



Lewis & Clark
Public Health

Board of Health Orientation Manual

The MISSION of the Lewis and Clark Public Health is to improve and protect the health of all Lewis and Clark County residents.



LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH

1930 Ninth Avenue
Helena, Montana 59601
Telephone 4-HEALTH or dial 443-2584
Fax 406-457-8990

BOARD OF HEALTH MEMBERS

Katherine Weber	Member at large chosen from the population of the county residing outside the city limits of Helena. Term expires June 30, 2024.
Justin Murgel	Member at large residing in the City of Helena. Term expires June 30, 2024.
Candace Payne	Lewis and Clark County Commissioner or the designated representative. Serving at the pleasure of the Board of County Commissioners.
Mayor Kelly Harris	A resident of the City of East Helena recommended by the governing body of the city of East Helena. Serving at the pleasure of the East Helena City Council.
Rex Weltz	Superintendent of Schools, Ex-officio Voting
Brie McLaurin	A consumer of health services provided by the local Board, with experience in or knowledge of health care, environmental, or human services programs. Term expires June 30, 2025.
Mikael Bedell	A licensed doctor of medicine practicing in Lewis and Clark County. Term expires June 30, 2025.
Mayor Wilmot Collins	Pleasure of Helena City Commission
Lisa Kaufman	A professional with experience in the field of environmental, biological, chemical or engineering sciences. Term expires June 30, 2024.



Lewis & Clark Public Health

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Updated January 2024

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



Lewis & Clark Public Health

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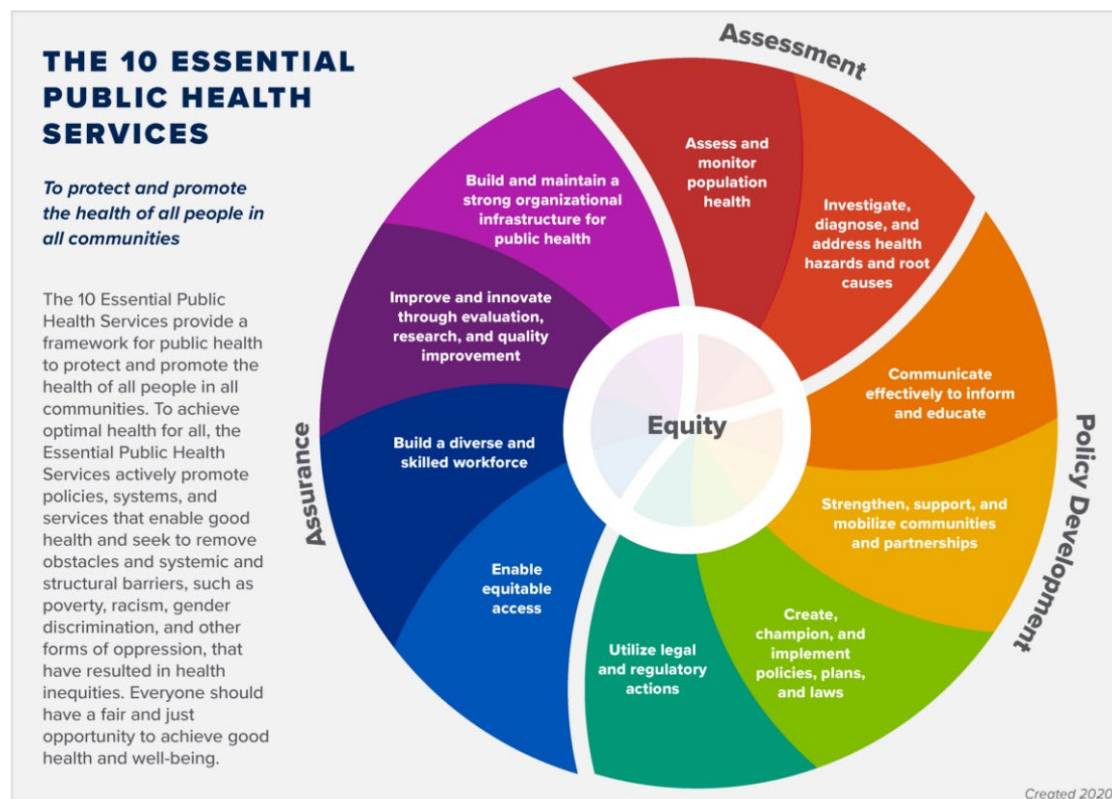
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"To Improve and Protect the Health of all Lewis and

Essential Public Health Services (Revised, 2020)

The 10 Essential Public Health Services provide a framework for public health to protect and promote the health of *all people in all communities*. To achieve equity, the Essential Public Health Services actively promote policies, systems, and overall community conditions that enable optimal health for all and seek to remove systemic and structural barriers that have resulted in health inequities. Such barriers include poverty, racism, gender discrimination, ableism, and other forms of oppression. Everyone should have a fair and just opportunity to achieve optimal health and well-being.

1. Assess and monitor population health status, factors that influence health, and community needs and assets
2. Investigate, diagnose, and address health problems and hazards affecting the population
3. Communicate effectively to inform and educate people about health, factors that influence it, and how to improve it
4. Strengthen, support, and mobilize communities and partnerships to improve health
5. Create, champion, and implement policies, plans, and laws that impact health
6. Utilize legal and regulatory actions designed to improve and protect the public's health
7. Assure an effective system that enables equitable access to the individual services and care needed to be healthy
8. Build and support a diverse and skilled public health workforce
9. Improve and innovate public health functions through ongoing evaluation, research, and continuous quality improvement
10. Build and maintain a strong organizational infrastructure for public health



<https://www.cdc.gov/publichealthgateway/publichealthservices/essentialhealthservices.html>

Foundational Public Health Services



Health departments have a fundamental responsibility to provide public health protections and services in a number of areas, including: preventing the spread of communicable disease; ensuring food, air, and water quality are safe; supporting maternal and child health; improving access to clinical care services; and preventing chronic disease and injury. In addition, public health departments provide local protections and services specific to their community's needs.

Health departments serve their communities 24/7 and require access to a wide range of critical data sources, robust laboratory capacity, preparedness and policy planning capacity, partnerships with community, and expert staff to leverage them in support of public health protections.

The Foundational Public Health Services framework outlines the unique responsibilities of governmental public health and defines a minimum set of Foundational Capabilities and Foundational Areas that must be available in every community.



Community-specific Services are local protections and services that are unique to the needs of a community. These services are essential to that community's health and vary by jurisdiction.

Foundational Areas

Public health programs, or Foundational Areas, are basic public health, topic-specific programs and services aimed at improving the health of the community. The Foundational Areas reflect the minimum level of service that should be available in all communities.

Foundational Capabilities

Public health infrastructure consists of Foundational Capabilities that are the cross-cutting skills and capacities needed to support basic public health protections, programs, and activities key to ensuring community health, well-being and achieving equitable outcomes.

Foundational Capabilities

There are eight Foundational Capabilities that are needed in Public Health Infrastructure.

Assessment & Surveillance

- Ability to collect timely and sufficient foundational data to guide public health planning and decision making at the state and local level, including the personnel and technology that enable collection.
- Ability to collect, access, analyze, interpret, and use data from a variety of sources including granular data and data disaggregated by geography (e.g., census tract, zip code), sub-populations, race, ethnicity, and other variables that fully describe the health and well-being of a community and the factors that influence health.
- Ability to assess and analyze disparities and inequities in the distribution of disease and social determinants of health, that contribute to higher health risks and poorer health outcomes.
- Ability to prioritize and respond to data requests and translate data into information and reports that are valid, complete, statistically accurate, and accessible to the intended audiences.
- Ability to conduct a collaborative community or statewide health assessment and identify health priorities arising from that assessment, including analysis of root causes of health disparities and inequities.
- Ability to access 24/7 laboratory resources capable of providing rapid detection.
- Ability to participate in or support surveillance systems to rapidly detect emerging health issues and threats.
- Ability to work with community partners to collect, report and use public health data that is relevant to communities experiencing health inequities or ability to support community-led data processes.

Community Partnership Development

- Ability to create, convene, support, and sustain strategic, non-program specific relationships with key community groups or organizations representing populations experiencing health disparities or inequities; private businesses and health care organizations; relevant

federal, Tribal, state, and local government agencies; elected and non-elected officials.

- Ability to leverage and engage partnerships and community in equity solutions.
- Ability to establish and maintain trust with and authentically engage community members and populations most impacted by inequities in key public health decision-making and use community-driven approaches.
- Ability to convene across governmental agencies, such as departments of transportation, aging, substance abuse/mental health, education, planning and development, or others, to promote health, prevent disease, and protect community members of the health department's jurisdiction.
- Ability to engage members of the community and multi-sector partners in a community health improvement process that draws from community health assessment data and establishes a plan for addressing priorities. The community health improvement plan can serve as the basis for coordination of effort and resources across partners.

Equity

- Ability to strategically address social and structural determinants of health through policy, programs, and services as a necessary pathway to achieve equity.
- Ability to systematically integrate equity into each aspect of the FPHS, strategic priorities, and include equity-related accountability metrics into all programs and services.
- Ability to work collaboratively across the department and the community to build support for and foster a shared understanding of the critical importance of equity to achieve community health and well-being.
- Ability to develop and support staff to address equity.
- Ability to create a shared understanding of what creates health including structural and systemic factors that produce and reproduce inequities.

Organizational Competencies

- **Leadership & Governance:** Ability to lead internal and external stakeholders to consensus, with movement to action, and to serve as the face of governmental public health in the department's jurisdiction. Ability to directly engage in health policy development, discussion, and adoption with local, state, and national policymakers, and to define a strategic direction for public health initiatives, including the advancement of equity. Ability to prioritize and implement diversity, equity, and inclusion within the organization. Ability to engage with appropriate governing entities about the department's public health legal authorities and what new laws and policies might be needed. Ability to ensure diverse representation on public health boards and councils.
- **Information Technology Services, including Privacy & Security:** Ability to maintain and procure the hardware and software needed to access electronic health information to support the department's operations and analysis of health data. Ability to support, use, and maintain communication technologies and systems needed to interact with community members. Ability to have the proper systems and controls in place to keep health and human resources data confidential and maintain security of IT systems.
- **Workforce Development & Human Resources:** Ability to develop and maintain a diverse and inclusive workforce with the cross-cutting skills and competencies needed to implement the FPHS effectively and equitably. Ability to manage human resource functions including recruitment, retention, and succession planning; training; and performance review and accountability.
- **Financial Management, Contract, & Procurement Services, including Facilities and Operations:** Ability to establish a budgeting, auditing, billing, and financial system and chart of expense and revenue accounts in compliance with federal, state, and local standards and policies. Ability to secure grants or other funding (governmental and not) and demonstrate compliance with an audit required for the sources of funding utilized. Ability to procure, maintain, and manage safe facilities and efficient operations. Ability to leverage funding and ensure resources are allocated to address equity and social determinants of health.

- **Legal Services & Analysis:** Ability to access and appropriately use legal services in planning, implementing, and enforcing, public health initiatives, including relevant administrative rules and due process

Policy Development and Support

- Ability to serve as a primary and expert resource for establishing, maintaining, and developing basic public health policy recommendations that are evidence-based and grounded in law. This includes researching, analyzing, costing out, and articulating the impact of such policies and rules where appropriate, as well as the ability to organize support for these policies and rules and place them before an entity with the legal authority to adopt them.
- Ability to effectively inform and influence policies being considered by other governmental and non-governmental agencies that can improve the physical, environmental, social, and economic conditions affecting health but are beyond the immediate scope or authority of the governmental public health department.
- Ability to effectively advocate for policies that address social determinants of health, health disparities and equity.
- Ability to issue, promote compliance with or, as mandated, enforce compliance with public health regulations.

Accountability & Performance Management

- Ability to perform according to accepted business standards in accordance with applicable federal, state, and local laws and policies and assure compliance with national and Public Health Accreditation Board Standards.
- Ability to maintain a performance management system to monitor achievement of organizational objectives.
- Ability to identify and use evidence-based or promising practices when implementing new or revised processes, programs and/or interventions.
- Ability to maintain an organization-wide culture of quality and to use quality improvement tools and methods.
- Ability to create accountability structures and internal and external equity-related metrics to measure the equity impact of a department's efforts and performance.

Emergency Preparedness and Response

- Ability to develop, exercise, and maintain preparedness and response strategies and plans, in accordance with established guidelines, and to address a range of events including natural or other disasters, communicable disease outbreaks, environmental emergencies, or other events, which may be acute or occur over time.
- Ability to integrate social determinants of health, and actions to address inequities, including ensuring the protection of high-risk populations, into all plans, programs, and services.
- Ability to lead the Emergency Support Function 8 — Public Health & Medical for the county, region, jurisdiction, and state.
- Ability to activate the emergency response personnel and communications systems in the event of a public health crisis; coordinate with federal, state, and local emergency managers and other first responders, and private sector and non-profit partners; and operate within, and as necessary lead, the incident management system.
- Ability to maintain and execute a continuity of operations plan that includes a plan to access financial resources to execute an emergency and recovery response.
- Ability to establish and promote basic, ongoing community readiness, resilience, and preparedness by enabling the public to take necessary action before, during, or after a disaster, emergency, or public health event.
- Ability to issue and enforce emergency health orders.
- Ability to be notified of and respond to events on a 24/7 basis.
- Ability to access and utilize a Laboratory Response Network (LRN) Reference laboratory for biological agents and an LRN chemical laboratory at a level designated by CDC.

Communications

- Ability to maintain ongoing relations with local and statewide media including the ability to write a press release, conduct a press conference, and use electronic communication tools to interact with the media.
- Ability to effectively use social media to communicate directly with community members.
- Ability to appropriately tailor communications and communications mechanisms for various audiences.
- Ability to write and implement a routine communications plan and develop routine public health communications including to reach communities not traditionally reached through public health channels.
- Ability to develop and implement a risk communication strategy for communicating with the public during a public health crisis or emergency. This includes the ability to provide accurate and timely information and to address misconceptions and misinformation, and to assure information is accessible to and appropriate for all audiences.
- Ability to transmit and receive routine communications to and from the public in an appropriate, timely, and accurate manner, on a 24/7 basis.
- Ability to develop and implement a proactive health education/health communication strategy (distinct from risk communication) that disseminates timely and accurate information to the public designed to encourage actions to promote health in culturally and linguistically appropriate formats for the various communities served, including using electronic communication tools.

Foundational Areas

There are five Foundational Areas, also known as Public Health Programs. Social determinants of health and actions to address health inequities should be integrated throughout all activities.

Communicable Disease Control

- Provide timely, statewide, and locally relevant and accurate information to the health care system and community on communicable diseases and their control.
- Identify statewide and local communicable disease control community partners and their capacities, develop, and implement a prioritized communicable disease control plan, and ability to seek and secure funding for high priority initiatives.
- Receive laboratory reports and other relevant data; conduct disease investigations, including contact tracing and notification; and recognize, identify, and respond to communicable disease outbreaks for notifiable conditions in accordance with local, national, and state mandates and guidelines.
- Assure the availability of partner notification services for newly diagnosed cases of communicable diseases according to Centers for Disease Control and Prevention (CDC) guidelines.
- Assure the appropriate treatment of individuals who have reportable communicable diseases, such as TB, STIs, and HIV in accordance with local and state laws and CDC guidelines.
- Support the recognition of outbreaks and other events of public health significance by assuring capacity for the identification and characterization of the causative agents of disease and their origin, including those that are rare and unusual.
- Coordinate and integrate categorically-funded communicable disease programs and services.

Chronic Disease & Injury Prevention

- Provide timely, statewide, and locally relevant, complete, and accurate information to the health care system and community on chronic disease and injury prevention and control.
- Identify statewide and local chronic disease and injury prevention community partners and their capacities, develop, and implement a prioritized prevention plan, and ability to seek and secure funding for high priority initiatives.

- Reduce statewide and community rates of tobacco use through a program that conforms to standards set by state or local laws and CDC's Office on Smoking and Health, including activities to reduce youth initiation, increase cessation, and reduce secondhand exposure to harmful substances.
- Work actively with statewide and community partners to increase statewide and community rates of healthy eating and active living through a prioritized approach focusing on best and promising practices aligned with national, state, and local guidelines for healthy eating and active living.
- Coordinate and integrate categorically-funded chronic disease and injury prevention programs and services.

Environmental Public Health

- Provide timely, statewide, and locally relevant, complete, and accurate information to the state, health care system, and community on environmental public health threats and health impacts from common environmental or toxic exposures.
- Identify statewide and local community environmental public health partners and their capacities, develop, and implement a prioritized plan, and ability to seek and secure action funding for high priority initiatives.
- Conduct mandated environmental public health laboratory testing, inspections, and oversight to protect food, recreation sites, and drinking water; manage liquid and solid waste streams safely; and identify other public health hazards related to environmental factors in accordance with federal, state, and local laws and regulations.
- Protect workers and the public from chemical and radiation hazards in accordance with federal, state, and local laws and regulations.
- Participate in broad land use planning and sustainable development to encourage decisions that promote positive public health outcomes and resilient communities (e.g., housing and urban development, recreational facilities, transportation systems and climate change).
- Coordinate and integrate categorically-funded environmental public health programs and services.

Maternal, Child and Family Health

- Provide timely, statewide, and locally relevant, complete, and accurate information to the health care system and community on emerging and on-going maternal child health trends.
- Identify local maternal and child health community partners and their capacities; using life course expertise and an understanding of health disparities, develop a prioritized prevention plan; and ability to seek and secure funding for high priority initiatives.
- Identify, disseminate, and promote emerging and evidence-based early interventions in the prenatal and early childhood period that promote lifelong health and positive social-emotional development.
- Assure newborn screening as mandated by a state or local governing body including wraparound services, reporting back, following up, and service engagement activities.
- Coordinate and integrate categorically funded maternal, child, and family health programs and services.

Access to & Linkage with Care

- Provide timely, statewide, and locally relevant, complete, and accurate information to the health care system and community on access and linkage to clinical care (including behavioral health), healthcare system access, quality, and cost.
- Inspect and license healthcare facilities, and license, monitor, and discipline healthcare providers, where applicable.
- In concert with national and statewide groups and local providers of healthcare, identify healthcare partners and competencies, develop prioritized plans for increasing access to health homes and quality health care, and seek funding for high priority policy initiatives.

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Section 1

Overview of Duties/Responsibilities of the Health Department

Overview of Duties / Responsibilities of the Lewis and Clark City-County Board of Health

Administrative Responsibilities

- The Board of Health supervises and evaluates the Health Officer/Director's performance.
- The Health Officer/Director, hires, supervises and evaluates all other staff of the Department in compliance with county personnel policies. Salaries, benefits, training & educational policies, etc. established by Board of County Commissioners.
- Annual Health Department Budget - Review and submit recommendation to BOCC for final approval by County Commission
- Take formal action on certain administrative/personnel issues - such as approve extended leave of absence for educational purposes (this is something provided for in union contract) and submit to BOCC for final approval.

