD means the Lewis and Clark City-County Board of Health.

CLEANED UP means a property has been remediated to acceptable levels of contamination using EPA approved remediation methods which may be either in-situ treatments, such as deep tilling, or removal and replacement of contaminated soils.

COMMERCIAL PROPERTY OR SITES means property or sites having profit as a chief aim, excluding daycares, schools, and agricultural property.

CONTAMINATED SOIL means soil containing lead and/or arsenic in excess of background concentrations, identified in the “Remedial Investigation of Soils, Vegetation and Livestock for East Helena Site (Asarco), East Helena, MT”;EPA Work Assignment No. 68-8L30.0 May 1987 .

CUBIC YARD means a volume of soil equal to a cube one yard long on each side, which is approximately the size of an average desk or washing machine.

ENVIRONMENTAL SERVICES DIVISION means a component of the Lewis and Clark Public Health

EPA means the United States Environmental Protection Agency.

LEAP means the Lead Education and Assistance Program of the Environmental Services Division of Lewis and Clark Public Health.

LETTER OF EXEMPTION means a letter sent to property owners whose property does not have lead concentrations above 500 mg/kg, which releases the owner from having to obtain a soils displacement permit when disturbing more than 1 cubic yard of soil.

MG/KG means milligram per kilogram and is approximately equivalent to parts per million (ppm).

QUALIFIED RESIDENTIAL YARD means a _yard that was in existence prior to the release of the 2009 EPA ROD on September 17, 2009, and any part of that yard has at least one section with lead concentrations at or above 1000 ppm, or an arsenic average concentration at or above 100 ppm.

PERMIT means the written authorization from the Lead Education and Assistance Program to disturb soil within the Administrative Boundary.

PERSON means any individual, corporation, company, association, society, firm, partnership, Joint Stock Company or any branch of state, federal or local government; or any other entity that owns rents, or leases property subject to this regulation.

PROJECT means a plan or proposal resulting in or requiring the displacement of more than one cubic yard of soil.

RCRA means the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.

RELOCATION means the movement of any volume of soil from one location to another location.

REPOSITORY means an EPA-approved location for the disposition of contaminated soils.

REPRESENTATIVE means a person that is authorized to act as an official delegate or agent for another person.

RESIDENTIAL YARD means an area of land immediately adjacent to a house.

ROD means the 2009 EPA Record of Decision for the East Helena Superfund Site Operable Unit 2.

SOIL DISPLACEMENT means the relocation of one cubic yard or more of soil. Soil displacement does not include tilling if no excess soil is removed from the area.

SOIL SAMPLING means the collection and analysis of surface soil samples taken either as part of the Superfund clean-up action or taken in response to meeting conditions of this permit process.

TILLING means to prepare land for the raising of crops as by plowing or harrowing, or to cultivate or dig with a rototiller.

UNDEVELOPED LANDS means an area of land that lacks infrastructure, services and buildings

1.5 SCOPE

- (1) These regulations apply only to parcels of land lying within the Administrative Boundary of Lewis and Clark County.
- (2) These regulations apply to all persons engaging in soil displacement in excess of one cubic yard within the Administrative Boundary exclusive of tilling when no soil is removed from the parcel.

- (3) These regulations apply to all land use types, including but not limited to residential, commercial, recreational, right-of-ways, and industrial.
- (4) These regulations do not apply to parcels where the undisturbed native, average soil lead levels are less than 500 mg/kg or to properties in which soils have been cleaned to less than 500 mg/kg spatially and in depth.
- (5) In accordance with Section 9621(e) of Title 42 of the United States Code, nothing contained in this section or these regulations shall require or be construed to require the obtaining of a permit by any agency, employee, or contractor of the United States, the State, or the Montana Environmental Custodial Trust (MECT) for activities conducted entirely within the Administrative Boundary and carried out in compliance with the provisions of the Comprehensive Environmental
- (6) These regulations do not apply to sampled properties where lead concentrations are below 500 mg/kg and the average arsenic concentration is less than 100 mg/kg.

SECTION 2.0 PERMIT PROCEDURES AND REQUIREMENTS

2.1 PROHIBITED ACTIVITY

No person shall displace soil within the Administrative Boundary without first complying with the permit procedures and requirements as provided in this section.