Public Health Policy Responsibilities

- Communicable disease outbreaks or public health crises: Take action as provided for by statute. Direct Health Officer/Department to take certain steps (examples: temporary closures of restaurants at Mall when water supply contaminated; issuance of health advisories and local restrictions on certain activities when situations occur which present health risk in community)
- Board adopts formal policy resolutions on pertinent public health issues (examples of resolutions adopted by L&C City County Board of Health contained in board manual)
- Work with City and County Commissioners and East Helena City Council on issues affecting L&C County residents, and develop formal policy positions when appropriate

- Directs Health Officer/staff to write letters on behalf of Board of Health calling issues to the attention of appropriate parties, thanking for support, expressing concern, requesting legal review, etc.
- Planning meetings or retreats as appropriate - serves as a basis for the Department's program planning and establishment of priorities in relation to funding, or to position ourselves to address new public health priorities.
- Review legislative activities, and direct Health Officer regarding formal Board/Department positions on legislation. Review testimony when necessary.
- Review and submit recommendations for other ordinances or administrative rules which have been delegated to Board/Department for implementation (eg, outdoor air quality ordinance, institutional controls)
- Other responsibilities as specified in 50-2-116, MCA (attached)

Quasi-Judicial Functions

- Recommend for adoption by local governing body (and periodically review and revise) local regulations for on-site wastewater regulations, or other regulations when authority provided in state statute. This involves public notice, public hearings, etc.
- Recommend for adoption by local governing body health department hourly fee for public health services provided by the health department.
- Hear and act on variance requests for exemptions to on-site wastewater regulations, outdoor air quality ordinance. This involves formal public notice, public hearings, adoption of findings of fact and conclusions of law, etc.

Section 2

Responsibilities and Authorities of Local Boards of Health

Montana Code Annotated (Current Year)

Title 50. Health and Safety
Chapter 2. Local Boards of Health
Part 1. General Provisions
Powers and Duties of Local Boards of Health

https://leg.mt.gov/bills/mca/title_0500/chapter_0020/part_0010/section_0160/0500-0020-0010-0160.html

Section 3

Health Officer Position Description



Job Description

Date: March 2018

Position: Health Officer

Department:	Public Health	Status:	Regular, full-time, Exempt	Bargaining Unit:	None	Grade:	28
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1. General Statement

Under policy direction of the Lewis and Clark Board of Health, this position performs administrative, supervisory, programmatic and personnel duties in directing activities of the Health Department.

2. Required Qualifications – Experience & Education

The knowledge, skills, and abilities required for this position are typically acquired through a combination of education and experience equivalent to Master's Degree in Public Health, healthcare administration, or related field, plus five (5) years experience in public health administration and preventive health services or similar with at least two (2) years being in a supervisory position.

Duties and Responsibilities

- implements and administers policies developed by the Lewis and Clark Board of Health;
- functions as the lead public health official and health officer for Lewis and Clark County, will powers and duties as outlined in MCA Title 50;
- leads program development and strategic planning;
- leads development and implementation of operations plan and quality improvement program;
- directs, supervises and evaluates Public Health leadership team;
- ensures that the fiscal integrity of the Public Health department is maintained, that adequate funds are available to support the mission and that the funds are properly allocated;
- prepares and monitors implementation of annual budget;
- assures adherence to Federal and State laws and rules; assures adherence to County administrative policies in accordance with agreement between Public Health's Governing Board and County;
- participates in partnerships with local health community and local governments to identify public health delivery issues;
- develops and maintains working relationships with elected officials from local, state and federal governments;
- represents Public Health to the community through media and public and private contacts; attends conferences and meetings;
- prepares and delivers presentations; prepares and implements contracts, reports, grants and written communications;
- provides support, direction and information to the Lewis and Clark Public Health Board;
- advocates with other community and government organization on public health issues;
- performs other duties as assigned

3. Knowledge Skills & Abilities

- public sector budgeting policies and procedures;
- supervisory techniques and personnel practices;
- federal laws and standards for public health departments;
- Montana Code Annotated and Lewis and Clark County regulations;
- Health Department policies and procedures;
- Health Department programs;
- clinic health and safety regulations and policies;
- community health and human service resources;
- public sector grant writing requirements;
- health service and public sector budgeting procedures;

- health quality assurance and quality improvement policies and programs;
- HIPAA regulations and practices;
- Ability to use common office machines;
- understand and interpret statutes, regulations, policies, procedures and guidelines;
- operate computer systems and related software, including word processing and spreadsheet programs;
- communicate effectively orally and in writing;
- establish effective working relationships with fellow employees, supervisors, elected officials, medical providers, patients, and citizens

4. Special Requirements

None

5. Physical Demands

Duties are generally performed in an office environment where hazards and discomforts are controlled and modifiable. This position requires the ability to bend at the waist, kneel, reach over the head, talk, hear, and see. Must be able to move or lift documents and materials weighing up to 20 pounds. Position requires knowledge and use of typical office equipment including telephone, audio-visual equipment and personal computer. Position requires occasional contact with fellow employees and citizens. Position may require occasional travel to remote sites where conditions for access may not be modifiable.

6. Reporting Line

This position reports to the following position: Lewis and Clark Public Health Board

This position has supervisory duties? Yes No

If Yes, list the position title and FTE:

Position Title	FTE
Accounting Technician	1
Administrative Assistant III	1
Disease Control & Prevention Div. Administrator	1
Environmental Services Div. Administrator	1
Community Health Promotion Div. Administrator	1
Communications and Systems Improvement Manager	1

7. Required Signatures

Supervisor Signatures – indicates approval of Job Description.

Immediate Supervisor Printed Name	Immediate Supervisor Signature	Date

Department Director Printed Name	Department Director Signature	Date

I acknowledge that I have received a copy of my current job description.

Employee Printed Name	Employee Signature	Date

Section 4

Legal Section

Section 4

Robert Rules of Order

The Basics of Robert's Rules of Order



presented by
Jane Rhodes

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<http://pdc.mt.gov>

Professional
Development
Center



History of Robert's Rules of Order

- **British Parliamentary Procedures**
 - Birthplace for Robert's Rules of Order
- **Came to North America with the British**
- **1801: Thomas Jefferson**
 - Drafted *The Manual of Parliamentary Practice*
 - Uniform system of rules
 - Prevent needless haggling over government procedures
 - Evolved to assist government decision making
- **1876: General Henry Robert**
 - Wrote a standard form of rules
 - “Based...upon the rules and practices of Congress”



Purpose of Robert's Rules of Order

is based on **common sense** and **logic**...

The rules protect:

- (a) the rights of the majority to decide
- (b) the rights of the minority to be heard
- (c) the rights of individual members
- (d) the rights of absentees

The Ten Basic Rules

1. **The rights of the organization supersede the rights of the individual.**
2. **All members are equal and their rights are equal**

Those rights are...

- to attend meetings
- to make motions and speak

In debate...

- to nominate
- to vote
- to hold office





3. A quorum must be present to do business

4. The majority rules

- Questions will be decided by simple majority of the votes cast, unless stipulated otherwise in the Constitution.

5. Silence means consent

- Those members that do NOT vote AGREE to go along with the decision of the majority by their silence.

6. Two-thirds vote rule

- A 2/3 vote is necessary when limiting or taking away the rights of members or changing a previous decision.

7. One question at a time - one speaker at a time.

- Motions must be related to matters under consideration.
- When granted “the floor,” another member may not interrupt

8. Motions must receive full debate

- The meeting chair may not put a motion to vote as long as members wish to debate it.
- The debate can only be cut short by a 2/3 vote

9. Once a decision is made, an identical motion may not be brought forward at the same meeting

- Such a motion shall be ruled out of order by the meeting chair

10. Personal remarks in a debate are ALWAYS out of order



Classes of Motions

1. Main Motion
 2. Subsidiary Motion
 3. Privileged Motion
 4. Incidental Motion
 5. Bring a Question Again Before an Assembly
- } Secondary Motions

Main Motions

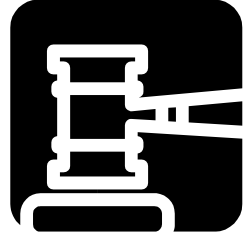
- ◆ Brings new business before the assembly
- ◆ Needs a second, is debatable and amendable, requires a majority vote to adopt
- ◆ Motion is phrased in the positive
- ◆ A motion contains:
 - * **Who:** the maker of the motion
 - * **What:** the action to be taken
 - * **When:** the timeframe for action taken
- ◆ Once made and seconded, action is taken before another motion is considered.
- ◆ **Order of precedence:** the lowest ranking of all motions.

Secondary Motions

- **A secondary motion:**
 - * Takes precedence over a main motion
 - * Is considered while the main motion is pending
- **Three types of secondary motions:**
 - * Subsidiary Motion
 - * Incidental Motion
 - * Privileged Motion

Subsidiary Motions

A way to change or dispose of motions



Examples:

- ◆ **Postpone Indefinitely** – decline to take a position – motion dies –used to kill a motion
- ◆ **Amend** - modifies a motion by adding or striking words
- ◆ **Postpone Definitely** – to delay a vote to a specific time
- ◆ **Previous Question** – stops debate and calls for an immediate vote
- ◆ **Lay on the Table** – defers a motion for a more pressing matter of business

Incidental Motions

When questions are raised about procedure from pending business

Examples:

- ◆ **Point of Order** – correct a breach in rules
- ◆ **Appeal the Ruling of the Chair** – disagree with the ruling of the chair
- ◆ **Suspend the Rules** – set aside a rule

Privileged Motions

Do not relate to the main motion, but to matters of immediate importance arising from meetings

Examples:

Raise a Question of Privilege – a motion that relates to the rights of a member immediately

Member: “Madam President, I rise to a question of privilege concerning the assembly.”

President: “Please state your question.”

Member: “It is too hot in here. Can we have the heat turned down?”

For executive sessions:

Member: “Madam President, I rise to a question of privilege to make a motion.”

President: “Please state your motion.”

Member: “I move that we go into executive session to discuss this issue.”

President: “The chair rules that the question is one of privilege to be entertained immediately. Is there a second?”

Member 2: Second

President: “It is moved and seconded to go into executive session. Is there any discussion?”

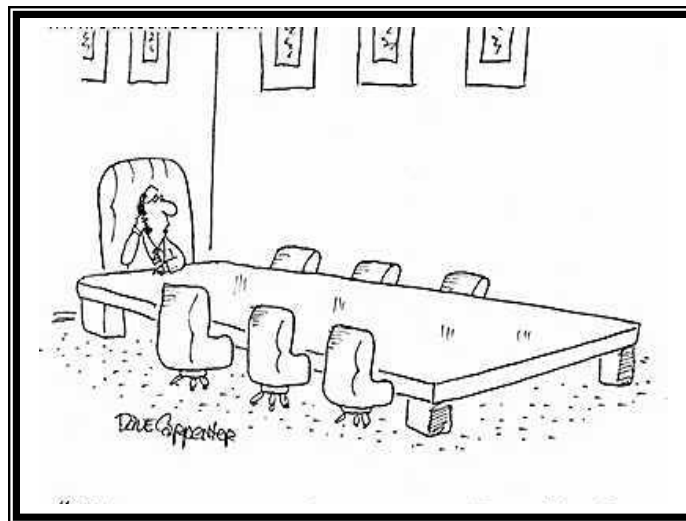
- Debate follows.
- Motion can be amended.
- Vote taken- Majority
- Minutes are only approved at an executive session.

Recess – short intermission

Adjourn – end a meeting immediately

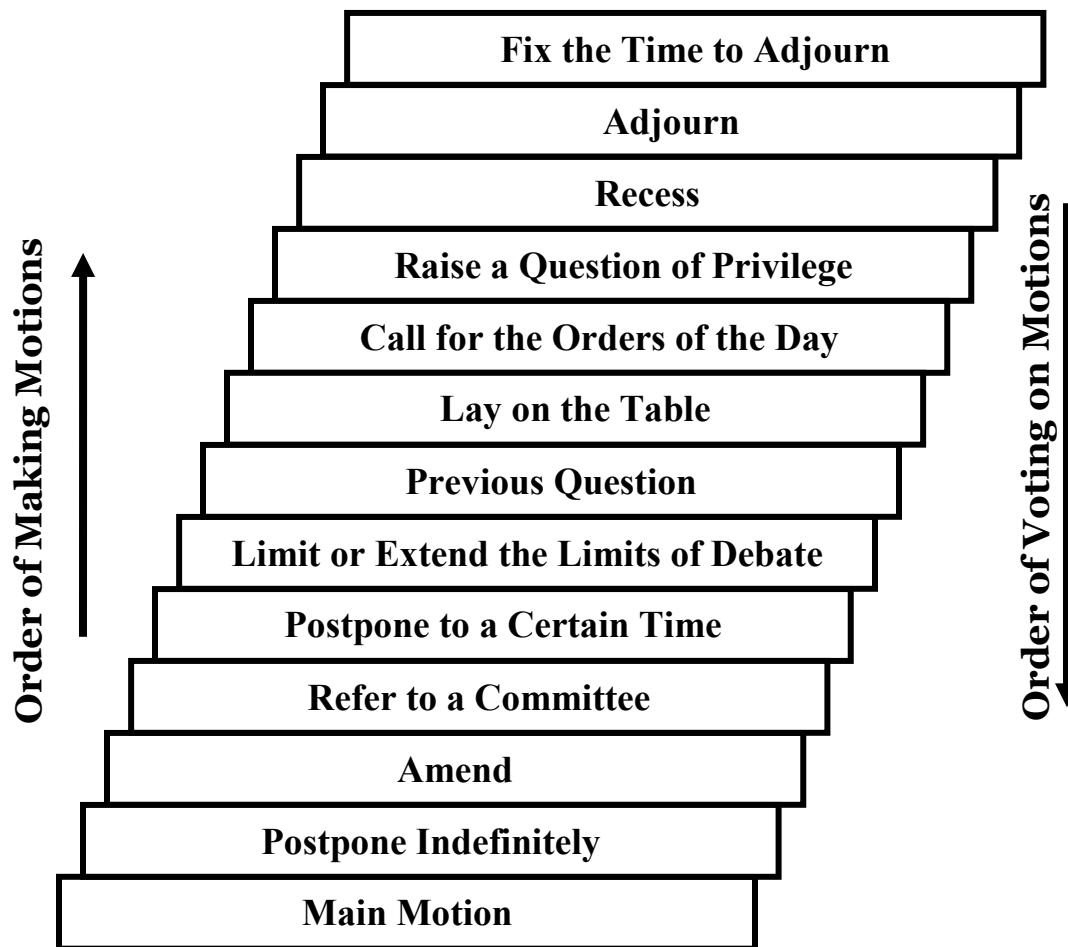
Making a Motion

1. Rise and address the chair - “Mr. /Madam President. . .”
2. The chair recognizes you (by name or nod)
3. State the motion: “I move that ...” or “I move to ...”
4. Must be seconded by another member.
5. The chair restates the motion and places it before the assembly: “It is moved and seconded thatIs there any discussion?”
6. Members discuss the motion by addressing the chair, and being assigned the floor to speak. The person who **makes the motion** has **the first right** to speak to the motion.
7. After the debate, the chair puts the motion to a vote.
8. After the vote is taken, the chair rules which side won the vote.



“Miss Wilkins, would you please have the meeting planner locate someone to second my motion?”

Ladder of Motions in Order of Rank



Informal Meetings – specifically for boards and committees whose membership is under 12

Board Meetings

- ◆ Presiding officer is generally seated to put motions to a vote
- ◆ Members do not have to rise to address the chair
- ◆ Members can speak any number of times, and usually no motion is required to close debate
- ◆ Members can discuss a subject while no motion is pending
- ◆ Unless agreement is by unanimous consent, member must vote on proposed actions
- ◆ Chair may enter into the discussion and make motions unless board rules dictate otherwise.

When board meetings disintegrate into lack of order, the chair returns to formal rules of conduct.

General consent - for noncontroversial issues, such as

- ◆ Paying bills
- ◆ Approving minutes
- ◆ Answering correspondence
- ◆ Closing nominations
- ◆ Considering reports and recommendations
- ◆ Adjourning

To determine **general consent** the chairman says,

“If there are no objections, we will . . .” “Hearing no objections, we will . . .”

By-Laws — the most important document of the organization

Composition:

- ◆ Name of the organization
- ◆ Object or purpose
- ◆ Members (active, inactive, honorary)
- ◆ Officers (list, term of office, eligibility)
- ◆ Meetings (sets the day, defines a quorum, provisions for calling a special meeting, nomination process)
- ◆ Executive Board
- ◆ Committees (identifies standing committees)
- ◆ Parliamentary authority (which parliamentary authority is used/ which edition)
- ◆ Amendments (provides for a means for making changes to the bylaws)



★ **Order under fire** ★

- ◆ Federal, state, and local laws
- ◆ Parent organization
- ◆ Adopted special rules of order
- ◆ Adopted parliamentary authority

Frequently Asked Questions

1. Do members have the right to explain their vote during voting?
2. Can the chairman vote?
3. Can a member vote on or second a motion to approve the minutes of a meeting that he/she did not attend?
4. How long can a member speak in debate?
5. If a motion has been defeated, can it be brought up again at the next meeting?
6. Can a meeting be adjourned if there is still business pending?
7. What is a quorum?
8. Are abstentions counted as votes in determining the winner of an election requiring a majority?
9. Are there conditions where an absolute majority of eligible voters is necessary to declare a winner?
10. If a motion is before the assembly, can the assembly require more than a majority in order for the motion to be approved?
11. What happens when the president's vote causes a tie? How is the matter resolved?



12. Does a chairman of the board of directors have the authority to refuse to let an issue come before the board?

13. Can the board limit the debate on an issue?

Terms

Adjournment

- to end a meeting immediately

Amend

- modifies a motion by adding or striking words

Appeal the Ruling of the Chair

- disagreement with the Chair's ruling

Close Nominations

- to close the nomination and take a vote immediately – It is “not in order” when someone else has the floor.

Discharge Committee (without notice)

- For the assembly to take a matter out of the hands of a committee before its report is given so that the assembly can decide (requires a 2/3 or majority vote)

Incidental Motions

- When questions are raised about the pending business or how to address the pending business

Lay on the Table

- Used to temporarily set a pending main motion aside in favor of a more pressing matter of business; the motion is reconsidered during the same meeting

Limit or Extend Debate

- To put a time limit on debate

Example: “I move that at 3 p.m., debate is closed and the vote is taken.”

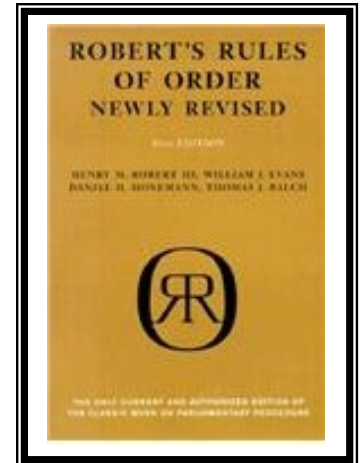
Main Motion

- Motions that bring business to the table

Object to Consideration of a Question

- To prevent the main motion from being considered (may be embarrassing)

Example: “Mr. /Madam President, I object to the consideration of the question.”
(Immediate vote taken)



Point of Order

- to correct a breach in the rules

Example: “I rise to a point of order.” After being acknowledged by the Chair, “There is no longer a quorum present, and any business will be null and void.”

- The chair can rule against a point of order.

Postpone Definitely

- a motion to postpone definitely defers a vote on the main motion until a specified time.

Postpone Indefinitely

- To kill a main motion for the duration of the meeting without taking a direct vote on it

Previous Question

- often abused in meetings – the purpose is to stop debate immediately and take a vote.

Privileged Motion

- Does not relate to the pending motion, but are special matters of immediate importance arising in a meeting

Quorum

- It is the minimum number of voting members who must be present at a meeting in order to conduct business, usually specified by the bylaws. If not specified in the bylaws, then in most societies a quorum is a majority of the entire membership.

Raise a Question of Privilege

- permits a member to make a request or motion relating to the rights and privileges of the assembly.

Examples: “I rise to the question of privilege – ‘It is too hot in here; I can’t hear the speaker; I move we go into executive session to discuss the issue.’”

Recess

- to take a short intermission and then resume business (seconded, length amendable, majority vote)

Refer to Committee

- To have a small group investigate a proposal

Subsidiary Motion

- This motion helps move the main motion forward until the assembly arrives at its final decision

Suspend the Rules

- To set aside a rule of the assembly (except bylaws) – used primarily to take up a particular item of business out of regular agenda order (to take up a “new business” item before taking up unfinished business or vote immediately)

Examples: “I move to suspend the rules and take up the topic ‘to repair the gymnasium.’”
“I move to suspend the rules and agree to the resolution.”

Montana Codes Annotated (Current Year)

Title 2. Government Structure and Administration
Chapter 3. Public Participation in Governmental Operations
Part 1. Notice and Opportunity to be heard
Opportunity to Submit Views- Public Hearings

https://leg.mt.gov/bills/mca/title_0020/chapter_0030/part_0010/section_0110/0020-0030-0010-0110.html

Montana Code Annotated (Current Year)

Title 7. Local Government

Chapter 1. General Provisions

Part 21. Counties

Publication and Content of Notice-Proof of Publication

https://leg.mt.gov/bills/mca/title_0070/chapter_0010/part_0210/section_0210/0070-0010-0210-0210.html

Section 4
Interlocal Agreement

**INTERLOCAL AGREEMENT
FORMATION, AUTHORITY AND ADMINISTRATION OF
THE LEWIS AND CLARK COUNTY CITY-COUNTY BOARD OF HEALTH**

This Interlocal Agreement (Agreement) is made pursuant to Title 7, Chapter 11, Part 1, Montana Code Annotated and Section 50-2-106, Montana Code Annotated, on the 14 day of February, 20 22 (Effective Date) between Lewis and Clark County, Montana (County), the City of Helena, Montana (City of Helena), and the City of East Helena, Montana (City of East Helena); (collectively the "Parties").

ARTICLE I - PURPOSE

The purpose of this Agreement is to establish the necessary boards and departments to protect public health in Lewis and Clark County and the Cities of Helena and East Helena, and to enumerate the authorities and duties assigned to the County, the City of Helena, and the City of East Helena regarding these boards and departments. It is the intent of the parties that the present City-County Health Department and City-County Board of Health shall remain intact but shall function under this Agreement as of its effective date.

ARTICLE II - TERMINATION OF PRIOR AGREEMENT

The prior agreement establishing the Lewis and Clark County City-County Board of Health and Lewis and Clark City-County Health Department between the County and the City of Helena first entered into the 24th day of December, 1975, and amended the 14th day of March, 2000 is terminated on the Effective Date of this Agreement.

ARTICLE III - DURATION and TERMINATION

- (1) The terms and conditions of this agreement shall become effective on the Effective Date of this Agreement.
- (2) The term of this Agreement is ten years from the Effective Date. The parties agree that they shall negotiate in good faith renewal or amendment of this Agreement at that time. If the parties have not reached agreement on renewal or amendment upon expiration of the term of this Agreement this Agreement shall stay in force until the parties terminate, amend, or renew this Agreement.
- (3) During the term of this Agreement any party may request an amendment of the Agreement by serving a written copy of the proposed amendment on the other parties. An amendment shall become effective when ratified by all parties.
- (4) This Agreement may be mutually terminated at any time by written and signed consent of the parties. Termination of this agreement requires a vote to terminate by a quorum of each party in compliance with all public meeting laws. The termination shall be effective at the beginning of the next fiscal year. Upon termination, the parties agree to divide assets and liabilities equitably to reflect each party's contributions. The parties agree to mediate in good faith should they be unable to timely agree on equitable division of assets and liabilities.

ARTICLE IV - CREATION OF ENTITIES

A. CREATION OF LEWIS AND CLARK COUNTY CITY-COUNTY BOARD OF HEALTH AND LEWIS AND CLARK COUNTY HEALTH DEPARTMENT

- (1) By entering this Agreement, the Parties create the Lewis and Clark County City-County Board of Health (Board). The Board is appointed as the administrator and representative of the joint and cooperative undertaking of the Parties as a city-county board of health pursuant to Section 50-2-116, MCA and other applicable Montana law.
- (2) The Board shall have full supervision and control over all matters pertaining to the prevention of disease and promotion of the public health within the County and Cities and such other duties and obligations as are provided by law.
- (3) The Board shall consist of nine (9) members, all of whom shall be qualified electors of the State of Montana and of the County of Lewis and Clark. Membership of the Board shall consist of:
 - a. A Lewis and Clark County Commissioner or the designated representative of the Board of County Commissioners of Lewis and Clark County, who shall serve at the pleasure of the Board of County Commissioners;
 - b. A member of the City of Helena Commission or a designated representative thereof, who shall serve at the pleasure of the City of Helena Commission;
 - c. The Mayor of the City of East Helena;
 - d. Six additional members to be appointed by the Board of County Commissioners of Lewis and Clark County as follows:
 - i. The Superintendent of School District No. 1, or a representative designated by School District No. 1;
 - ii. A licensed doctor of medicine practicing in Lewis and Clark County;
 - iii. A professional person with experience in the field of environmental, biological, chemical, or engineering sciences;
 - iv. A consumer of health services provided by the Board, preferably with experience in or knowledge of health care, environmental, or human services programs;
 - v. A member at large chosen from the population of the County residing outside the city limits of either the City of Helena or the City of East Helena;
 - vi. A member at large chosen from and residing in the City of Helena.
- (4) The by-laws adopted by the Board of Health may provide for non-voting advisory members who may serve on the Board of Health at the Board's pleasure. All the members designated in subparagraphs 3 (d) (i) through (vi) shall serve three (3) year terms which are staggered as provided in Section 50-2-106, MCA (2020). Vacancies which occur on the Board by reason of death or resignation, or for other reasons, shall be filled for the unexpired term of the vacated member and appointments to fill a vacancy shall be made by a vote of the majority of the remaining Board members at a regularly scheduled meeting.
- (5) As the proper functioning of the Board is seriously impaired by the absence of its members, the following rules regarding absenteeism shall apply:
 - a. Absenteeism is the responsibility of the governing body who appointed that particular member.

- b. More than two absences from regularly scheduled meeting in a 12-month period may cause the appropriate governing body to review the appointment of that member and replace that member when considered appropriate.
- (6) The Board shall possess and have all the powers given to Boards of Health under the laws of the state of Montana and such powers as may be conferred upon it by any United States Health Service or other agency of the United States Government pertaining to Boards of Health.
- (7) The Board shall not own or possess real or personal property.
- (8) The Board shall recommend to the Local Governing Body established in the agreement, pursuant to 50-2-116, MCA, the appointment of a Health Officer and the adoption of regulations.
- (9) By entering this Agreement, the Parties create the Lewis and Clark County Health Department (Health Department).
 - a. The Board shall supervise and control the Health Department.
 - b. The Health Officer shall, subject to applicable collective bargaining agreements and personnel policies, have full responsibility for the hiring, terminating, and supervision of health department employees.
 - c. The Health Officer shall be a member of Lewis and Clark County Senior Leadership/Management teams.
 - d. Health Department employees, including the Health Officer, shall be County employees for administrative purposes.
 - i. Employee grievances shall be processed in accordance with the provisions of applicable collective bargaining agreements. Grievances by non-union employees shall be processed in accordance with the Lewis and Clark County Human Resources Policies.
 - ii. Employee compensation shall be pursuant to the Lewis and Clark County Human Resources Policies, including retirement benefits.
- (10) The Board shall be the policy making body for determining goals, objectives and programs for the delivery of public health services to Lewis and Clark County residents, both City and County.
- (11) The Board shall be the final decision-making body relating to requests for variances from the Lewis and Clark County City-County Health Rules and Regulation.
- (12) In determining the goals, objectives and programs of the Health Department, it shall be presumed that programs of the Health Department will be of equal benefit to all members of the community.
- (13) The Health Board shall hold meetings as required under Montana Code Ann. 50-2-116; and such meetings shall be public.
- (14) The Health Officer and the Health Department staff are subject to all Lewis and Clark County policies and procedures, including but not limited to human resources, risk, legal, procurement and contracting. The County Commissioners are the contracting entity for Contracts between the Health Department and/or Health Officer and any other contracting entity or agency subject to Lewis and Clark County policies.
- (15) The Health Board shall amend its by-laws to reflect the changes set forth herein.
- (16) The manner of financing this joint undertaking and establishing and maintaining a budget shall be in accordance with § 50-2-111(1), M.C.A, as follows: the Parties mutually agree that County shall be responsible for 100% of the total expenses of the

Department and Board. The total expenses will be financed by an appropriation from the general fund of the County after approval of a budget in the way provided for other county offices and departments under Title 7, chapter 6, part 40. This appropriation will be funded by a County-wide mill levy (including the properties inside the municipal boundaries'), subject to Section 15-10-420, M.C.A. The Parties agree that this funding arrangement will continue so long as this Agreement is in effect.

B. CREATION OF LOCAL GOVERNING BODY PURSUANT TO SECTION 50-2-101(8)(C), MCA.

- (1) The County and Cities create the Joint Governing Body which is the "Local governing body" or "governing body" as defined in Section 50-1-101(8)(c), MCA who shall only:
 - a) Approve or reject a recommendation made by the Board for the appointment of a local Health Officer pursuant to Section 50-2-116(1)(a), Montana Code Annotated. The decision of the Joint Governing Body to accept or reject the recommendation of the Board on the appointment shall be made no later than thirty days from the recommendation of the Board.
 - b) To approve or reject a recommendation by the Board for the adoption of Board of Health regulations as set forth in this Agreement and pursuant to Montana law. The decision of the Joint Governing Body to accept or reject the proposed recommendation of the Board on the adoption of Board of Health regulations shall be made no later than 45 days from the proposal of the Board.
 - c) Hold a public meeting for consideration to amend, rescind, or otherwise change a directive, mandate, or order issued by the Board or the local health officer in response to a declaration of emergency or disaster by the governor or principal executive officer of a political subdivision as allowed in Sections 10-3-302, 303, 402, 403, MCA.

The Joint Governing Body shall consist of 2 members of the Board of County Commissioners of Lewis and Clark County, 2 members of the City of Helena Commission, and the Mayor of the City of East Helena who shall meet in joint session and discuss, decide or deliberate the matters set forth in this agreement after proper notice and opportunity of the public to be heard. Every effort shall be made by the Joint Governing Body to attend Board of Health meetings where recommendations for regulations are heard by the Board. The Joint Governing Body shall create by-laws to govern the conduct of its business and procedures for operation.

**ARTICLE V
GENERAL PROVISIONS**

1. ASSIGNMENT and AUTHORITY

No party shall assign, transfer, or convey any right or obligation set forth in this Agreement without the prior written consent of the other party. The undersigned represent that they have authority to enter this Agreement.

2. COMPLETE AGREEMENT

This Agreement constitutes the sole and entire agreement between the Parties with regard to the subject matter hereof. No other terms or conditions shall be binding upon either party unless accepted in writing. This Agreement supersedes any previous oral or written agreements between the Parties with regard to the subject matter hereof.

3. APPLICABLE LAW, VENUE and ATTORNEYS FEES

This Agreement shall be governed by the laws of the State of Montana and any action to enforce any right or obligation shall be brought in the First Judicial District, Lewis and Clark County. The prevailing party in any action to enforce this Agreement shall be entitled to attorney's fees including those of in-house counsel, the city attorney's office or county attorney's office.

4. COMPLIANCE WITH LAW

The Parties shall comply with all applicable federal, state, and local law in performing under this Agreement.

5. SEVERABILITY

The provisions of this Agreement shall be deemed independent and severable, and the invalidity, partial invalidity, or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision of this Agreement.

6. RECORDING

The County will be responsible for filing an executed copy of this Agreement with the [County] County Clerk and Recorder and the Secretary of State pursuant to 7-11-107, MCA, and will provide a copy of the recorded document to the Cities City Clerk. Cost of filing will be shared equally.

7. INTERLOCAL AGREEMENT

This Agreement is an interlocal agreement under Section 7-11-104, M.C.A. To that end, this Agreement shall remain in effect at least through the date stated in Article II above, unless earlier terminated under the provisions hereof or by the agreement of the Parties. As an agreement amongst recognized government entities and political subdivisions no partnership or joint venture is intended nor exists nor shall be deemed to exist between the Parties.

8. SUPERSESSION AND RATIFICATION

This Agreement shall supersede and replace any previous agreement amongst the Parties and shall not affect any acts of the Parties, the Board or Health Officer prior to the Effective Date.

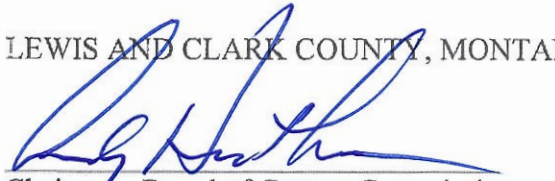
This Agreement entered on the Effective Date by:

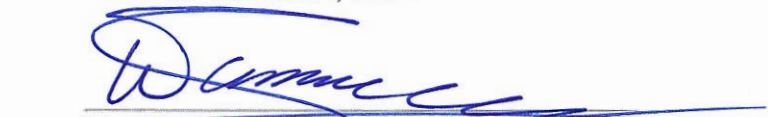
Amy Reeves

ATTEST:

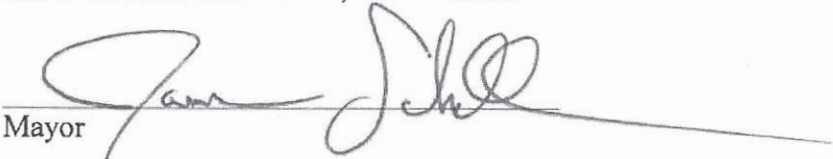
LEWIS AND CLARK COUNTY, MONTANA

CITY OF HELENA, MONTANA


Chairman, Board of County Commissioners


Mayor

CITY OF EAST HELENA, MONTANA


Mayor

Section 4

By-laws and Authority

BY-LAWS OF THE LEWIS AND CLARK

CITY-COUNTY BOARD OF HEALTH

SECTION 1. General Powers and Duties

- a) The Board of Health (“Board”) has the powers and exercises the duties and functions conferred upon it by the legislature of the State of Montana and the Interlocal Agreement forming the Lewis and Clark County City-County Board of Health. Title 50 of Montana Code Annotated, including revisions and amendments, is made a part of these by-laws.
- b) The Board shall recommend to the Local Governing Body the appointment of a Health Officer. The Board shall supervise and control the Health Department including the Health Officer.
- c) Per Interlocal Agreement signed February 14, 2022, the Local Governing Body consists of two (2) County Commissioners, two (2) City Commissioners, and the Mayor of East Helena.
- d) The Chairman may appoint, subject to a confirmation by the Board, an Executive Committee which may make decisions between regular meetings. Such decisions shall be deemed to be the decisions of the Board. An affirmative vote of a majority of the Executive Committee shall be the act of the Executive Committee and of the Board. The Executive Committee shall report at the next Board meeting of any decisions taken. Any such decision shall be deemed ratified and approved unless the Board at the next meeting held, modifies or reverses any such decision of the Executive Committee.

SECTION 2. Membership

- a) The Board shall be composed of nine members appointed by the governing bodies of Lewis and Clark County and the Cities of Helena and East Helena in accordance with the Interlocal Agreement signed February 14, 2022.

SECTION 3. Election of Officers

- a) The Board shall elect a chairman who shall conduct both regular and special meetings of the Board.
- b) In addition, The Board shall elect a vice-chairman who shall conduct all meetings of the Board in the absence of the chairman.
- c) Officers of the Board shall be elected at the first regular meeting of each fiscal year and shall serve for a period of one year, commencing immediately upon election.

- d) The election of officers shall be in accordance with Section 8 of these by-laws.

SECTION 4. Regular Meetings

- a) A regular meeting of the Board will be held on the fourth (4th) Thursday of each month, or at least quarterly as required by 50-2-116 (d), MCA.
- b) All regular meetings of the Board shall be open to the public in accordance with 2-3-203, MCA. Meetings regarding the employment, appointment, promotion, dismissal, demotion or resignation of any employee may be closed unless the employee requests an open meeting.

SECTION 5. Special Meetings

- a) Special meetings may be called as necessary by or at the request of the chairman, or any two members of the Board, and may be held at any predesignated place and time for any purpose including the viewing of any places of potential health hazard.
- b) Notice of special meetings shall be given to all members of the Board as provided in Section 6 of these by-laws. No special meeting shall be held unless all members of the Board have been given notice of it.

SECTION 6. Notice of Meetings

The Health Officer shall notify all members of all special meetings. A written agenda for the meeting shall accompany notification if time permits. The Health Officer shall also remind all members of the Board of each regular meeting and shall send a written agenda for the regular meeting to all members of the Board. The failure to remind or to send a written agenda shall not affect the legality of any regular meeting.

SECTION 7. Quorum

A majority of the members appointed to the Board shall constitute a quorum for the transaction of business at any meeting.

SECTION 8. Board Decisions and Voting

- a) The act or affirmative vote of the majority of the members of the Board present at a meeting at which a quorum is present shall be the act of the Board, except that a vote of not less than two-thirds of all members shall be required to amend or add to these by-laws.

- b) There shall be no voting by proxy.
- c) Any vote on the adoption or alteration of rules or regulations requires a majority of Board members to vote in affirmative.

SECTION 9. Minutes and record keeping

- a) Minutes of all regular and special meetings of the Board declared to be open shall be kept by the Health Officer, or their representative, and shall be signed. Minutes shall be available for inspection by the public.
- b) The minutes of all meetings shall be saved electronically per records retention laws.
- c) Rules, regulations, and policies adopted by Board shall be kept electronically per records retention laws.

SECTION 10. Policies, Rules and Regulations

- a) The Board may vote on the adoption of Board of Health Regulations, and a vote in the affirmative serves as a recommendation to the Local Governing Body.
- b) The Local Governing Body shall approve or reject a recommendation by the Board for the adoption of Board of Health regulations within 45 days of the recommendation. Regulations are effective upon approval by the Local Governing Body.
- c) The Board may adopt resolutions or policy statements of public health importance. Such statements shall be posted for public viewing.
- d) The Board may adopt rules necessary to implement and enforce Board of Health Regulations.

SECTION 11. Fiscal Year and Budget

- a) The fiscal year of the Board begins on the first day of July.
- b) The Board and the Department is financed as provided by law.
- c) The Board shall approve, adopt and present a preliminary budget for each fiscal year on or before the first day of May of each such year or at such time as specified by the County of Lewis and Clark or other funding agency.

SECTION 12. Health Officer

- a) The Board shall recommend to the Local Governing Body the appointment of a Health Officer. The Board shall supervise and control the Health Department including the Health Officer.

b) The health officer shall:

- 1) act, personally or through their representative, as secretary at all meetings of the Board;
- 2) keep meeting minutes and Rules and Regulations electronically per records retention laws.e;
- 3) shall, along with all health department employees, be county employees for administrative purposes.
- 4) shall, subject to applicable collective bargaining agreements and personnel policies, have full responsibility for the hiring, terminating, and supervision of health department employees.
- 5) be a member of the Lewis and Clark County Senior Leadership/Management teams.
- 6) manage and supervise the Lewis and Clark City-County Health Department;
- 7) sign contracts, accept, account for, and disburse funds and purchase equipment and supplies for the Lewis and Clark City-County Health Department per county procurement and contracting policies.