2.2 APPLICATION PROCESS FOR PERMIT

- (1) Application for a permit to displace soil within the Administrative Boundary is made by completing a permit application available at the LEAP office, Room 201, East Helena City Hall, 306 East Main Street, East Helena, MT 59635 or online at LewisAndClarkHealth.org.
- (2) The applicant must submit all information required by these regulations before the LEAP staff must begin review of the application.
- (3) The applicant is required to submit information including, but not limited to:
 - a. Name and address of property owner
 - b. Name and address of applicant, if different than the property owner.
 - c. Address and legal description of location of proposed activity
 - d. Description of the proposed activity
 - e. Depth of any proposed excavation
 - f. Volume of soil to be excavated or displaced
 - g. Describe proposed method for controlling contaminated dust.
 - h. Describe proposed method for handling contaminated soil.
 - i. Location of final disposal site.

- j. Source of replacement soil.
 - k. Name of contractor or other representative, if applicable.
- (4) Upon receipt of a complete application, LEAP staff must schedule an appointment within 5 working days to finalize the project plan. During the appointment, LEAP staff will develop a project timeline with the applicant or his/her representative. The project timeline will include:
 - a. Start date
 - b. Proposed end date
 - c. Proposed date and time of final inspection
 - (5) Prior to permit approval, LEAP must review existing soil sampling and clean-up information for the site, if any exists.
 - (6) For undeveloped lands that have no sampling records, the applicant will refer to the Soil Sampling Program For Undeveloped Lands Quality Assurance Project Plan. Yards in existence prior to the release of the 2009 EPA ROD on September 17, 2009 will be sampled by EPA's Contractor at no cost to the owner.
 - (7) The person doing the work must complete training for certification as described in Section 3.
 - (8) Upon applicant's compliance with the requirements of this Section, LEAP must issue a permit in writing and the applicant or his/her representative must comply with the terms of the permit.
 - (9) Permits are valid for 2 years after date of issue. If work is not completed within 2 years, a new permit must be obtained.
 - (10) All permits issued by LEAP must be in compliance with the conditions set forth in the 2009 Record of Decision and must meet the clean-up criteria for the land use identified in Table 2.2.
 - (11) Emergency actions may be conducted by an applicant or their representative without a permit. The emergency action taken must be reported to LEAP as soon as possible and by the next business day at the latest. Emergencies may include water or sewer line leaks, natural gas line leaks, hazardous waste spills and other urgent events.

2.3 INSPECTIONS

- (1) Upon completion of the project, the applicant or the applicant's representative must notify the LEAP staff that the project is ready for a final inspection to determine compliance with these regulations.

- (2) Upon notification of project completion, LEAP will perform a final site inspection within 5 working days.
- (3) The final inspection LEAP staff will:
 - a. verify that work was conducted within the area described on the permit; and
 - b. verify that excess soils generated by the project are properly capped or have been removed to an approved repository; and
 - c. photograph the project site to document that the permit requirements were met; and
 - d. verify that the work has been completed in compliance with the permit requirements by signing and dating the permit.
- (4) Upon final inspection and approval of the project, LEAP staff must file the permit and documentation of project completion in the LEAP office. Summary information must be entered into the Soils Database by LEAP and will become part of the permanent site record. The permit will be the official record of compliance with the 2009 ROD and will be maintained on file for public review.

2.4 PERMIT FEES

No fees will be charged either to obtain a permit or to participate in the training or certification program held by the Lead Education and Assistance Program (LEAP) of the Lewis and Clark Public Health.

2.5 CONTROL OF EXCESS SOIL DISPOSAL AND REPLACEMENT SOIL STANDARDS

- (1) All excess soils removed from any property within the Administrative Boundary that is determined by LEAP to be contaminated must be transported by the applicant or the applicant's representative to one of the EPA approved repositories identified on the permit.
- (2) Excess soil from residential areas may be reused only on the property of origin if applicant demonstrates that lead concentrations are less than 500 milligrams per kilogram (mg/kg) and arsenic levels are below 100 mg/kg. Non-residential properties may reuse excess soil on the property of origin if clean-up criteria listed in Table 2.2 can be met.
- (3) Soil brought in for replacement or backfill will meet the replacement requirements listed in Table 2-1. Source of soil must be approved by LEAP prior to use.

TABLE 2-1 REPLACEMENT SOIL REQUIREMENTS

Parameter	Requirements
Lead	≤ 100 mg/kg
Arsenic	≤45 mg/kg

2.6 CLEAN-UP ACTION LEVEL

- (1) Soils from qualified residential yards and vacant lots developed prior to the release of the 2009 ROD on September 17, 2009, will have soils excavated and disposed of when any section of a yard is found to have:
 - a. A soil lead concentration greater than 1,000 milligrams/kilogram (mg/kg). All portions of the yard with soil lead greater than 500mg/kg will be cleaned up; or
 - b. An average yard arsenic concentration of greater than 100 mg/kg

- (2) Clean-up criteria for all land uses are listed in Table 2-2

Table 2-2 East Helena Superfund Site Operable Unit 2 Clean-up Criteria

Land Use	Frequency of use	Clean-up Criteria	
		Lead	Arsenic
Existing Residential and Public Use	Frequent or daily	If any sample unit is greater than 1,000 mg/kg, then all areas greater than 500 mg/kg	Yard average greater than 100 mg/kg
Proposed Residential and Public Use	Frequent or daily	Greater than 500 mg/kg	Greater than 100 mg/kg
Roads, Alleys, and Railroad Rights-of-Way (ROWs)	Adjacent to occupied residential or public use	Greater than 1,000 mg/kg	Greater than 100 mg/kg
	Adjacent to Recreational or Industrial/Commercial	See Land Use	See Land Use
Drainages, Floodplains, and Irrigation Ditches	Adjacent to occupied residential or public use	Greater than 1,000 mg/kg	Greater than 100 mg/kg
	Adjacent to Recreational or Industrial/Commercial	See Land Use	See Land Use
Recreational Land	Infrequent	Greater than 3,245 mg/kg	Greater than 794 mg/kg
Industrial and or Commercial	Frequent or daily	Greater than 1,482 mg/kg	Greater than 572 mg/kg
Agricultural and/or Undeveloped Land	Infrequent	Greater than 3,245 mg/kg	Greater than 794 mg/kg
	Frequent or Actively Managed	Greater than 1,482 mg/kg	Greater than 572 mg/kg

Note: mg/kg = parts per million = milligrams per kilogram (mg/kg)

SECTION 3.0 CERTIFICATION PROGRAM

3.1 CERTIFICATION

- (1) Certification means that a person has demonstrated knowledge of these regulations and is able to undertake projects in compliance with these regulations.
- (2) Certification is free.
- (3) Applicants, applicant's representatives, contractors, construction workers, and property owners may obtain certification from LEAP. Certification is a privilege extended to an applicant, contractor, construction worker, and property owner, and is not a right.
- (4) Application for certification must be in writing and must contain the name, address, and phone number of the individual and other information deemed necessary by LEAP.
- (5) To become certified, an individual must attend and satisfactorily complete the LEAP's certification program:
 - (a) Training will be provided by LEAP on an appointment basis, as needed.
 - (b) Training includes, but is not limited to the following topics:
 - Reducing or eliminating exposure to lead from soil during excavation.
 - Information about personal protective clothing.
 - Requirements for covering loads of soils prior to hauling to reduce blowing dust.
 - Methods and best management practices for dust control at construction sites.
 - Proper cleaning of equipment before leaving a construction site.
 - Acceptable disposal or reuse of excess soils.
- (6) Certification will depend upon completion of training.
- (7) Certification is valid for two years.
- (8) Certification is a prerequisite for any excavation of soil in excess of one cubic yard for properties that have lead concentrations above 500 mg/kg or have not been sampled.
- (9) Any person may attend training and become certified.

SECTION 4.0 VIOLATIONS AND ENFORCEMENT

Regulations Governing Soil Displacement and Disposal in the East Helena Superfund Area, Lewis and Clark County, Montana 2020

4.1 VIOLATIONS

- (1) Failure to have a permit.
- (2) Failure to post the permit at the site.
- (3) Failure to comply with the permit requirements.
- (4) Failure to allow access by Health Department representatives will invalidate the permit and/or other written record of compliance with these regulations which are necessary to document that all work was completed in compliance with the 2009 ROD.

4.2 PENALTIES FOR VIOLATIONS

Violations of any of the provisions of these regulations are a misdemeanor and are punishable as provided for in Section 50-2-124, Montana Code Annotated.