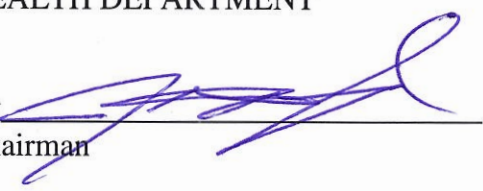
SECTION 13. Amendment to the By-Laws

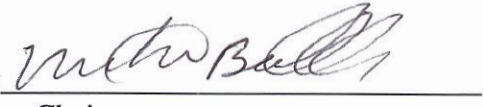
These by-laws, except those sections or part of sections based upon statutory authority, may be altered, or repealed and new by-laws adopted by the Board in accordance with Section 8 of these by-laws.

SECTION 14. Parliamentary Procedure

The Board shall follow Roberts Rules of Order, in its latest edition, at its meetings.

LEWIS AND CLARK CITY-COUNTY
HEALTH DEPARTMENT

By 
Chairman

By 
Vice-Chairman

Mike McGrath
County Attorney



Courthouse
228 Broadway
Helena, Montana 59601
Telephone 406/447-8221

JAN 23 1995

LEWIS AND CLARK COUNTY

Office of the County Attorney

January 19, 1995

Joan Miles
Lewis and Clark City-County Health Officer
1930 Ninth Ave., Suite 207
Helena, MT 59601

Re: Authority of the County Commission and City-County Board of Health related to Health Department administrative and personnel matters

Dear Joan,

You have requested my opinion on several specific issues relative to the respective powers and authorities of the Board of County Commissioners versus those of the Board of Health. In preparing this opinion I have reviewed all of the materials that you have provided. I appreciate your assistance in compiling that information.

Attached is a copy of my opinion dated April 20, 1990 regarding budgetary authority of the Board of County Commissioners. That opinion concluded:

. . . it is clear that the Board of County Commissioners' authority over the budget of the City-County Board of Health is extensive, and does extend to virtual line-item approval within the class and categories established by the Department of Commerce.

The statutes and Attorney General's opinions that were the basis of that opinion have not been amended or overruled and, consequently, still apply.

The Board of County Commissioners has general management authority over county government pursuant to Section 7-5-2101, MCA. That authority, coupled with the budget authority referred to in the April, 1990 opinion, provides the Commissioners with broad authority to manage the affairs of county government. However, each official and department head has to be looked at separately as statutory authority can allow an elected official or department

Joan Miles
January 19, 1995
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head specific authority that would counter the general authority provided to the BOCC. See Phillips v. Lake County, 222 Mont. 42, 48, 721 P.2d 326 (1986).

The first question is who has authority to set salaries of employees of the Health Department, other than the health officer. The interlocal agreement signed between the parties on December 24, 1975 provides that the Board of Health can hire and fix the compensation of other employees within the department "in accordance with the laws of the State of Montana." The interlocal agreement between the City and the County recognizes that the county budget law takes precedent.

As noted in the April, 1990 opinion, the Commissioners must consider the detailed budget requests of each department and approve the same. The budget statutes require that they consider the tabulation requiring that "each salary shall be set forth separately, together with the title or position of the recipient." Section 7-6-2314(2)(a), MCA. The Commissioners are required to "make any revisions, reductions, additions, or changes that they consider advisable. The tabulation, with any revisions, reductions, additions, or changes is the county proposed budget for the fiscal year which it is intended to cover." Section 7-6-2315, MCA. Thus, the BOCC has authority to approve salaries of county employees as submitted by the elected official or department head.

There are some exemptions. For example, the county sheriff has authority to set compensation for deputy sheriffs under the provisions of Section 7-4-2508, MCA, and the board of health has specific authority to set the compensation of a health officer under the provisions of Section 50-2-116(1)(a), MCA. However, as no such specific statutory exemption or authority applies for other health department employees, those salaries must be approved, and can be revised, by the County Commissioners.

Section 50-2-116(c), MCA, gives the Board of Health authority to employ staff, but it does not specifically provide authority to set compensation. Consequently, the Board of County Commissioners does not have authority to hire staff within the City-County Health Department, but does have, through the budget process, the authority to approve proposed salaries.

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You also question whether the County Commission has authority to alter the Board of Health's decisions regarding a collective bargaining agreement. Again the answer is yes by virtue of the budget authority held by the BOCC. Thus, any provisions of a collective bargaining agreement approved between the Board of Health and its employees that establishes rates of compensation or relates to other budgetary duties of the Commission must have BOCC approval.

You have asked about personnel policies. Again, under the general management authority, Section 7-5-2101, MCA, the County Commission has authority to adopt general personnel policies to apply to all county employees. 39 A.G. Op. 38 (1981). Each elected official or department head also has general authority to adopt policies and procedures for the administration of their own department. However, unless a department has specific statutory authority in a given area, department policies cannot conflict with the general personnel policies adopted by the BOCC for all county employees.

The County Commission does not have the power to specifically manage the Department of Health. That power is reserved to the Board of Health by statute and implicit within the provisions of Title 50, Chapter 2. Consequently, the BOCC has no authority to require the Board of Health to participate in the technical or personnel services provided by the county. However, the County Commission does have authority to limit the Board of Health's budget to independently contract for those services.

The final question relates to the procedures following the adoption of the final budget by the BOCC. Section 7-6-2320(3), MCA, provides that the Commission may amend its final budget in very limited circumstances. Those include shortfalls in anticipated or budgeted revenues which will cause over expenditure of the budget, or savings that result from unanticipated adjustments to projected expenditures. Subsection (4) also sets out a specific procedure that must be followed by the Commissioners before a final budget may be amended; it requires publishing a notice and holding a hearing prior to a vote on the resolution amending the budget. Without following that procedure and satisfying the legal requirements of Section 7-6-2320(3), MCA, the

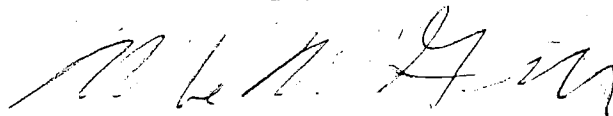
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County Commissioners do not have strict authority to prohibit a department from expending previously authorized funds, including the adoption of a hiring freeze.

As a general rule the Board of County Commissioners has management authority over the operation of county government. The Board of Health is a department within county government. The statutes envision that while the Commissioners have final authority over budget, the department day-to-day operations are managed and run by the health officer. It is also clear that state law gives the commission no authority to interfere with those policy decisions that are required to be made by the health officer.

If you have further questions or comments, don't hesitate to contact me.

Very truly yours,



MIKE McGRATH
County Attorney

MM/gd

Enclosures

cc: BOCC
Sheila Cossie



EB 2 4 1993

LEWIS AND CLARK COUNTY

Office of the County Attorney

April 20, 1990

Roderick Thronson, Chairman
Lewis & Clark City-County Board of Health
Box 1723
Helena, Montana 59624

Dear Mr. Thronson:

You have requested my opinion on a number of issues relating to the budgeting role and authority of the City-County Board of Health.

As you know, the City of Helena and Lewis and Clark County signed an interlocal agreement on December 24, 1975, to create a City-County Board of Health pursuant to the provisions of Montana law. That agreement provides that the Board, and the Department of Health which it supervises, shall be financed by Lewis and Clark County. Section 7 of the agreement provides:

That said Board shall submit at the times and in the manner required by law to said County a budget of its requirements for each fiscal year, which said budget shall be approved by the Board of County Commissioners of said County. The County of Lewis and Clark will finance said Board as provided by law. (Emphasis supplied.)

Section 50-2-111, MCA, contains the appropriate provisions in State law for budgets of City-County Boards of Health. Section 50-2-111(2), MCA, provides:

- a. In first and second class counties, the county commissioners and governing body of each participating city may mutually agree upon a division of the expenses.

As noted above, the agreement creating the Lewis and Clark City-County Board of Health provides that the Board and its functions be financed by the County.

Roderick Thronson, Chairman
April 20, 1990
Page 2

Section 50-2-111(1)(b), MCA, provides:

The county's part of the total expenses is financed by an appropriation from the general fund of the county after approval of a budget in the way provided for other county offices and departments under Title 7, Chapter 6, Part 23.

It is clear from that statute that the Board of County Commissioners has specific authority regarding the budget for the Board of Health.

A review of the budgeting laws referred to in Title 7 of the Montana Code demonstrates the Commissioners' responsibilities in this area. Section 7-6-2311, MCA, requires each county official in charge of an office or department to file with the Clerk and Recorder a "detailed and itemized estimate" of all expenditures required by the office in the next fiscal year. The statute requires the estimates to be submitted on forms provided and prescribed by the Department of Commerce. That process is followed in Lewis and Clark County.

Section 7-6-2314, MCA, establishes separate classes for appropriations and expenditures in terms of salary and wages, maintenance and operation, and capital outlay. The section also requires that within the general class, for example, of salaries and wages "each salary shall be set forth separately". Moreover, the statute provides that within the general class of maintenance and operation expenditures are to be classified "according to a standard classification to be established by the department of commerce". Section 7-6-2315, MCA, requires the board of county commissioners to consider the budget in detail following receipt of the estimates from the county officials. Section 7-6-2320, MCA, provides that the final budget must set out separately "each item for which appropriation or expenditure is authorized and the fund out of which it is to be paid". That statute also authorizes the commissioners to amend appropriations under certain circumstances. Again, it is the detailed budget

Roderick Thronson, Chairman
April 20, 1990
Page 3

items that the commissioners have authority to amend. Finally, Section 7-6-2323, MCA, makes county officials or department heads personally responsible for exceeding any of the "detailed budget appropriations" made in the final budget.

Thus, it is clear that the Board of County Commissioners' authority over the budget of the City-County Board of Health is extensive, and does extend to virtual line-item approval within the class and categories established by the Department of Commerce.

You have also inquired regarding the effect of Section 15-10-412(10)(b), MCA, a provision passed by the last legislative session, which exempts levies to support city-county boards of health from the limitations imposed by Initiative 105. That section provides:

The limitation set forth in this chapter on the amount of taxes levied does not apply to levies to support a city-county board of health as provided in Title 50, Chapter 2, if the governing bodies of the taxing units served by the board of health determine, after a public hearing, that public health programs require funds to insure the public health. A levy for the support of a local board of health may not exceed the five (5) mill limit established in 50-2-111.

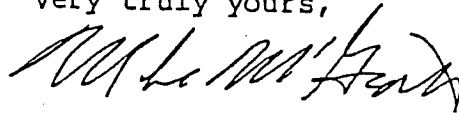
In my opinion the statute quoted above does free the public health budget from Initiative 105 limits. Monies levied by the county for public health purposes are not subject to the limitations on property tax levies imposed by I-105. Thus, the County Commissioners may levy for general fund purposes the five mills that had previously been levied for public health purposes and subject to I-105 limitations. The statute authorizes the county to levy up to five mills above the mill limitation imposed by Initiative 105 for public health purposes, following a public hearing, and a finding that "public health programs require funds to insure

Roderick Thronson, Chairman
April 20, 1990
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the public health".

I am sorry for the delay in responding to your request.
If you have any comments or questions, don't hesitate to
contact me.

Very truly yours,



MIKE McGRATH
County Attorney

MM/gd

cc: Board of County Commissioners
Ed Blackman
Bob Johnson

Section 4

MCA Title 50 Chapter 2

Montana Code Annotated (Current Year)

Title 50. Health and Safety
Chapter 2. Local Boards of Health
Part1. General Provision

https://leg.mt.gov/bills/mca/title_0500/chapter_0020/part_0010/sections_index.html

Section 4

MCA Title 50 Chapter 2, 103 Federal Funds

Montana Code Annotated (Current Year)

Title 50. Health and Safety
Chapter 2. Local Boards of Health
Part 1. General Provisions
Federal Funds

https://leg.mt.gov/bills/mca/title_0500/chapter_0020/part_0010/section_0030/0500-0020-0010-0030.html

Section 4

MCA Title 2 Chapter 3, Public Participation in Governmental Operation

Montana Code Annotated (Current Year)

Title 2. Government Structure and Administration
Chapter 3. Public Participation in Governmental Operations
Part 1. Notice and Opportunity to Be Heard
Part 2. Open Meetings
Part 3. Use of Electronic Mail Systems

https://leg.mt.gov/bills/mca/title_0020/chapter_0030/parts_index.html

Section 4

BOCC Ex-Parte Resolution

Resolution 2001- 23

A Resolution Establishing the Board of County Commissioners Policy Relating to Ex Parte Communications.

WHEREAS, the Board of County Commissioners wishes to establish a written policy regarding EX PARTE communications relating to quasi-judicial proceedings; and

WHEREAS, quasi-judicial matters include, but are not limited to:

- A) granting or denying privileges, rights, or benefits to a particular entity;
- B) interpreting, applying, enforcing rules and laws;
- C) issuing, suspending, or revoking licenses, permits, and certificates;
- D) determining rights and interests of adverse parties;
- E) evaluating and passing on facts as they apply to existing laws or rules;
- F) awarding compensation
- G) ordering action or abatement of action
- H) any other act necessary to the performance of a quasi-judicial function

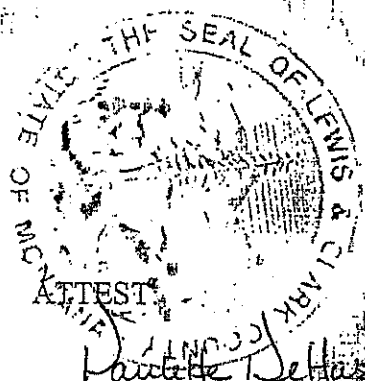
WHEREAS, a matter is quasi-judicial if the Board of County Commissioners is acting as a body to determine facts and their application to the law and a party has a legal obligation and right to seek review of the Board of County Commissioners; and

WHEREAS, the County Commissioners held a public hearing on December 11, 2001 to hear evidence for or against establishment of an "EX PARTE" policy.

NOW, THEREFORE BE IT RESOLVED that Commissioners may not communicate with any party or his/her representative outside the setting of a public hearing on any issue of fact or law regarding any quasi-judicial matter that may come before the Commission for decision; and

BE IT FURTHER RESOLVED that Commissioners shall not discuss a subdivision application with the applicant, any other effected party, or his/her representative once an application has been submitted to the Planning Department. Any written comments regarding an application shall be forwarded to the Planning Department, and those comments will be presented to the Commission during the public hearing. Individual Commissioners may visit the property under review, as long as communication does not take place with the applicant or any effected party during the site visit.

Dated this 26 day of February, 2002



Paulette DeHart, Clerk of the Board



Board of County Commissioners
Lewis and Clark County

Michael A. Murray
Michael A. Murray, Chairman

Section 4

Montana Clean Indoor Air Act

BEFORE THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.113.108 and 37.113.112 and) PROPOSED AMENDMENT AND
the repeal of ARM 37.113.104) REPEAL
pertaining to the implementation of)
the Montana Clean Indoor Air Act)
(CIAA))

TO: All Concerned Persons

1. On July 16, 2009, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on July 7, 2009, to advise us of the nature of the accommodation that you need. Please contact Rhonda Lesofski, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.113.108 INSPECTIONS AND ENFORCEMENT (1) The department, a local health board and their respective designees may conduct inspections of:

(a) remains the same.

(b) public school property to determine compliance with 20-1-220, MCA, relating to smoking tobacco use on public school property.

(2) remains the same.

~~(3) An establishment that serves food but purports to qualify as a bar within the definition contained in 50-40-103(5), MCA must upon request submit to the department, a local health board, or the designee of either, the documentation necessary to prove that at least 60% of the establishment's annual gross income comes from the sale of alcoholic beverages, gambling receipts, or both.~~

(4) remains the same but is renumbered (3).

AUTH: 50-40-110, MCA

IMP: 20-1-220, 50-40-104, 50-40-108, MCA

37.113.112 COMPLAINT PROCEDURE REGARDING SMOKING

VIOLATIONS (1) An individual who believes that a violation of the Montana Clean Indoor Air Act or of 20-1-220, MCA has occurred may file a written or electronic complaint with the department or the local health board or its designee that describes the violation, and provides the date of the violation ~~and is signed by the complaining party.~~

(2) If a complaint is filed with the local health board, a written or electronic copy of the complaint must be forwarded within ~~five working~~ 30 days ~~after the end of the month in which it was received~~ to the Department of Public Health and Human Services, Montana Tobacco Use Prevention Section, P.O. Box 202951, Helena, MT 59620-2951.

(3) If a complaint is filed initially with the department or a designee of the department, a written or electronic copy will be forwarded within five working days to ~~the~~ the local health board of the county in which the violation allegedly occurred.

(4) Once a complaint is filed, the department or a designee of the department, which may include the local health department, ~~will conduct an investigation~~ may conduct an investigation to determine if a violation occurred.

(5) remains the same.

AUTH: 50-40-110, MCA

IMP: 20-1-220, 50-40-104, 50-40-108, MCA

4. The department proposes to repeal the following rule:

37.113.104 BARS, CERTIFICATION OF QUALIFICATION FOR EXCEPTION, is found on page 37-28481 of the Administrative Rules of Montana.

AUTH: 50-40-110, MCA

IMP: 50-40-104, 50-40-108, MCA

5. The Department of Public Health and Human Services (the department) is proposing the amendment of ARM 37.113.108 and 37.113.112 and the repeal of ARM 37.113.104 pertaining to the implementation of the Montana Clean Indoor Air Act (CIAA).

ARM 37.113.108

The proposed rule amendment to ARM 37.113.108(1)(b) would replace the word "smoking" with "tobacco use". The statute indicates that all forms of tobacco use are prohibited on public school property except related to 20-1-220, MCA, and in accordance with the American Indian Religious Freedom Act, 421 USC 1996 and 1996a. Changing the term clarifies that the prohibition is not limited to smoking.

The department has struck out ARM 37.113.108(3) because no exceptions are permitted by law after September 30, 2009.

ARM 37.113.112

MAR Notice No. 37-477

The proposed rule amendment to ARM 37.113.112(1) would allow citizens to file anonymous complaints. Mandating that citizen complaints be signed may deter Montana citizens and particularly workers from filing complaints due to the potential for retribution. Local health boards or their designees would need to confirm that a violation of the law has occurred to act on an anonymous complaint. The proposed amendment also allows for electronic complaints to be filed, which makes the complaint process easier and more efficient. The proposed rule amendment to ARM 37.113.112(4) would allow local health boards to determine if an investigation is necessary.

ARM 37.113.104

The department is proposing repeal of ARM 37.113.104 because no exceptions are permitted by law after September 30, 2009.

6. The department intends the proposed rule changes to be applied effective October 1, 2009.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Rhonda Lesofski, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., July 23, 2009.

8. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 7 above or may be made by completing a request form at any rules hearing held by the department.

10. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web

site may be unavailable during some periods, due to system maintenance or technical problems.

11. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted by letter on April 24, 2009, sent postage prepaid via USPS.

/s/ Shannon McDonald
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State June 15, 2009.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 37.113.108 and 37.113.112 and) REPEAL
the repeal of ARM 37.113.104)
pertaining to the implementation of)
the Montana Clean Indoor Air Act)
(CIAA))

TO: All Concerned Persons

1. On June 25, 2009 the Department of Public Health and Human Services published MAR Notice No. 37-477 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 1003 of the 2009 Montana Administrative Register, Issue Number 12.

2. The department has amended 37.113.108 and repealed 37.113.104 as proposed.

3. The department has amended the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

37.113.112 COMPLAINT PROCEDURE REGARDING SMOKING VIOLATIONS (1) An individual who believes that a violation of the Montana Clean Indoor Air Act or of 20-1-220, MCA has occurred may file a written or electronic complaint with the department or the local health board or its designee that describes the violation, and provides the date of the violation and is signed by the complaining party.

(2) through (5) remain as proposed.