4.3 INJUNCTIONS

The County Attorney may commence an action to restrain and enjoin acts in violation of these regulations. Violation of any such injunction is subject to punishment by the issuing court.

SECTION 5.0 ACCESS, APPEAL AND SEVERABILITY

5.1 ACCESS RIGHTS

- (1) Health Department representatives are authorized and directed to make such inspections as are necessary to determine compliance with these regulations.
- (2) It is the responsibility of the owner, occupant, or contractor of a property to give Health Department representatives free access to the property at reasonable times for the purpose of making such inspections as are necessary for determining compliance with these regulations.
- (3) No person may interfere with representatives of the Health Department in the discharge of their duty.

5.2 APPEAL

- (1) If a permit is denied or the department determines the permit requirements have not been met, the applicant or his/her representative may appeal the denial to the Board.
- (2) A written request for an appeal must be submitted to the Environmental Services Division Administrator at least 10 days prior to the next regularly scheduled board meeting or the appeal hearing. The request must include:
 - (a) A description of the proposed activity
 - (b) The boundaries and location of the proposed activity; and
 - (c) A summary of the reason for the appeal
- (3) Board Chair, in consultation with the Environmental Services Division Administrator and the Health Officer will determine whether the appeal will be heard by the Board or its designated hearing officer.
- (4) The Board or its designated hearing officer will hear the applicant's appeal and the permit requirements at a regularly scheduled board meeting or a specially scheduled appeal hearing, whichever occurs first.
- (5) The Board or its designated hearing officer must provide a decision in writing to the property owner or his/her representative within 10 working days after the hearing.
- (6) Decisions of the Board or the designated hearing officer may be appealed to District Court.

5.3 SEVERABILITY

In the event that any section, subsection, or other portion of these regulations is for any reason held invalid or unconstitutional, such section, subsection, or portion will be considered a separate provision of these regulations and such holding will not affect the validity of the remaining portions of these regulations which will remain in full force and effect.

SECTION 6.0. REVISION, REPEALER AND EFFECTIVE DATE

6.1 REVISION

Revisions to these regulations may be made by the Board as needed to ensure proper administration and to allow for improved mitigation measures or procedures for protecting the previously conducted clean-up activities. The Board must hold a public hearing before any revision to these regulations.

6.2 REPEALER

All previous rules, regulations, resolutions and ordinances as adopted by the Lewis and Clark City-County Board of Health governing soil disturbances within the Administrative Boundary are hereby repealed.

6.3 EFFECTIVE DATE

These regulations must be in full force and effect

on the 1st day of August, 2020.

These regulations will be reviewed and evaluated by the Lewis and Clark City-County Board of Health at least two years from the effective date, and every two years thereafter.

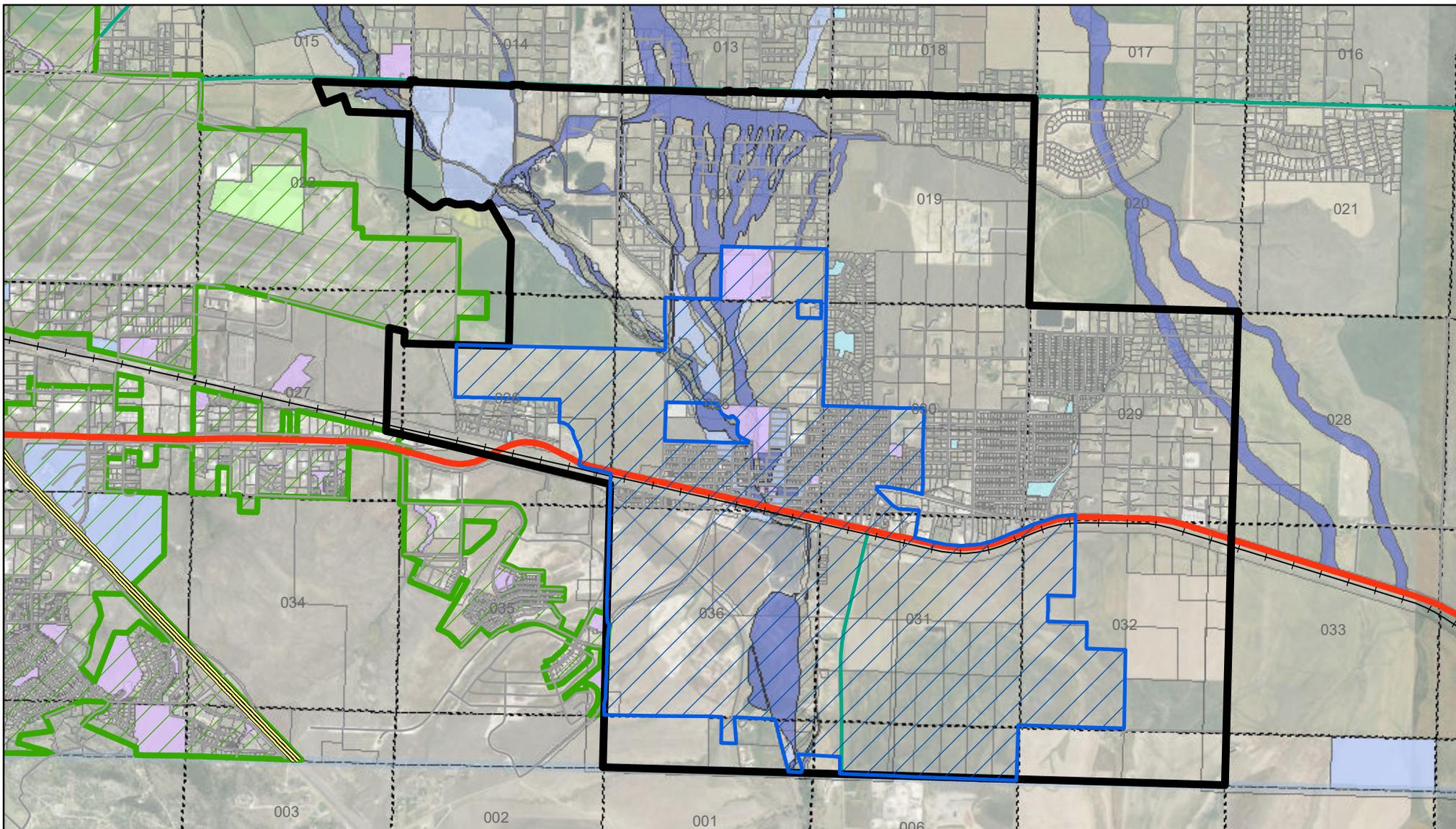
Lewis and Clark City-County Board of Health

Tyler Ream, Chair
Lewis and Clark City-County Board of Health

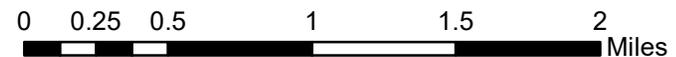
Date

Drenda Niemann, Health Officer
Lewis and Clark Public Health

Date



- | | |
|--|---|
| Lewis & Clark County Administrative Boundary | Public Lands |
| Interstate | Federal Properties |
| US Hwy | State Properties |
| Montana Hwy | County Properties |
| Secondary Hwy | City Properties |
| Roadways | Parcel Boundaries |
| County Boundary | Floodway (No Development Zone) |
| East Helena City Limits | Zone A (100 Year) |
| Helena City Limits | Zone X - .2% Annual Chance Floodplain |
| | Zone X - Outside .2% Annual Chance Floodplain |



1 inch = 3,500 feet

Attachment A - Administrative Boundary East Helena Superfund Area, Lewis and Clark County, Montana

**LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana**

BOARD AGENDA ITEM

Meeting Date

July 23, 2020

Agenda Item No.

4

Minutes Board Member Discussion Staff & Other Reports Action Hearing of Delegation

AGENDA ITEMS Inclusiveness Resolution

PERSONNEL INVOLVED: Sarah Sandau, Prevention Supervisor

BACKGROUND Ms. Sandau will present the Inclusiveness Resolution to the Board for their consideration.