AUTH: 50-40-110, MCA

IMP: 20-1-220, 50-40-104, 50-40-108, MCA

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: One commentor expressed concern that owners of establishments plan to build or are in the process of building nonenclosed shelters on their property to allow customers to smoke.

RESPONSE #1: ARM 37.113.101(2) defines an "enclosed room", and 50-40-103(2), MCA defines "enclosed public place". Smoking that occurs outdoors or under a nonenclosed shelter is not governed by the Clean Indoor Air Act. The

department does not have the statutory authority to regulate or investigate nonenclosed shelters where smoking is allowed unless these shelters fall under these definitions.

COMMENT #2: One person commented that highway rest areas are covered under the law as an enclosed public place and should be smoke free.

RESPONSE #2: The department agrees. Enclosed buildings on highway rest areas are enclosed public places and should be smoke free.

COMMENT #3: One commentor pointed out that 50-40-104(4) and (5)(a), MCA still contain language intended to expire on September 30, 2009. Specifically the language prohibits children under 18 from entering an establishment where smoking is allowed, and allows smoking in certain bars and casinos. The commentor suggested that the language should be repealed or addressed in administrative rules.

RESPONSE #3: The current rule changes are intended to reflect the requirements that apply after September 30, 2009 as reflected in the language of the statute. The department does not, however, have the authority to change or repeal the statute. The Montana State Legislature would need to repeal these sections of the law through the legislative process.

COMMENT #4: Under ARM 37.113.112(4) of the proposed rules, several commentors suggested investigations should be mandatory rather than permissive, and objected to the proposed change.

RESPONSE #4: The department believes it is important to allow local health departments or their designees the discretion to determine if an investigation is necessary and will keep the proposed language "may conduct an investigation" in this section. A local health department or their designee may receive complaint(s) that they deem are valid and do not feel an investigation is necessary. Or, a local health department or their designee may receive multiple complaints regarding a specific establishment during a short time period, and more than one investigation is not necessary.

COMMENT #5: The department received multiple written and oral comments regarding ARM 37.113.112(1) of the proposed rules which would have allowed for anonymous complaints. Multiple commentors objected to this change and one commentor supported this change.

RESPONSE #5: The department agrees that complaints where the complaining party is identified is more likely to be valid and will not make the proposed change.

COMMENT #6: The department received several comments recommending that ARM 37.113.104 of the rules not be repealed. This section describes the process

for bars and casinos to obtain a certification for exception to allow smoking in these establishments until September 30, 2009.

RESPONSE #6: The Montana Clean Indoor Air Act, 50-40-104, MCA, specifies that smoking in an enclosed public place, including bars and casinos, will be prohibited after September 30, 2009. ARM 37.113.104 is not valid under the statute after that date and must be repealed.

COMMENT #7: The department received several written comments recommending that smoking continue to be allowed in bars in Montana.

RESPONSE #7: As indicated in the department's response to comment #6, the Montana Clean Indoor Air Act prohibits smoking in any public place, including bars and casinos after September 30, 2009.

5. The department intends to apply these rules effective October 1, 2009.

/s/ Shannon McDonald
Rule Reviewer

/s/ Laurie Lamson for
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State August 3, 2009

Section 4

DPHHS Food Service Administrative Rules

Food Code 2013

The Administrative Rules of Montana, Section 37.110.260 incorporates by reference "Food Code 2013, Recommendations of the US Public Health Service, FDA." This publication is found on line at:

<http://www.fda.gov/food/guidanceregulation/retailfoodprotection/foodcode/ucm374275.htm>

The modifications and additions are located in the Montana Administrative Rules, Title 37, Chapter 110, Subchapter 2

<https://dphhs.mt.gov/Portals/85/publichealth/documents/FCS/RetailFood/FinalRetailRule.pdf>

Montana Code Annotated, Title 50, Chapter 50 provides authority for the rules on Retail Food Establishments.

https://leg.mt.gov/bills/mca_toc/50_50.htm

All of these are linked on Lewis & Clark Public Health web page on Licensing and Inspecting Food Facilities.

<https://www.lccountymt.gov/health/licensing-inspections/food-facilities.html>

Food Protection Laws and Regulations

[Montana Administrative Rules](#)

[FDA Food Code 2013](#)

Section 5

Resolutions Passed by the Board of Health



**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**

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

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

BY: _____

Justin Murgel, Chair



**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 the DPHHS permanent E-cigarette flavor ban ruling***

WHEREAS, nicotine usage in teens is especially harmful and can lead to significant physical and mental health issues such as decreased impulse control, decreased attention span, decreases in lung function due to inhaling toxic chemicals and heavy metals along with Vaping Associated Pulmonary Injury (VAPI), among others; and

WHEREAS, tobacco companies use predatory marketing tactics to target youth, particularly susceptible consumers, by placing a large number of tobacco products at retail stores popular with youth,

WHEREAS, and creating flavors like bubblegum and candy apple and mango, traditionally more popular with young users; and

WHEREAS, flavored e-cigarettes are popular among teens. In Lewis and Clark County alone, according to the 2019 Youth Risk Behavior Survey, 48% of High School students had used an electronic nicotine device in the last 30 days and 68% had tried using an electronic nicotine device; and

WHEREAS, 30% of Lewis and Clark County youth currently use e-cigarettes and 12% of Montana youth currently use e-cigarettes; and

WHEREAS, the Lewis and Clark City-County Board of Health stands in support with the proposed e-cigarette flavor rule and believes that it will decrease youth initiation to tobacco and nicotine delivery devices; and

WHEREAS, this rule will decrease access to e-cigarette products by making these products less accessible to youth, and in turn, limiting the overall usage in middle and high schools around the state; and

WHEREAS, youth have reported being more likely to use products that are flavored and with recent steps, like the Federal Tobacco 21 ruling, this will be another step in the right direction to a healthier state and limiting youths' access to these products; and

NOW THEREFORE, BE IT RESOLVED, the Lewis and Clark City-County Board of Health recommends that the Permanent E-cigarette Flavor rule be passed by the state of Montana.

Adopted by the Lewis and Clark City-County Board of Health on this day, **June 25, 2020**.

BY: 

Justin Murgel, Chair



**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 making the City of Helena and Lewis and Clark County more age-friendly
by joining AARP's Network of Age-Friendly Communities***

WHEREAS, the health and safety of residents of all ages is a significant and appropriate local concern; and

WHEREAS, Montana is the third-fastest-aging state in the nation and, by 2035, will be home for the first time ever to more people 65+ than children; and

WHEREAS, communities must adapt to serve populations who stay healthy and active longer; and

WHEREAS, planning processes, including community revitalization and economic development plans, should include the needs of all people regardless of age, income, physical ability, race, and other factors; and

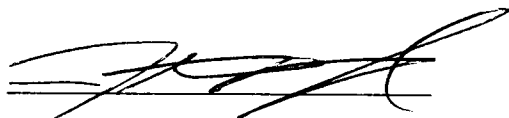
WHEREAS, communities that are well-designed and livable for people of all ages promote health and sustained economic growth; and

WHEREAS, members of the AARP Network of Age-Friendly Communities become part of a global network committed to giving older residents the opportunity to live rewarding, productive and safe lives; and

WHEREAS, AARP's Livable Communities Program and the AARP Network of Age-Friendly States and Communities offer useful free tools and resources, including technical assistance, print and online publications, and grants to help communities become more vibrant, healthy, and safe for people of all ages;

NOW THEREFORE, BE IT RESOLVED, the Lewis and Clark City-County Board of Health recommends that the City of Helena and Lewis and Clark County prioritize the health and well-being of all residents by entering into the AARP Network of Age-Friendly Communities.

Adopted by the Lewis and Clark City-County Board of Health on this day, **May 28, 2020**.

BY: 

Justin Murgel, Chair



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

1930 Ninth Avenue
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A RESOLUTION SUPPORTING THE ESTABLISHMENT OF VOLUNTARY OUTDOOR SMOKE-FREE AREAS AND ENHANCED PRACTICES TO REDUCE OUTDOOR SECONDHAND SMOKE EXPOSURE IN PUBLIC PLACES.

WHEREAS, this resolution is in direct support of and aligned with the Montana Clean Indoor Air Act Implementation Protocol for Lewis and Clark County adopted November 16, 2009 by the Lewis and Clark City-County Board of Health.

WHEREAS, according to the aforementioned protocol, "smoking may not occur within a reasonable distance of an enclosed public place such that tobacco smoke may enter through its entrances, windows, ventilation systems or other accesses and circulate to non-smoking areas."

WHEREAS, according to the aforementioned protocol, "smoke means: a) the gaseous products (which carry airborne toxic particles) of burning tobacco or something similar to tobacco, or b) the fumes and/or vapor (which carry airborne toxic particles) resulting from the action of heat on a liquid such as occurs in an e-cigarette."

WHEREAS, creating smoke-free environments provide an opportunity to role model non-smoking behavior in our community, especially to children and youth; and

WHEREAS, smoke-free environments eliminate all smoking in common outdoor places of gathering, such as parks, community events and other public use areas such as city streets and sidewalks, and are a proven way to protect people from secondhand tobacco smoke, and

WHEREAS, used tobacco products are often discarded on the ground, posing a risk of ingestion to young children and animals, and causing significant litter problems requiring additional maintenance expense; and

WHEREAS, community surveys and assessment results indicate community support for the continued promotion of healthy activities and community wellness; and

WHEREAS, the Lewis and Clark City-County Board of Health recommends the City of Helena establish public-private partnerships in support of adopting enhanced smoke-free practices intended to protect public health by reducing instances of outdoor secondhand smoke within the City of Helena; and

WHEREAS, the Lewis and Clark City-County Board of Health seeks support from the Helena area residents, including private property and business owners, to responsibly designate smoke-free outdoor areas on their private property and at their places of business such that all patrons, employees, passersby and the greater Helena community alike are further protected from outdoor secondhand smoke; and



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WHEREAS, it is the intent of the Lewis and Clark City-County Board of Health to provide for the public health, safety and welfare of the Helena community by discouraging the inherently dangerous behavior of smoking around non-tobacco users, especially children; by protecting the public from exposure to outdoor secondhand smoke where they live, work and play; and by affirming and promoting a healthy environment in the City of Helena.

BE IT RESOLVED BY THE LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH:

SECTION 1. City of Helena property and business owners are encouraged to undertake the establishment of enhanced smoke-free practices above and beyond current laws and protocols. Such as, adopting outdoor smoke-free areas thereby helping to ensure enhanced compliance with the Lewis and Clark County Clean Indoor Air Act Implementation Protocol and reducing the potential for outdoor exposure to secondhand smoke by the residents and visitors of Helena.

SECTION 2. City of Helena property and business owners voluntarily adopting enhanced smoke-free practices are asked to post in conspicuous places approved signage that can be easily read and understood notifying the public of these smoke-free areas; and, when applicable, identifying designated smoking area(s).

SECTION 3. The City of Helena and the Lewis and Clark Public Health will utilize community and state resources to undertake community awareness and education efforts and provide technical assistance and resources regarding outdoor smoke-free practices within the City of Helena. Such efforts may include; the provision of signs and postings, educational and training materials, and sample practices made available to property and business owners, and notification to the community at large, about the existence of this outdoor smoke-free resolution and educational opportunities that exist.

And, be it further resolved that the Lewis and Clark City-County Board of Health directs and supports the Lewis and Clark Public Health to continue its advocacy and engagement toward realizing the actions contained in the board's appeal, and its collective work with local partners to establish voluntary outdoor smoke-free areas and enhanced practices to reduce outdoor secondhand smoke exposure in public places.

Adopted by the Lewis and Clark City-County Board of Health on this day, Thursday, July 25, 2019.

BY: _____

Justin Murgel, Chair

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



LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH

1930 Ninth Avenue
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A Resolution of the Lewis and Clark City-County Board of Health In support of Evidence-based Home Visiting Services

Whereas, pregnancy, infancy, and early childhood are the most opportune times for preventing health conditions which may otherwise develop into lifelong health problems and high costs to society; and,

Whereas, the Nurse-Family Partnership home visiting program has measurable positive outcomes in maternal and child health, child development and school readiness, family economic self-sufficiency, positive parenting practices, and reductions in child maltreatment, juvenile delinquency, family violence, and crime, placing it among the strongest of evidence-based home visiting models assessed by the US Department of Health and Human Services;ⁱ and,

Whereas, analysis of over 40 evaluations, including randomized controlled trials, quasi-experimental studies and large-scale replication data, of NFP enables projections on the savings, return-on-investment, and outcomes specifically for Montana. This analysis projects by the 18th birthday of a Montana child that was served through NFP, state and federal cost savings due to NFP will average \$32,091 per family served, or 3.7 times the cost of the program. NFP's total benefits to society equal \$69,793 per family served, which is an 8.2 to 1 benefit-cost ratio for every dollar invested in NFP.ⁱⁱ

Whereas, Nurse-Family Partnership (NFP) is thriving and expanding in rural settings in almost all the 41 US states where the program is offered; and,

Whereas, Lewis and Clark Public Health (LCPH) is a member of the multi-county NFP of Montana which has served 116 families since its initiation in 2013 through 1391 nurse home visits, with 21 families currently being servedⁱⁱⁱ; and,

Whereas, LCPH and NFP of Montana rely on federal pass-through funds for maternal child health home visiting allocated by the Affordable Care Act, entitled Maternal, Infants, and Early Childhood Home Visiting (MIECHV); and,

Whereas, in 2018, DPHHS initiated a rapid and extensive rollout of a new home visiting program to 14 sites which they entitled "First Year Initiative," that DPHHS funded through other, temporary funds which are currently not available; and

Whereas, DPHHS has, in the absence of any community engagement, imposed significant cuts to MIECHV-funded programs—including a 32% reduction to NFP of Montana—by diverting MIECHV funds to the agency's new FYI sites, a cut that slashes caseload, discounts local investment, and threatens NFP of Montana's model integrity;^{iv} and,

Whereas, a fundamental standard for public health practice calls for "[P]ublic health policies, programs, and priorities [to] be developed and evaluated through processes that ensure an opportunity for input from community members" and "engagement of members of the specific community or group that will be affected by a policy and/or strategy to promote the public's health."^v

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Now, therefore be it resolved that the Lewis and Clark City-County Board of Health appeals to DPHHS to:

- Stop action on NFP funding cuts;
- Issue contracts for at least a six-month period that fully reinstates Nurse-Family Partnership of Montana funding and capacity to the 2019 level plus additional funds needed for required training, personnel and operational increases; and,
- Convene a deliberative, transparent, and third-party facilitated planning process that engages interested parties in maternal child home visiting needs, services, and funding in the state.

And, be it further resolved that the Lewis and Clark City-County Board of Health directs and supports the Lewis and Clark Public Health to continue its advocacy and engagement toward realizing the actions contained in the board's appeal, and its collective work with local and state-wide partners to preserve the considerable investment, collaboration, and citizen benefits of Nurse-Family Partnership of Montana and the capacity of the department.

Adopted by the Lewis and Clark City-County Board of Health on this day, Thursday, April 25th, 2019.

BY: 

Jim Benish, Chair

ⁱ US Dept. of Health and Human Services, Administration for Children and Families, Home Visiting Evidence of Effectiveness accessed at <https://homvee.acf.hhs.gov/Default.aspx> on April 16, 2019.

ⁱⁱ Miller, T.R. (2015). Projected outcomes of Nurse-Family Partnership home visitation during 1996-2013, USA. *Prevention Science*. 16 (6). 765-777. This information in this document relies on a state-specific return on investment calculator derived by Dr. Miller from published national estimates to project state-specific outcomes and associated return on investment. The calculator is revised periodically to reflect major research updates (latest revision: 12/22/2018).

ⁱⁱⁱ NFP of Montana consists of a five-county interdependent network involving Butte-Silver Bow, RiverStone Health in Yellowstone County, Lewis & Clark County, Missoula County, and a fifth county which, until March, 2019, was Hill County.

^{iv} E-mails from DPPHS to local programs dated March 26, 2019, received after local budget submission deadline; and NFP program cut data generated by comparison of 2019 budgets to reduced amounts imposed by DPHHS as reported to and analyzed by MCCHD in April, 2019. Analysis includes the loss of a fifth county and its caseload capacity.

^v Public Health Accreditation Board, Standards and Measures, Version 1.5, Domain 4, Standard 2, Measure 1, and "Principles of the Ethical Practice of Public Health," Public Health Leadership Society, Version 2.2, 2002, pg.4, accessed https://www.apha.org/-/media/files/pdf/memborgroups/ethics/ethics_brochure.ashx on April 16, 2019.



LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH

1930 Ninth Avenue
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A Resolution of the Lewis and Clark City-County Board of Health

In support of the prohibition of self-service displays of tobacco products and the sale of flavored tobacco products in stores except in adult only tobacco retailers

WHEREAS, state law prohibits the sale or distribution of tobacco products and electronic smoking devices to minors (MCA § 16-11-305); and

WHEREAS, 18.9% of adults in Montana smoke;¹ and

WHEREAS, 10.6% of youth reported trying their first cigarettes before age 13, and 32.7% of Montana high school youth reported currently using any tobacco products, including e-cigarettes in 2017;² and

WHEREAS, although smokers are most likely to use electronic smoking devices such as e-cigarettes, almost a third of current users are nonsmokers, suggesting that e-cigarettes contribute to primary nicotine addiction and to renormalization of tobacco use;³ and

WHEREAS, federal law prohibits the sale or distribution of flavored cigarettes, excluding menthol; however, no federal regulation on flavors exist for other tobacco products such as smokeless tobacco, cigars, and e-cigarettes; and

WHEREAS, the FDA has stated that "all tobacco products, including flavored tobacco products, are as addictive and carry the same health risks as regular tobacco products;"⁴ and

WHEREAS, youth reported product flavoring as a top reason for using tobacco within the past 30 days;⁵ and

WHEREAS, menthol in cigarettes results in more youth initiation to smoking⁶ and is the source of addiction for more than half of all teen smokers;⁷ and

WHEREAS, by adding menthol to cigarettes, tobacco companies mask the natural harshness and taste of tobacco. The minty flavor makes tobacco products milder, and therefore easier to use, harder to quit, and more appealing to youth and new users.⁸ Like menthol, flavorings help mask the naturally harsh taste of tobacco, making it easier for young people to start and continue using tobacco products;⁹ and

WHEREAS, e-cigarette use predicts the onset of combustible tobacco product use;¹⁰ and

WHEREAS, e-cigarettes are now the most commonly used tobacco product among Montana's youth. 46.6% of Montana high school students have used an electronic smoking device in their lifetime;¹¹ and

WHEREAS, \$440 million is spent on healthcare each year in Montana due to smoking;¹² and

WHEREAS, 59,000 Montana kids alive now will become smokers, and 19,000 Montana kids alive now will die prematurely from smoking;¹³ and

WHEREAS, tobacco companies use predatory marketing tactics to target youth, particularly susceptible consumers, by placing a large number of tobacco products at retail stores popular with the young, often within reach and near gum and candy;¹⁴ and

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WHEREAS, more than half of teenagers visit a convenience store at least once a week, and cigarette marketing is more prevalent in stores where youth shop frequently;¹⁵ and

WHEREAS, research conducted over the past few decades show that the tobacco industry's marketing activities, including flavors and placement within children's reach in convenience stores, have been a key factor in leading young people to take up tobacco, keeping some users from quitting, and achieving greater consumption among users;¹⁶ and

WHEREAS, 67% of Montanans agree with a law that would prohibit the sale of flavored tobacco products in all stores where youth under the age of 18 are allowed;¹⁷ and

NOW THEREFORE, BE IT RESOLVED, the Lewis and Clark City-County Board of Health recommends the City of Helena enact policy to protect public health and welfare by reducing access to flavored tobacco products and self-service access to tobacco products, making it easier to quit and more difficult to start.