HEALTH DIRECTOR’S RECOMMENDATION: N/A

ADDITIONAL INFORMATION

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
Bedell						
Berg						
Collins						
Eck						
Hunthausen						
Johnson						
Murgel						
Oliver						
Ream						



**LEWIS AND CLARK
CITY-COUNTY BOARD OF HEALTH**

1930 Ninth Avenue
Helena, Montana 59601
Telephone 406-457-8900
Fax 406-457-8990

***A Resolution of the Lewis and Clark City-County Board of Health
in support of recognizing July 2020 as Disability Health Equity Month***

WHEREAS, on July 26, 1990, President George H.W. Bush signed into law the Americans with Disabilities Act (ADA) to ensure the civil rights of people with disabilities. This legislation established a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; and

WHEREAS, the ADA has expanded opportunities for Americans with disabilities by reducing barriers and changing perceptions, and increasing full participation in community life; and

WHEREAS, we of the Lewis and Clark County Commission recognize and value the accomplishments and contributions of people with disabilities and the progress that the nation has made since the passage of the Americans with Disabilities Act; and

WHEREAS approximately 13.6% of Montanans have some form of disability; and

WHEREAS, disability is a natural part of the human experience that does not diminish an individual's right to live independently, have choice over his or her own life, and fully participate in and contribute to the community through full inclusion; and

WHEREAS, we grow stronger as a community when every person experiences the dignity and freedom of being part of the community; and

WHEREAS, we want to help build a community in which no person is excluded, marginalized, treated unfairly, or prevented from accessing any resource, opportunity, or service;

NOW, THEREFORE, let it be resolved, on the 30-year anniversary of the passage of the ADA, we ask that those in county government strive to develop and maintain a culture of disability inclusion in all of our activities, services, facilities, and systems; and

We ask employers in Lewis and Clark County, as they seek to fill positions, to embrace the richness of our community's diversity by considering the talents of all workers, including those with disabilities; and

We ask planners and property owners to build communities that are universally accessible, enhancing independence and active living; and

We ask everyone to create a better and more inclusive community by celebrating the contributions of individuals with disabilities; and

We ask our community to dedicate itself to ensuring that all residents with disabilities can live full lives, with greater opportunities and independence, through advocacy, support, and technological advancements.

Our mission is to improve and protect the health of all Lewis and Clark County residents



**LEWIS AND CLARK
CITY-COUNTY BOARD OF HEALTH**

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Adopted by the Lewis and Clark City-County Board of Health on this day, **July 23, 2020**.

BY: _____

Justin Murgel, Chair

Our mission is to improve and protect the health of all Lewis and Clark County residents

**LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana**

BOARD AGENDA ITEM

Meeting Date

July 23, 2020

Agenda Item No.

5

Minutes Board Member Discussion Staff & Other Reports Action Hearing of Delegation

AGENDA ITEMS: Board Member Discussion

PERSONNEL INVOLVED: Board Members/Staff

BACKGROUND Staff Introduction-Jolene Jennings

HEALTH DIRECTOR'S RECOMMENDATION: N/A

ADDITIONAL INFORMATION ATTACHED

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
Bedell						
Berg						
Collins						
Eck						
Hunthausen						
Johnson						
Murgel						
Oliver						
Ream						

**LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana**

BOARD AGENDA ITEM

Meeting Date

July 23, 2020

Agenda Item No.

6

Minutes Board Member Discussion Staff & Other Reports Action Hearing of Delegation

AGENDA ITEMS: Health Officer’s Report

PERSONNEL INVOLVED: Drenda Niemann, Health Officer

BACKGROUND: Ms. Niemann is providing a report on current Health Department issues.

HEALTH DIRECTOR’S RECOMMENDATION: N/A

ADDITIONAL INFORMATION ATTACHED

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
Bedell						
Berg						
Collins						
Eck						
Hunthausen						
Johnson						
Murgel						
Oliver						
Ream						

**LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana**

BOARD AGENDA ITEM

Meeting Date

July 23, 2020

Agenda Item No.

7

Minutes Board Member Discussion Staff & Other Reports Action Hearing of Delegation

AGENDA ITEMS: Public Comment

PERSONNEL INVOLVED: Public and Board Members

BACKGROUND: Time is allowed for public comment on matters not mentioned in the agenda within the Board of Health’s jurisdiction.