Adopted by the Lewis and Clark City-County Board of Health on this day, Thursday, September 27, 2018.

BY: Jim Benish

Jim Benish, Chair

1 Behavioral Risk Factor Surveillance System, 2016

2 Montana Youth Risk Behavior Survey, 2017

3 McMillen, R.C., Gottlieb, J.D., Whitmore Shafer, R.M., Winickoff, J.P. & Klein, J.D. (2014). Trends in Electronic Cigarette Use Among U.S. Adults: Use is Increasing in Both Smokers and Nonsmokers. *Nicotine & Tobacco Research*, 1-8. doi:10.1093/ntr/ntu213

4 Levy DT, Pearson JL, Villanti AC, et al. Modeling the future effects of a menthol ban on smoking prevalence and smoking-attributable deaths in the United States. *Am J Public Health*. 2011;101(7):1236-1240. doi:10.2105/AJPH.2011.300179.

5 Ambrose, B. K., Day, H. R., Rostron, B., Conway, K. P., Borek, N., Hyland, A., & Villanti, A. C. (2015). Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. *Jama*, 314(17), 1871. doi:10.1001/jama.2015.13802

6 Hersey et al. (2010). Menthol Cigarettes Contribute to the Appeal and Addiction Potential of Smoking for Youth, 12 (suppl. 2) NICOTINE & TOBACCO RESEARCH S216-46

7 Giovino et al. (2013). Differential Trends in Cigarette Smoking in the USA: Is Menthol Slowing Progress? *TOBACCO CONTROL* 052259, 1-10

8 Carpenter, C.M., Wayne, G.F., Pauly, J.L., Koh, H.K., & Connolly, G.N. (2005). New cigarette brands with flavors that appeal to youth: Tobacco marketing strategies. Tobacco industry documents reveal a deliberate strategy to add flavors known to appeal to younger people. *Health Aff.* 2005;24(6):1601-1610. doi:10.1377/hlthaff.24.6.1601; Lewis, M.J. & Wackowski, O. (2006). Dealing with an innovative industry: A look at flavored cigarettes promoted by mainstream brands. *Am J Public Health*. 2006;96(2):244-251. doi:10.2105/AJPH.2004.06120; Connolly, G.N. (2004). Sweet and spicy flavours: new brands for minorities and youth. *Tob Control*. 2004;13(3):211-212. doi:10.1136/tc.2004.009191; U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. (2012) Preventing Tobacco Use Among Youth and Young Adults a Report of the Surgeon General. www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/; Delnovo et al. (2011). Smoking-Cessation Prevalence Among U.S. Smokers of Menthol Versus Non Menthol Cigarettes, 41 *AM. J. PREVENTIVE MED.* 357-65

9 U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. (2012) Preventing Tobacco Use Among Youth and Young Adults a Report of the Surgeon General.

www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/.

10 Barrington-Trimis, J.L. (2016). The e-cigarette social environment, e-cigarette use, and susceptibility to cigarette smoking. *Journal of Adolescent Health*. 59(1), 75-80. <https://doi.org/10.1016/j.jadohealth.2016.03.019>;

Leventhal, A.M., et al. (2015). Association of electronic cigarette use with initiation of combustible tobacco product smoking in early adolescence. *JAMA*. 314(7): 700-707. doi:10.1001/jama.2015.8950; Soneji, S., Barrington-Trimis, J.L., Wills, T.A., Leventhal, A., Unger, J.B., et al. (2017). E-Cigarette Use and Subsequent Cigarette Smoking Among Adolescents and Young Adults: A Systematic Review and Meta-Analysis. *JAMA Pediatrics*;

Watkins, S.L., Glantz, S.A., & Chaffee, B.W. (2018). Association of noncigarette tobacco use with future cigarette smoking among youth in population assessment of tobacco and health (PATH) study, 2013-2015. *JAMA Pediatrics*. doi:10.1001/jamapediatrics.2017.4173; Miech, R., Patrick, M., O'Malley, P., Johnston, L. (2017). E-cigarette use as a predictor of cigarette smoking: results from a 1-year follow up of a national sample of 12th grade students; King, A.C., Smith, L.J., McNamara, P.J. & Cao, D. (2017). Second Generation Electronic Nicotine Delivery System Vape Pen Exposure Generalizes as a Smoking Cue. *Nicotine Tob Res*; 327; Cobb, C.O., Hendricks, P.S., Eissenberg, T. (2015) Electronic cigarettes and nicotine dependence: evolving products, evolving problems. *BMC Med*. 13:119. <https://doi.org/10.1186/s12916-015-0355-y>.

11 Montana Youth Risk Behavior Survey, 2017

12 Centers for Disease Control and Prevention. (2017). Extinguishing the tobacco epidemic in Montana. Retrieved January 19, 2018, from <https://www.cdc.gov/tobacco/about/osh/program-funding/pdfs/montana-508.pdf>

13 Cancer Action Network. (2014). Preventing millions of lives lost to tobacco use. Retrieved January 19, 2019, from <https://www.acscan.org/sites/default/files/Potential-for-Millions-Lives-Lost-to-Tobacco-Use.pdf>

14 Henriksen et al. (2004). Reaching Youth at the Point of Sale: Cigarette Marketing is More Prevalent at Stores Where Adolescents Shop Frequently, 12 *TOBACCO CONTROL* 315, 317

15 American Heart Association/Campaign for Tobacco Free Kids/Counter Tools. (2012). Deadly Alliance: How Big Tobacco and Convenience Stores Partner to Market Tobacco Products and Fight Life-Saving Policies;

Sanders-Jackson, A, et al., "Convenience store visits by US adolescents: Rationale for healthier retail environments," *Health & Place* 34:63- 66, 2015

16 American Heart Association/Campaign for Tobacco Free Kids/Counter Tools. (2012). Deadly Alliance: How Big Tobacco and Convenience Stores Partner to Market Tobacco Products and Fight Life-Saving Policies; National Cancer Institute. (2008). The Role of the Media in Promoting and Reducing Tobacco Use. Bethesda (MD): U.S. Department of Health and Human Services, National Institutes of Health, National Cancer Institute. Tobacco Control Monograph No 19. NIH Publication No. 07-6242.

17 Behavioral Risk Factor Surveillance System, 2016

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



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

1930 Ninth Avenue
Helena, Montana 59601
Telephone 4-HEALTH or dial 443-2584
Fax 406-457-8990

A Resolution of the Lewis and Clark City-County Board of Health

Whereas, the Lewis and Clark City-County Health Department received a public health emergency preparedness grant from the Montana Department of Public Health and Human Services, and,

Whereas, the grant requires that the Health Department have documentation of certain power and authority to act upon imminent threats, and

Whereas, MCA section 50-2-118 and ARM section 37.110.206 grant the Health Department emergency powers in certain situations that have occurred or are presently occurring; and,

Whereas, there may be a question whether the statute and regulation provide authority to act when the emergency event is only imminent, and,

Now therefore, The Board of Health hereby resolves that to satisfy the demands of the grant, the Health Officer and her agents, including sanitarians, may follow the procedures outlined in existing statute and rule and act when a threat is imminent as well as past or present.



Anne Weber, Chair
Lewis and Clark City County Board of Health

12/4/14
Date

RESOLUTION SUPPORTING MEDICAID EXPANSION FOR ALL MONTANANS

WHEREAS, the Supreme Court of the United States upheld the Patient Protection and Affordable Care Act of 2010 (PPACA) on June 28, 2012; and

WHEREAS, the same Supreme Court decision determined that it is optional for states to expand Medicaid eligibility to 133% (138% including application of a 5% “disregard”) of the Federal Poverty Level (FPL) as provided by the PPACA; and

WHEREAS, the Montana Health Insurance Exchange will provide options for the purchase of insurance by Montana citizens who do not have coverage through their employer; and

WHEREAS, the national federal poverty level (FPL) for a family of four in 2012 is \$23,050¹; and

WHEREAS, in Montana, the current Medicaid eligibility level is less than 100% of the FPL (e.g. as low as 33%), individuals and families with incomes above the state Medicaid eligibility level but below the poverty level will NOT have access to health insurance under either Medicaid or the Health Insurance Exchange; and

WHEREAS, an estimated 56,000 Montanans would become eligible for Medicaid in 2014 increasing to an estimated 78,000 by 2021²; and

WHEREAS, Medicaid expansion will improve the public health as uninsured Montanans who enroll in Medicaid are expected to report better health, use more preventive care, be more apt to have a regular source of medical care, live longer, and save the lives of an estimated 300 Montanans every year.³

WHEREAS, Montanans are currently paying for care for the uninsured through cost shifting and continuing, unsustainable increases in insurance premiums (now, on average by over \$1,000 per year)⁴; and

WHEREAS, if Montana chooses not to participate in the Medicaid expansion, the taxes of Montana citizens would still fund expansion in other states that chose to expand their state’s Medicaid programs with NO benefit to the citizens of Montana; and

WHEREAS, in 2011⁵ providing care to uninsured individuals was estimated to cost Montana healthcare providers \$238M; and

WHEREAS, new federal Medicaid dollars will travel through the state economy, improving employment, labor income, and tax revenues; and those dollars will turn over multiple times in the state economy (for example, from doctor to employee to grocer). As estimated by the University of Montana Bureau of Business and Economic Research in 2012, for every \$1B in federal

funds to Montana, employment increases by 18,600; labor income increases \$690M; business sales increase by \$1.5B; and state and local tax revenues increase by \$72M⁶; and

WHEREAS, the Medicaid expansion under the PPACA will be funded initially 100% by federal dollars with federal support reducing gradually to 90% by 2020 with the state responsible for only 10% thereafter at an estimated annual net cost of \$3.5M in 2014 to 6.5M by 2021⁷; and

Now, therefore, be it resolved that the Board of Health supports the Medicaid expansion offered through PPACA for individuals whose income level does not exceed 133% (138% including the income disregard) of the FPL in Montana; and

Be it further resolved that the Board of Health will join other health organizations in advocating at the state level to expand Medicaid eligibility to 133% (138% including the income disregard) of the FPL as authorized by the PPACA; and

Be it further resolved that the Board of Health strongly urges the Montana Legislature to vote to expand the Montana Medicaid Program as outlined in the PPACA.

¹ *Federal Register*, Vol. 77, No. 17, January 26, 2012, pp. 4034-4035.

² Gregg Davis, Ph.D., Bureau of Business and Economic Research - University of Montana, presentation to the Children, Families, Health, and Human Services Montana Legislative Interim Committee 8, 20, 2012.

³ Sommers, Benjamin D., et al, "Mortality and Access to Care among Adults after State Medicaid Expansions," *New England Journal of Medicine*, September 13, 2012, 367;11:1025-1034. ⁴See 42 U.S.C. § 18091(2)(F); *Sommers' findings of one less death per year for every 176 new enrollees extrapolated to Montana population by Tom Roberts, MD.*

⁵ Gregg Davis, Ph.D., Bureau of Business and Economic Research – University of Montana, "Estimating the Financial Impact of the Medicaid Expansion," presentation to the Montana Healthcare Forum 11/28/2012.

⁶ Ibid.

⁷ Ibid.



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Resolution in Support for
**Lewis & Clark County and City of Helena Tobacco-Free Parks
Policy**

WHEREAS, secondhand smoke has been proven to cause cancer, heart disease, and asthma in both smokers and nonsmokers¹; and

WHEREAS, in 2006, the United States Surgeon General determined that secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; that children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems and more severe asthma; that smoking by parents causes respiratory symptoms and slows lung growth in their children; and that scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke²; and

WHEREAS, research indicates that, during active smoking, outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity (such as sitting next to someone on a park bench, or children accompanying a smoking parent or guardian)³; and

WHEREAS, the American Nonsmokers' Rights Foundation reports close to 500 municipalities have eliminated exposure to secondhand smoke with 100% Smoke Free Parks, and 100 municipalities have eliminated exposure to secondhand smoke with 100% Smoke Free Beaches⁴; and

WHEREAS, the CDC reports that smoking and smokeless tobacco use are almost always initiated and established during adolescence, that most people who begin smoking during adolescence are addicted by the age of 20, and that adolescent smokeless tobacco users are more

¹ Centers for Disease Control and Prevention, Smoking and Tobacco Use Fast Facts, http://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts.

² U.S. Dept. of Health and Human Services, *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*.

³ Neil E. Klepeis, Wayne R. Ott, and Paul Switzer, *Real-time Measurement of Outdoor Tobacco Smoke Particles*, Neil E. Klepeis, Etienne B. Gabel, Wayne R. Ott, and Paul Switzer, *Outdoor Air Pollution in Close Proximity to a Continuous Point Source*.

⁴ American Nonsmokers' Rights Foundation, Municipalities with Smoke-free Parks Laws, <http://www.no-smoke.org/pdf/SmokefreeParks.pdf>.

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

likely than nonusers to become adult cigarette smokers⁵;

WHEREAS, everyday an estimated 3,450 young people between 12 and 17 years of age try their first cigarette, and an estimated 850 youth become daily cigarette smokers⁶; and

WHEREAS, children follow behavior after models of non-smoking behavior and benefit from positive reinforcement of healthy lifestyle messages through exposure to smoke and tobacco free public areas⁷; and

WHEREAS, parents, adult leaders, and others involved in recreation serve as role models for youth and can have a positive effect on the lifestyle choices they make; and

WHEREAS, organizations, including Keep America Beautiful, the Ocean Conservancy, and North Carolina Big Sweep, consistently report cigarette butts as a leading cause of litter⁸; and

WHEREAS, cigarette trash is toxic to plants, animals, and increases risk of fire danger; and

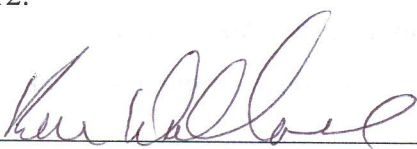
WHEREAS, small children playing in city parks and recreation buildings and on city recreation grounds are more likely to ingest cigarette butts if they are discarded and accessible⁹; and

WHEREAS, in 2008, American Poison Control Centers received over 7,000 reports of children under the age of 6 being poisoned by contact with tobacco products¹⁰;

WHEREAS, Lewis & Clark County has a unique opportunity to create and sustain an environment that supports a non-tobacco norm through a tobacco use policy which serves to protect the health, safety and welfare of county residents; and

NOW THEREFORE, BE IT RESOLVED, the Lewis & Clark City-County Board of Health recommends that the City of Helena and Lewis and Clark County implement policy that ensures all parks in the City and County are tobacco free.

Adopted by the Lewis and Clark City-County Board of Health on this day, Thursday July 26, 2012.



Ken Wallace, Chair

⁵ Centers for Disease Control and Prevention, Youth and Tobacco Use, http://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use.

⁶ Centers for Disease Control and Prevention, Youth and Tobacco Use, http://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use.

⁷ Centers for Disease Control and Prevention, Youth and Tobacco Use, http://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use.

⁸ *Ocean Conservancy, Trash Travels from Our Hands to the Sea, Around the Globe and Through Time 2010 Report 11* (2010).

⁹ Centers for Disease Control and Prevention, *Ingestion of Cigarettes and Cigarette Butts by Children – Rhode Island, January 1994-July 1996*.

¹⁰ Alvin C. Bronstein, MD, Daniel A. Spyker, PH.D., MD, Louis R. Cantilena Jr., MD, PH.D., Jody L. Green, PH.D., Barry H. Rumack, MD, and Sandra L. Giffin, RN, BSN, MS, *2008 Annual Report of the American Association of Poison Control Centers' National Poison Data System (NPDS): 26th Annual Report*.

“To Improve and Protect the Health of All Lewis and Clark County Residents.”



LEWIS & CLARK CITY-COUNTY
Health Department

1930 Ninth Avenue
Helena, MT 59601
PH: 406.4HEALTH or 406.443.2584
Fax: 406.457.8990

Lewis and Clark City-County Board of Health
Board Resolution
September 2011
Board of Health to follow State Variance Requirements

“It is the policy of the board of health that when state law, regulation, or rule conflicts with Lewis and Clark County Regulations, by being more stringent than the local regulations, the board of health intends to be guided by the applicable state law, regulation, or rule.

Therefore, the variance process prescribed in the Lewis and Clark County Regulations will be superseded by the more stringent requirements of the state until such time as the Lewis and Clark County Regulations are amended.

DEQ intends to amend its Circular 4 within 6 months. Thereafter, the board of health intends to begin the amendment of the Lewis and Clark County Regulations.”

Adopted by the Lewis and Clark City-County Board of Health on this day, Friday September 23, 2011.



LEWIS & CLARK CITY-COUNTY BOARD OF HEALTH

1930 Ninth Avenue
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Resolution of Support for

Local, Statewide and Federal Initiatives that Promote Transportation and Land-use Policies and Practices that Promote Good Health.

WHEREAS, over the past two decades, the percentage of individuals who are obese has doubled, the percentage of children and youth who are overweight has nearly tripled to 32% and that physical inactivity contributes to this high prevalence of overweight; and

WHEREAS, obesity and inactivity lead to many other chronic diseases, as well as high blood pressure, heart disease, osteoarthritis, cancer, stroke, and diabetes and the cost of obesity and inactivity to society is enormous and growing; and

WHEREAS, transportation sector pollutants are associated with several health issues, including asthma and respiratory illness, heart disease, and cancer; and

WHEREAS, climate change is an important public health issue of the 21st century and transportation is one of the largest contributors to greenhouse gas emissions in the United States, with emissions from the transportation sector making up one third of carbon dioxide emissions; and

WHEREAS, traffic injuries and fatalities (from motor crashes as well as bike and pedestrian accidents) are also an enormous public health problem being the leading cause of death for people ages 5 to 34 in the United States and the leading cause of injury-related death among all ages; and

WHEREAS, nearly one third of Americans are transportation disadvantaged in that they cannot easily access basic needs such as healthy food choices, medical care, gainful employment, and educational opportunities; and

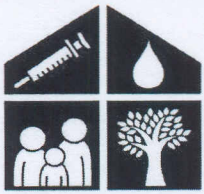
Whereas, our senior population is the fastest growing demographic in the county, projected to increase by 227.7% by 2030, and as this generation ages, an increasing proportion of the population—because of where they live and the lack of transportation alternatives—risks becoming isolated, immobile and unable to access health care; and

WHEREAS, the built environment—defined as the human-made features of our communities such as buildings, public resources (libraries, clinics, and schools), land-use patterns and the transportation system—has been proven to have a direct impact on human health; and physical factors, and social factors; and

WHEREAS, the Lewis and Clark City-County Board of Health is directly responsible for protecting the health and safety of all who live, work and visit here; and

WHEREAS, the Lewis and Clark City-County Board of Health believes that the health benefits of land use planning and building more walkable, bikeable and transit friendly communities that promote health should be a concern for all levels of government – local, state and federal.

“To Improve and Protect the Health of all Lewis and Clark County Residents.”