HEALTH DIRECTOR’S RECOMMENDATION: n/a

ADDITIONAL INFORMATION ATTACHED

BOARD ACTION:

NOTES:

	M O T I O N	S E C O N D	A Y E	N A Y	A B S T A I N	O T H E R
Bedell						
Berg						
Collins						
Eck						
Hunthausen						
Johnson						
Murgel						
Oliver						
Ream						

Andy Hunthausen-vice chair
County Commissioner
316 N. Park
Helena, Montana 59623
447-8304 (W) 447-8370 (Fax)
E-mail: ahunthausen@lccountymt.gov

(1)
Pleasure of L & C County Commission

Mayor Wilmot Collins
City Commissioner
316 N. Park
Helena, Montana 59623
447-8410 (W)
E-mail: wcollins@helenamt.gov

(2)
Pleasure of City of Helena Commission

Tyler Ream
Superintendent, Helena School Dist. No. 1
55 S. Rodney
Helena, Montana 59601
324-2001 (W)
E-mail: tream@helenaschools.org

(3,a)
Superintendent of Schools

Dr. Mikael Bedell
710 Madison Ave
Helena, MT 59601
208-630-3848 (c)
E-mail mbedell@sphealth.org

(3,b)
Term expires - June 30, 2022

Kammy Johnson
2030 Cromwell Dixon Ln
Ste F, PMB 202
Helena, MT 59602
799-3654 (W) 458-1956 (H) 439-0914 (C)
E-mail: kjohnsonmt@gmail.com

(3,c)
Term expires - June 30, 2021

Raymond Berg
PO Box 786
East Helena, MT 59635-0786
431-9861 (C)
E-mail: rberg7867@icloud.com

(3,d)
Pleasure of East Helena City Council

Brie Oliver
710 N. Davis St.
Helena, MT 59601
461-0784 (C)
E-mail: brie@hmhb-mt.org

(3,e)
Term expires - June 30, 2022

Justin Murgel- chair
903 East Groschell
East Helena, MT 59635
422-9928 (H)
E-mail: Justin.Murgel@PacificSource.com

(3,f)
Term expires - June 30, 2021

Jenny Eck
563 3rd Street
Helena, MT 59601
459-1082 (C)
E-mail: jennyeck4mt@gmail.com

(3,g)
Term expires - June 30, 2021

Updated June 2019

*"To Improve and Protect the Health of all Lewis and Clark County
Residents."*

**Attendance Record for the
Lewis & Clark City-County Board of Health**

FY 2020

	Jul	Aug	Sep	Oct	Nov/Dec	Jan	Feb	Mar	Apr	May 7	May	Jun
Bedell	O	X	X	X	X	T	X	X	X	X	X	X
Berg	---	---	---	---	---	---	X	X	X	X	X	X
Collins	X	O	X	O	O	O	O	X	X	X	X	O
Eck	X	X	O	X	X	O	X	X	X	X	X	O
Hunthausen	O	X	X	X	O	O	X	X	X	X	O	X
Johnson	O	X	O	X	X	T	X	X	X	X	X	X
Murgel	X	O	X	X	X	T	X	X	X	X	X	O
Oliver	X	X	O	X	X	O	X	X	X	X	O	X
Ream	O	X	X	X	X	O	X	X	X	X	X	X
St. Clair	X	O	X	O	O	---	---	---	---	---	---	---

Legend:

X = Present

X_p = Present by phone

--- = Not a member of the board at that time.

O = Absent

* = No meeting held

P = Strategic Planning Session

T = Training



LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH

1930 Ninth Avenue
Helena, MT 59601
PH 406.457.8900
Fax: 406.457.8990

MEMBERS

Jenny Eck	Term expires - June 30, 2021	Second Term
Justin Murgel	Term expires - June 30, 2021	First Term
Mikael Bedell	Term expires - June 30, 2022	First Term
Brie Oliver	Term expires - June 30, 2022	First Term
Kammy Johnson	Term expires - June 30, 2021	Second Term
Tyler Ream	Superintendent of Schools	
Andy Hunthausen	Pleasure of Lewis & Clark County Commission	
Mayor Wilmot Collins	Pleasure of Helena City Commission	
Raymond Berg	Pleasure of East Helena City Council	

MEETING DATES FOR FISCAL YEAR 2021

Scheduled for 1:00 p.m. in Room 330 of the City-County Building.

July 23, 2020

August 27, 2020

September 24, 2020

October 22, 2020

December 3, 2020

January 28, 2021

February 25, 2021

March 25, 2021

April 22, 2021

May 27, 2021

June 24, 2021

July 2020