LEWIS & CLARK CITY-COUNTY BOARD OF HEALTH

1930 Ninth Avenue
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Lewis and Clark City-County Board of Health Board Resolution December 2008

Access to Universal Health Care Task Force

WHEREAS, there are an estimated 12,274(21%)ⁱ citizens in Lewis & Clark County who do not have health insurance, and;

WHEREAS, the best available data indicate that citizens without health insurance experience a serious lack of access to healthcare, causing significant health problems that include a greater risk of dying from cancer, serious complications and worse clinical outcomes for chronic diseases such as diabetes, cardiovascular disease, and mental illness, and a higher rate of premature deathsⁱⁱ, and;

WHEREAS, the Board of Health is charged with improving and protecting the health of Lewis and Clark County residents, which includes developing strategies to improve the general health of citizens and their access to quality healthcare, and;

WHEREAS, the National Association of County and City Health Officials (NACCHO) encourages local health officials to support comprehensive universal health care coverage that includes, but is not necessarily limited to, preventive services and health education, access to primary care, chronic disease care, mental health care, oral health care, and vision and hearing services, and supports health coverage that ensures access to health care regardless of income, age, employment or health status in a manner that will increase positive health outcomes and improve the health status and health equity of all personsⁱⁱⁱ, and;

WHEREAS, the National Association of County and City Health Officials (NACCHO) also recognizes that health and access to health care are basic human rights;

NOW THEREFORE BE IT RESOLVED that the Board of Health of Lewis and Clark County also hereby recognizes that health and health care are basic human rights, such that everyone has a right to access to a universal healthcare system, with corresponding local, state and national government responsibilities, and;

BE IT FURTHER RESOLVED that the Board of Health of Lewis and Clark County shall appoint a Task Force on Local Access to Universal Healthcare that will be charged with implementing a multi-phase project that includes:

Phase I: A community needs assessment that:

- Clearly defines the scope and the extent of the problem of the lack of access to quality health care in Lewis & Clark County;

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

- Identifies and quantifies the impacts this lack of access has upon the health status and life expectancy of citizens in Lewis & Clark County, paying particular attention to those who are uninsured or underinsured and thus lack adequate access to healthcare;
- Identifies the leading causes and contributors to this lack of access to health care in Lewis & Clark County;
- Correlates this local information to the data, trends and information on the state and national level;
- Collects and reports on the experiences and views of community members;
- Engages community members in an assessment of their needs;
- Consults with community members about how their health needs can best be met and seeks their views on strategic and action options;
- Identifies options to address the health problems and needs in Lewis & Clark County;
- Specifically addresses how health care access in Lewis & Clark County would be improved as part of universal health care programs at the local, state, and national levels;

Phase II: An action plan that:

- Identifies and prioritizes specific strategies and action options that the Board of Health and the Lewis & Clark City-County Health Department should consider to address the lack of access to healthcare, particularly local options for universal healthcare, including but not limited to developing a single payer system, establishing a local universal healthcare zone, expanding community health centers into the hub of a universal primary care network, and asking citizens to consider passing a resolution on the right to health care;
- Sets principles, parameters, objectives, and benchmarks for preferred action options, with due weight given to the community consultation findings;
- Identifies specific strategies, actions, and recommendations that local government officials should make to state government, and federal government leaders regarding the best options for addressing the lack of access to health care and achieving universal healthcare in Lewis and Clark County.

Task force membership shall include two members of the Board of Health and up to seven citizens appointed by the Board, as recommended by the Chairman.

The work of the task force would be dependent on sufficient funding for completing the community assessment and the organization of the task force.

The task force will provide a Phase I report to the Board within 12 months of the first meeting of the task force, and a Phase II report six months subsequent to that. The task force will sunset in two years. The task force shall meet for the first time no later than 2 months after the approval of this resolution.

Approved this 4th day of December 2008.

Signed: , MD

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

Resolution before the Lewis and Clark
City-County Board of Health for
Support for Social Host Ordinance to Reduce
Underage Alcohol Use in Helena

WHEREAS, consumption of alcoholic beverages by minors and parties where minors consume alcoholic beverages present numerous problems for our community, including public health and safety concerns, and specifically that;

- Montana teens report the highest incidence of binge drinking in the nation (defined as 5 or more drinks in one sitting)
- Lewis and Clark County 12th graders report a binge drinking rate that is even higher than the Montana average
- 666 Minor in Possession violations were issued in Lewis and Clark County in 2006 and one in six 8th grade students reported binge drinking in the two weeks prior to completing the survey
- 71.4% of Lewis and Clark County 8th through 12th grade students report in the 2006 Montana Prevention Needs Assessment that it would be “sort of “ or “very” easy to get some beer, wine or hard liquor in our community.

WHEREAS, alcohol use by minors is also linked to several other public health and life issues for our youth including but certainly not limited to sexual assault, DUI related crashes, unprotected sexual activity, teenage pregnancy, STDs, physical assault academic difficulties, and suicide; and,

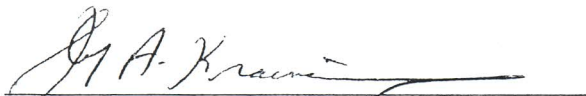
WHEREAS, the Lewis and Clark City-County Board of Health understands that the purpose of a citywide social host ordinance is to protect public health, safety and general welfare and to reduce the risky health behaviors associated with the consumption of alcohol by minors; and

WHEREAS, according to research by Sloan, Stout, Whetten-Goldstein and Lang (2000) social host ordinances reduce binge drinking and drinking and driving; and according to the National Institute of Health research shows that kids whose parents or friends parents provide alcohol for teen get-togethers are more likely to engage in heavier drinking, to drink more often and to get into traffic crashes; and

WHEREAS, Montana Code Annotated § 7-32-4302, allows the City of Helena to both control disturbances of the peace as well as prevent intoxication and disorderly conduct within the city and within three miles of the limits, which will have an impact on the public health and safety of the Helena and surrounding community.

NOW THEREFORE BE IT RESOLVED that the Lewis and Clark City-County Board of Health supports the passage and approval of a social host ordinance in the City of Helena as one important prevention strategy in our broad, community-wide effort to reduce underage alcohol use in our community and reduce the associated public health risks.

ADOPTED BY THE Lewis and Clark City-County Board of Health on this day, Tuesday April 24, 2008.



Dr. David Krainacker, chair
Lewis & Clark City-County Board of Health

A Resolution of the Lewis and Clark City-County Board of Health

Whereas, harmful bacteria, viruses, parasites or chemicals that are found in food and beverages cause food-borne illness, and,

Whereas, more than 25,000 cases of food-borne illness are reported every year in the United States, and,

Whereas, 35 confirmed cases of food-borne illness were reported to the City-County Health Department in 2006, and,

Whereas, the number of confirmed cases does not reflect the true disease burden on the people of Lewis and Clark County, because many food-borne illnesses are not reported to public health authorities, and,

Whereas, every food establishment can take steps to prevent food-borne illness through a system of food safety management and employee training, and,

Whereas, an essential public health service is to inform, educate, and empower people about health issues, and,

Whereas, public recognition of restaurants and delis that consistently practice excellent safety in food storage and preparation will promote the public health, and,

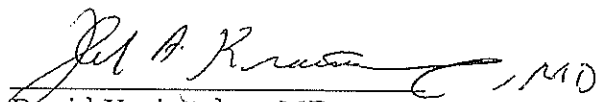
Whereas, The Board of Health has established The Exemplary Establishment Award program to recognize and publicize restaurants and delis that consistently practice excellent safety in food storage and preparation, and,

Whereas, The Exemplary Establishment Award provides the public with a way to identify facilities that have excellent food safety practices.

Therefore, be it resolved that the Lewis and Clark City-County Board of Health adopts the Exemplary Establishment Award program.

Be it further resolved that the Lewis and Clark City-County Board of Health shall provide to these food establishments that practice excellent safety in food handling and preparation a Certificate of Safety.

Be it further resolved that the City-County Health Department staff shall develop criteria and implement the Exemplary Establishment Award program.


David Krainäcker, MD
Chair
Lewis and Clark City-County Board of Health

2-28-08
Date

RESOLUTION BEFORE THE LEWIS AND CLARK
CITY-COUNTY BOARD OF HEALTH REGARDING
THE SEWELL SUBDIVISION AREA

WHEREAS, there are about 100 homes located in and near the Sewell Subdivision in the Helena Valley, approximately three miles north of Custer Avenue.

WHEREAS, the 100 homes located in or near the Sewell Subdivision have individual wastewater treatment systems and individual water supplies; and,

WHEREAS, portions of all parcels in the Sewell Subdivision area are in the floodway or 100-year floodplain; and,

WHEREAS, current data show that groundwater depths range from two feet below ground surface to eight feet below ground surface; and,

WHEREAS, the homes do not have on-site wastewater treatment systems that comply with minimum standards because the systems are located in a floodway, floodplain, and/or because the depth to ground water is inadequate; and,

WHEREAS, the parcels on which the homes are located do not meet Lewis and Clark County On-site Wastewater regulations for a replacement system; and,

WHEREAS, until such time as the Homeowners develop a comprehensive plan, the use of holding tanks represents a viable interim solution to the long-term wastewater treatment problems in the Sewell Subdivision area; and,

WHEREAS, properly constructed and County approved septic tanks can serve as holding tanks on an interim basis; and,

WHEREAS, it is in the best interest of protecting public health to deny variances to install on-site wastewater systems in the Sewell Subdivision area which do not meet minimum requirements for wastewater systems; and,

WHEREAS, potential for permanent off-site wastewater treatment systems have been explored and rejected by a vote of the Sewell residents in the Sewell Subdivision area; and,

WHEREAS, other permanent options for treatment are not currently available

WHEREAS, it is not prudent to allow non-conforming systems to be installed until permanent solutions are identified.

NOW THEREFORE BE IT RESOLVED: all home sites in the Sewell Subdivision area which do not meet minimum standards will be required to utilize holding tanks if their on-site wastewater system fails until other options are developed; and,

BE IT FURTHER RESOLVED that the Board of Health strongly encourages and supports the formation of a sewer district by the Residents of the Sewell Subdivision area to formulate a comprehensive plan to develop a permanent solution to the wastewater treatment problems in the Sewell Subdivision area.

BE IT FURTHER RESOLVED the Board of Health will require all residences in the Sewell Subdivision Area to immediately connect to an approved permanent off-site wastewater system when it becomes available.

BE IT FURTHER RESOLVED the Board of Health will reconsider this resolution if conditions change or at the January 2008 Board of Health meeting, to determine the effectiveness of this resolution and to determine if a long-term plan has been established for the Sewell Subdivision Area.

ADOPTED BY THE Lewis and Clark City-County Board of Health on January 26, 2006.

Jennifer Wintersteen, Chair
Lewis and Clark City-County Health Department

RESOLUTION BEFORE THE LEWIS AND CLARK
CITY-COUNTY BOARD OF HEALTH REGARDING
THE SEWELL SUBDIVISION AREA

WHEREAS, approximately 100 homes are located in and near the Sewell Subdivision in the Helena Valley, an area roughly three miles north of Custer Avenue.

WHEREAS, the homes located in or near the Sewell Subdivision have individual wastewater treatment systems and individual water supplies; and,

WHEREAS, portions of all parcels in the Sewell Subdivision area are in the floodway or 100-year floodplain; and,

WHEREAS, current data show that groundwater depths range from two feet below ground surface to eight feet below ground surface; and,

WHEREAS, the on-site wastewater treatment systems serving the homes in or near the Sewell Subdivision do not comply with minimum standards because the systems are located in a floodway, floodplain, and/or because the depth to ground water is inadequate; and,

WHEREAS, the parcels on which the homes are located do not meet Lewis and Clark County on-site wastewater regulations for a replacement system; and,

WHEREAS, until such time as the homeowners develop a comprehensive plan, the use of holding tanks represents a viable interim solution to the long-term wastewater treatment problems in the Sewell Subdivision area; and,

WHEREAS, properly constructed and county approved septic tanks can serve as holding tanks on an interim basis; and,

WHEREAS, it is in the best interest of protecting public health to not allow the installation of on-site wastewater systems in the Sewell Subdivision area that do not meet minimum requirements for wastewater systems; and,

WHEREAS, time is of the essence for evaluating the potential for permanent off-site wastewater treatment in the Sewell Subdivision area; and,

WHEREAS, it would not be prudent to allow non-conforming systems to be installed until permanent solutions are identified:

NOW THEREFORE BE IT RESOLVED: Until permanent solutions are developed, the Lewis and Clark City County Board of Health will require all home sites in the Sewell Subdivision area that do not meet minimum standards to use holding tanks if their on-site wastewater system fails rather than grant variances from the current regulations; and,

BE IT FURTHER RESOLVED, the Board of Health strongly encourages and supports the formation of a sewer district by the residents of the Sewell Subdivision area to formulate a comprehensive plan to develop a permanent solution to the wastewater treatment problems in the Sewell Subdivision area; and,

BE IT FURTHER RESOLVED, the Board of Health will require all residences in the Sewell Subdivision area to immediately connect to an approved permanent off-site wastewater system when it becomes available; and,

BE IT FURTHER RESOLVED, the Board of Health will reconsider this resolution in June 2005 to determine the effectiveness of this resolution and whether a long-term plan has been established for the Sewell Subdivision area.

ADOPTED BY THE Lewis and Clark City-County Board of Health on June 26, 2003.

Peter Donovan, Chairman
Lewis and Clark City-County Health Department

**A RESOLUTION OF THE
LEWIS AND CLARK CITY COUNTY BOARD OF HEALTH**

**A RESOLUTION TO DESIGNATE THE NATIONAL INCIDENT MANAGEMENT
SYSTEM (NIMS) AS THE BASIS FOR ALL INCIDENT MANAGEMENT IN THE
LEWIS AND CLARK CITY-COUNTY HEALTH DEPARTMENT**

Whereas, the President in Homeland Security Directive (HSPD)-5, directed the Secretary of the department of Homeland Security to develop and administer a national Incident Management System (NIMS), which would provide a consistent nationwide approach for Federal, State, local and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity;

Whereas, the collective input and guidance from all Federal, State, local, and tribal homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS;

Whereas, it is necessary and desirable that all Federal, State, local, and tribal emergency agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management;

Whereas, to facilitate the most efficient and effective incident management it is critical that Federal, State, local, and tribal organizations utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters;

Whereas, the NIMS standardized procedures for managing personnel, communications, facilities and resources will improve the Department's ability to utilize federal funding to enhance Department readiness, maintain staff safety, and streamline incident management processes.

Whereas, the Incident Command System components of NIMS are already an integral part of various incident management activities in the department, including current emergency management training programs; and

Whereas, the National Commission on Terrorist Attacks (9-11 Commission) recommended adoption of a standardized Incident Command System;

Therefore, be it resolved, that Lewis and Clark City-County Board of Health establishes the National Incident Management System (NIMS) as the standard for incident management.

Dated this _____ day of _____, 2005

Lewis and Clark City-County Board of Health

Jennifer Wintersteen, Chair

**A RESOLUTION OF THE
LEWIS AND CLARK CITY COUNTY BOARD OF HEALTH**

**A RESOLUTION TO CREATE
AN ON-SITE WASTEWATER MAINTENANCE PROGRAM
IN LEWIS AND CLARK COUNTY**

Whereas, the 1991 Montana legislature found in Section 75-5-311, MCA (2003) that pollution and degradation of surface water and groundwater pose both immediate and long-term threats to the health, safety, and welfare of the citizens of this state; and

Whereas, the 1991 Montana legislature found that policies and programs to protect groundwater contamination must be implemented because of the expense and difficulty of groundwater rehabilitation and cleanup and because of the need to protect drinking water supplies; and

Whereas, the Montana legislature provided in Section 50-2-116, MCA (2003) the authority to Local Boards of Health to adopt rules for the maintenance of sewage treatment systems that do not discharge an effluent directly into state waters and that are not required to have an operating permit as required by rules adopted under 75-5-401, MCA (2003); and

Whereas, the Lewis and Clark City-County Board of Health will create an education based program called the Lewis and Clark County On-Site Wastewater Maintenance Program and is intended to preserve and protect the quality of surface water and groundwater in Lewis and Clark County; and

Whereas, the Program will include all of Lewis and Clark County.

Therefore, be it resolved, the Lewis and Clark City County Board of Health establishes the Lewis and Clark County On-Site Wastewater Maintenance Program. The Lewis and Clark County On-Site Wastewater Maintenance Program will become effective July 1, 2005.

Be it further resolved, the Program will operate out of the Lewis and Clark City-County Health Department Environmental Health Division. The Program will hire an environmental health specialist to 1.) initiate a homeowner and potential home buyer education program regarding on-site wastewater issues, 2.) create and maintain a database of all individual and multiple-user on-site wastewater systems in Lewis and Clark County, 3.) encourage septic tank pumping on a schedule and maintain septic tank pumping records, 4.) work with neighborhoods and communities on wastewater issues.

Be it further resolved, funding for the program will be sought from multiple sources with the initial funding coming from a surcharge added to the cost of septic waste disposal at the Helena Wastewater Treatment Plant. A memorandum of understanding between the City of Helena and Lewis and Clark County will govern how the fees are collected and transferred to the County.

Dated this 26th day of May, 2005.

Lewis and Clark City-County Board of Health

Jennifer Wintersteen

Jennifer Wintersteen, Chair

**RESOLUTION OF THE
LEWIS & CLARK CITY-COUNTY BOARD OF HEALTH
IN SUPPORT OF HB 643**

LEGISLATION TO PROHIBIT SMOKING IN PUBLIC PLACES IN MONTANA

WHEREAS, secondhand tobacco smoke has been categorized as a known carcinogen by the United States Environmental Protection Agency (EPA); and,

WHEREAS, numerous scientific studies have determined that secondhand tobacco smoke is a major cause of indoor air pollution that contains more than 40 known human carcinogens, many suspected carcinogens, co-carcinogens, carbon monoxide, sulfur dioxide, nitrous oxides, irritants, systemic toxicants, reproductive toxicants, aromatic hydrocarbons, pesticides, heavy metals, EPA-listed hazardous air pollutants, cilia toxic agents, sub-micron- sized particulates; and,

WHEREAS, numerous studies have found that breathing secondhand smoke is a cause of disease in healthy non-smokers including lung cancer, ischemic heart disease, coronary heart disease, cerebrovascular accident, sudden infant death syndrome, respiratory infection, decreased respiratory function and bronchi-constriction; and,

WHEREAS, the American Cancer Society has determined that secondhand tobacco smoke kills 65,000 nonsmokers in our country annually; and,

WHEREAS, the Surgeon General has declared that smoking is the largest preventable cause of premature death and disability in the United States, and breathing secondhand smoke is the third largest preventable cause of premature death in the United States; and,

WHEREAS, at special risk from secondhand tobacco smoke are infants, children, elderly people, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and,

WHEREAS, a significant amount of secondhand tobacco smoke exposure occurs in the workplace, and studies show that employees who work in smoke-filled businesses suffer a 25-50% increased risk of heart attack and higher rates of death from cardio-vascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung functioning; and,

WHEREAS, the National Institute for Occupational Safety and Health, the Environmental Protection Agency, and the Surgeon General have recommended that all preventable measures should be used to minimize occupational exposure to secondhand tobacco smoke; and,

WHEREAS, the Environmental Protection Agency (EPA) has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke; and,

WHEREAS, the National Association of County and City Health Officials and the National Association of Local Boards of Health, “clearly state their intention to eliminate - to the extent possible - the devastation wreaked on Americans by a product that when used as intended, causes disease, disability and death,” and advocate that Local Boards of Health “promote and support policies, legislation or regulations that ensure that indoor air in places and public venues is free from secondhand tobacco smoke;” and,

WHEREAS, comprehensive smokefree laws have a strong, documented positive impact on helping smokers quit, and on preventing adolescents and children from ever starting tobacco use; and,

WHEREAS, pursuant to Article II, Section 3 of Montana's Constitution, all persons have certain inalienable rights that include a constitutional right to a “clean and healthful environment.” And pursuant to Article IX, Section 1 of Montana's Constitution, "the state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations;" and,

WHEREAS, for consistency of health and economic interests statewide, any smokefree tobacco legislation should apply equally to all indoor public spaces and workplaces across the State of Montana;

NOW THEREFORE BE IT RESOLVED, the Lewis and Clark City-County Board of Health strongly supports House Bill 643, a bill to prohibit smoking in all public places and workspaces in Montana as well as providing for tobacco-free schools, and urges the Legislature to pass this important public health policy for Montana.

ADOPTED by the Lewis and Clark City-County Board of Health on February 16, 2005.

Jennifer Wintersteen,
Board of Health Chair

Sheena Wilson
Vice Chair

Members:
Dr. Joel Cleary
Peter Donovan
Anita Varone
Sandy Oitzinger
Terrie Casey
Dr. Bruce Messinger
Ken Wallace

**A RESOLUTION OF THE
LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH**

In support of the privacy of personal medical and health care information

WHEREAS, Article II, Section 10 of the Montana Constitution guarantees the right of individual privacy for Montana citizens and instructs that this right "is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest"; and

WHEREAS, Sections 50-16-501 through -553, MCA (Uniform Health Care Information Act) and 50-16-601 through - 611, MCA (Government Health Care Information Act) insure the privacy of health care information, require a patient's written authorization prior to disclosure of such information, and authorize the disclosure of health care information without written consent only when required by law to protect a minor in proceedings involving child abuse, to protect the public's health, or to protect an individual's health, life or well-being in an emergency; and

WHEREAS, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, establishes comprehensive regulations protecting the privacy of individually identifiable health information; and

WHEREAS, Section 215 of the U.S. Patriot Act of 2001 amends the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) to allow government access to "tangible things (including books, records, papers, documents, and other items) for an investigation to protect against international terrorism or clandestine intelligence activities;" and

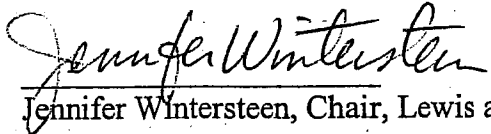
WHEREAS, it is the express policy of the State of Montana that health care information is personal and sensitive information and if improperly used or released may do significant harm to the physical and emotional health and well-being of affected individuals (See Sec. 50-16-502, MCA).

THEREFORE, BE IT RESOLVED that the Lewis and Clark City-County Board of Health reaffirms the expectations of privacy of Montana citizens in regard to confidentiality of medical and health care records guaranteed under the Montana Constitution, the Montana Uniform and Government Health Care Information acts, and HIPAA.

BE IT ALSO RESOLVED that the Board urges all governmental and private entities or individuals to exercise all lawful means to comply with these privacy protections and to afford confidentiality of personally identifiable health care information the highest priority. The Board further urges that the provisions of the U.S. Patriot Act of 2001, Section 215, pertaining to non-consensual access to personal medical records be removed from the Act, and that other federal anti-terrorism legislation not be executed in a manner that would compromise the rights and protections afforded Montana citizens.

BE IT FINALLY RESOLVED that copies of this resolution be presented to the Helena City Commission, the Lewis & Clark County Commission, the State of Montana Department of Public Health and Human Services, and the Montana Congressional Delegation.

DATED this 9th day of December 2004.



Jennifer Wintersteen, Chair, Lewis and Clark City-County Board of Health

A Resolution of the Lewis and Clark City County Board of Health
in Support of Initiative 146

Whereas, the most common preventable cause of death in Montana, accounting for nearly 20 percent of all deaths, is related to the use of tobacco products; and

Whereas, tobacco use and exposure to tobacco smoke has been identified as a cause of lung cancer, asthma, oral cancer and cardiovascular disease; and

Whereas, it is estimated that every day in Montana, four people die of tobacco-related disease, and every day five children in Montana start using tobacco products; and

Whereas, tobacco-related disease costs Montanans \$216 million a year, including \$52 million in Medicaid costs; and

Whereas, the tobacco settlement dollars coming to the State of Montana as a result of litigation to assist states to recover state medical costs related to tobacco disease and death should be used to prevent future tobacco-related disease and death as well as to fund other health care programs; and

Whereas, current funding for tobacco use prevention programs in Montana represents less than 2 percent of the settlement dollars coming into the State; and

Whereas, there is both strong public support and expectation that there be wise and appropriate management of Montana's share of tobacco settlement dollars;

Therefore, be it resolved that the Lewis and Clark City County Board of Health supports passage of Initiative 146, an initiative to allocate certain percentages of the annual tobacco settlement payments to a statewide tobacco prevention program and other health care programs. Initiative 146 would allocate settlement dollars annually as follows:

- Thirty-two percent (32%) to a statewide tobacco prevention program
- Seventeen percent (17%) to the Children's Health Insurance Program and the Montana Comprehensive Health Association
- Forty percent (40%) to the constitutionally established Tobacco Trust Fund
- Eleven percent (11%) to the general fund



Peter Donovan, Chairman
Lewis and Clark City County Board of Health

10-07-02

Date

**RESOLUTION OF THE LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH
URGING THE HELENA CITY COMMISSION
TO ADOPT AN ORDINANCE PROTECTING THE PUBLIC
FROM EXPOSURE TO
ENVIRONMENTAL TOBACCO SMOKE**

WHEREAS, environmental tobacco smoke (ETS) has been categorized as a known carcinogen by the United States Environmental Protection Agency (EPA); and,

WHEREAS, numerous scientific studies have determined that ETS is a major cause of indoor air pollution that contains more than 40 known human carcinogens, many suspected carcinogens, co-carcinogens, carbon monoxide, sulfur dioxide, nitrous oxides, irritants, systemic toxicants, reproductive toxicants, aromatic hydrocarbons, pesticides, heavy metals, EPA-listed hazardous air pollutants, cilia toxic agents, sub-micron- sized particulates; and,

WHEREAS, health hazards induced by breathing ETS include lung cancer, ischemic heart disease, coronary heart disease, cerebrovascular accident, sudden infant death syndrome, respiratory infection, decreased respiratory function and bronchi-constriction; and,

WHEREAS, the Surgeon General of the United States has determined that ETS kills 53,000 nonsmokers in our country annually; and,

WHEREAS, the EPA reports that hundreds of thousands of diseases and millions of disease exacerbations and infections are caused by ETS in our country annually; and,

WHEREAS, at special risk from ETS are infants, children, elderly people, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and,

WHEREAS, the weight of research evidence indicates that the risk of death from lung cancer and heart disease, caused by breathing ETS, may exceed a highly unsafe level for more than 95% of nonsmoking office workers in workplaces with unrestricted smoking; and,

WHEREAS, the National Institute for Occupational Safety and Health, the Environmental Protection Agency, and the Surgeon General have recommended that all preventable measures should be used to minimize occupational exposure to ETS; and,

WHEREAS, ventilation standards established by the American Society of Heating Refrigerating and Air Conditioning Engineers are not designed to remove the risk of death and disease to nonsmokers from the numerous carcinogens, toxicants, and particulates in ETS; and,

WHEREAS, the weight of research evidence indicates that ETS cannot be controlled by ventilation, air cleaning, or simple spatial separation of smokers from nonsmokers; and,

WHEREAS, the Surgeon General has declared that smoking is the largest preventable cause of premature death and disability in the United States, and breathing ETS is the third largest preventable cause of premature death in the United States; and,

WHEREAS, the Governor's Advisory Council on Tobacco Use Prevention, "recognizes the unique role of local public health boards and departments that are legally charged with protecting the public health," and states that one of the goals of the March 14, 2000 Montana Tobacco Use Prevention Plan is to "substantially increase smoke-free establishments, such as . . . workplaces, restaurants, and public facilities, thereby eliminating exposure to environmental tobacco smoke;" and,

WHEREAS, a November, 1999, opinion poll of Lewis and Clark County residents found that 94% agree that "everyone should have a smoke-free place to work," and 71% agree that "Helena should adopt a policy that prohibits smoking in restaurants;" and,

WHEREAS, the National Association of County and City Health Officials and the National Association of Local Boards of Health, "clearly state their intention to eliminate - to the extent possible - the devastation wreaked on Americans by a product that when used as intended, causes disease, disability and death," and advocate that Local Boards of Health "promote and support policies, legislation or regulations that ensure that indoor air in places and public venues is free from secondhand smoke;" and,

WHEREAS, the "Mission of the Lewis and Clark City-County Health Department is to improve and protect the health of all Lewis and Clark County residents;" and,

WHEREAS, pursuant to Article II, Section 3 of Montana's Constitution, all persons have certain inalienable rights that include a constitutional right to a "clean and healthful environment." And pursuant to Article IX, Section 1 of Montana's Constitution, "the state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations;"

NOW THEREFORE BE IT RESOLVED, the Lewis and Clark City-County Board of Health strongly recommends that the City of Helena adopt an ordinance prohibiting smoking in indoor public places and places of employment in the City of Helena and within Lewis and Clark County to the largest geographical extent possible in order to protect the public from exposure to environmental tobacco smoke.

ADOPTED by the Lewis and Clark City-County Board of Health on October 26, 2000.

Alicia Pichette, Chairman
Lewis and Clark City-County Health Department

A Resolution of the Lewis and Clark City-County Board of Health

WHEREAS the most common preventable cause of death in Montana, accounting for nearly 20 percent of all deaths, is related to the use of tobacco products; and

WHEREAS tobacco use and exposure to tobacco smoke has been identified as a cause of lung cancer, asthma, oral cancer and cardiovascular disease; and

WHEREAS 27,000 Montana children were not covered by health insurance, and 1 in 5 Montanans did not have health insurance in 1998; and

WHEREAS litigation to recover state medical costs related to tobacco disease and death and to prevent future marketing of tobacco products to children has been settled between the state of Montana and the major tobacco companies; and

WHEREAS the settlements with the major tobacco companies are expected to bring in revenues of more than \$800 million to the State of Montana over the next 25 years; and

WHEREAS these settlement dollars should be used primarily to support tobacco use prevention programs, to provide health insurance for uninsured and uninsurable children and adults in our communities, and to fund other health and health care programs; and

WHEREAS efforts to combat the impacts of tobacco related disease and to improve public health in Montana through tobacco prevention and other health care programs must continue to be high priorities in the future rather than only during the period of time in which the state receives payments under the terms of the tobacco settlement agreement; and

WHEREAS there is both strong public support and expectation that there be wise and appropriate management of Montana's share of tobacco settlement dollars so that the benefit of this settlement is available into the future;

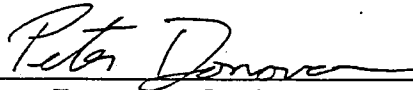
THEREFORE, BE IT RESOLVED that the Lewis and Clark City-County Board of Health supports passage of a Constitutional Initiative to establish a "Montana Tobacco Settlement Trust Fund." This trust fund would provide for the following:

1. At least 40 percent of the state's proceeds from the tobacco settlement would be dedicated to permanent trust fund.
2. A portion of the interest and income from the trust fund would be used to provide tobacco disease prevention programs.
3. A portion of the interest and income from the trust fund would be used to provide health insurance coverage for children and other Montanans who are uninsured or uninsurable.

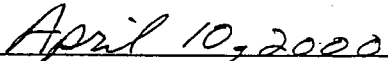
4. A portion of the interest and income from the trust fund would be used to provide other health care programs that meet the increasing health care needs of the people of Montana.

5. The principal of the trust fund could only be used if approved by two-thirds of the members of each house of the Legislature.

BE IT FURTHER RESOLVED, the Lewis and Clark City-County Board of Health urges the Montana Legislature to continue to allocate tobacco settlement dollars which are not dedicated to the trust fund to support the Children's Health Insurance Program, existing tobacco prevention programs, the Montana Comprehensive Health Plan, and other appropriate health related programs.



Peter Donovan, Chairman
Lewis and Clark City-County Board of Health



Date

A Resolution of the Lewis and Clark City County Board of Health

WHEREAS, both the Lewis and Clark County Board of Commissioners and the Helena City Commission have determined that funding for public safety activities are currently insufficient; and

WHEREAS, the lack of funding will affect the level of public safety services in Lewis and Clark County and the City of Helena including the D.A.R.E. program, Support Services Division 9-1-1 and Dispatch services, general law enforcement and jail services, fire protection, civil process service, delinquent tax collection program, Search and Rescue, and the replacement of obsolete radio and computer systems; and

WHEREAS, the Lewis and Clark County Board of Commissioners and the Helena City Commission have received a recommendation from a citizen's task force, formed at the request of the Lewis and Clark County Sheriff, to increase funding for public safety activities within Lewis and Clark County; and


WHEREAS, in order to correct this funding shortfall for essential public safety services, a County Wide Public Safety mill levy has been proposed which would increase funding up to 17.4 mills; and

WHEREAS, the public will have the opportunity to vote on the proposed County Wide Public Safety mill levy, a partnership between Lewis and Clark County and the City of Helena that will benefit all residents; and

WHEREAS, the Lewis and Clark County Board of Commissioners and the Helena City Commission have unanimously supported the passage of the proposed Lewis and Clark County Public Safety Mill Levy; and

WHEREAS, the Lewis and Clark City-County Board of Health similarly recognizes the need to increase funding to adequately provide for essential public safety services in Lewis and Clark County and the City of Helena;

THEREFORE BE IT RESOLVED, the Lewis and Clark City-County Board of Health supports the proposed Lewis and Clark County Public Safety Mill Levy and urges the public to approve this mill levy when it is considered on June 6, 2000.



Peter Donovan, Chairman, Lewis and Clark City-County Board of Health

April 27, 2000
Date



LEWIS AND CLARK
CITY-COUNTY HEALTH DEPARTMENT

City-County Building
316 North Park
Box 1723
Helena, Montana 59624
Telephone (406) 447-8351

February 10, 1999

Canyon Ferry Recreation Association
Cabin Owners

Re: Lewis and Clark County Septic System Resolution

Dear Cabin Owner:

On January 28, 1999 the Lewis and Clark City-County Board of Health adopted a Resolution stating its intent that the **Board will only issue permits to allow for the installation of holding tanks on sites which do not meet both the State and County minimum requirements rather than granting variances from these requirements for parcels located on Canyon Ferry Lake.**

This means that only lots meeting **all** of the requirements for either a standard or engineered septic system will be given a permit. On sites which do not meet minimum requirements, new systems will be limited to the installation of holding tanks. Holding tanks represent a viable interim solution to the long term wastewater treatment problems at Canyon Ferry and should be utilized until such time as a long term solution can be identified. Furthermore, a properly installed holding tank will meet all of the Bureau of Reclamation lease requirements for having a permitted system in place by September 1, 2000.

As a cabin owner you have the right to request the Board of Health for a Variance to the Regulations to install a system other than a holding tank but, absent compelling circumstances, this Resolution is serving to inform you that a Variance will not be granted until such time as all off-site options have been exhausted. This Resolution does not apply to any cabin owners that currently have a permitted system unless they are trying to replace or upgrade the system.

Since the Bureau of Reclamation has made additional lands available for off site wastewater use, the Board strongly urges the cabin owners and the Bureau of Reclamation to work together to develop permanent off-site options for those cabins that do not meet the minimum standards.

Please contact Steve Kilbreath of the Lewis and Clark County Health Department at 406-447-8353 to determine how this Resolution impacts your lot or if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Joan Miles".

Joan Miles, Health Officer

Secretary to the Lewis and Clark City-County Board of Health

Enc. Resolution Adopted by Lewis and Clark City-County Board of Health

**RESOLUTION BEFORE THE LEWIS AND CLARK
CITY-COUNTY BOARD OF HEALTH REGARDING
CANYON FERRY CABIN SITES**

WHEREAS, there are 265 cabin sites located on 150 acres at Canyon Ferry Lake on land leased from the Bureau of Reclamation ranging in size from .21 acres to 1.4 acres with all sites except two less than 1.0 acres in size; and,

WHEREAS, the 265 cabin sites at Canyon Ferry Lake all have individual wastewater treatment systems and individual water supplies; and,

WHEREAS, current lease requirements by the Bureau of Reclamation require all cabin sites to have a current, valid, septic permit from the Lewis and Clark City-County Health Department by September 1, 2000; and,

WHEREAS, less than half of the cabin sites have on-site wastewater treatment systems that comply with minimum standards and the remaining sites, due to geographic and physical limitations, will not be able to accommodate standard wastewater treatment systems; and,

WHEREAS, there are 141 individual water wells on the east side of the lake, 40 water wells on the west side of the lake, and approximately 80 lots using lake water with bottled drinking water supplies; and,

WHEREAS, groundwater sources for the east side of the lake are relatively shallow with good yield while groundwater sources for the west side of the lake are deep with low yield; and,

WHEREAS, recent federal legislation allows for the leased lands at Canyon Ferry to transfer into private ownership; and,

WHEREAS, in order to protect public health and groundwater resources from contamination, approximately 100 cabin sites at Canyon Ferry which do not meet minimum standards will be required to utilize holding tanks as permanent wastewater disposal systems unless other options are developed;

WHEREAS, the Bureau of Reclamation will allow for the installation of individual, cluster or small community wastewater treatment and water supply systems on lands adjacent to the cabin sites; and,

WHEREAS, properly constructed septic tanks, which can serve as holding tanks on an interim basis, are an essential requirement of any type of system that might be installed in the future, be it a standard, pressure dosed, engineered, holding tank, or community type of system;

NOW THEREFORE BE IT RESOLVED:

The Lewis and Clark City-County Board of Health does not believe it is in the best interest of protecting public health to grant variances to install on-site wastewater systems at the Canyon Ferry cabin sites which do not meet minimum requirements for wastewater systems. The Board also recognizes that time is of the essence for evaluating the potential for permanent off-site wastewater treatment and water supply for the cabin sites and that it would not be prudent at this time to allow non-conforming systems to be installed until permanent solutions are identified.

BE IT FURTHER RESOLVED that the Board of Health strongly encourages and supports the formation of a water and sewer district by the Canyon Ferry Recreation Association to formulate a comprehensive plan to develop a permanent solution to the wastewater treatment problems at the Canyon Ferry Cabin Sites.

BE IT FURTHER RESOLVED that the Board of Health recognizes that until such time as the cabin site owners develop a comprehensive plan that the use of holding tanks represents a viable interim solution to the long term wastewater treatment problems at Canyon Ferry Lake. THEREFORE, until such time as a long-term solution can be identified, the **Board will only issue permits to allow for the installation of holding tanks on sites which do not meet both the State and County minimum requirements rather than granting variances from these requirements;**

BE IT FURTHER RESOLVED that the Board of Health will reconsider this resolution in January, 2001, to determine the effectiveness of this Resolution and to determine if a long-term plan has been established for the Canyon Ferry Cabin Sites.

ADOPTED BY THE Lewis and Clark City-County Board of Health on January 28, 1999.



Peter Donovan, Chairman
Lewis and Clark City-County Health Department

**RESOLUTION BEFORE
THE LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH**

WHEREAS, Congress is appropriating new funding to each state for the provision of health insurance to uninsured children for five years beginning federal fiscal year 1998, and

WHEREAS, it is estimated there are at least 20,000 low income uninsured children (up to age 18) in Montana (or one in five children) and the majority of these children are in families with working parents who cannot afford health insurance, and

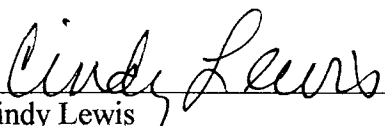
WHEREAS, basic health care needs of children include primary and preventive health services, as well as well-child, dental, vision, and mental health services; and

WHEREAS, this important program should enable more of Montana's children to have health insurance and access to health care:

BE IT RESOLVED that the Lewis and Clark City-County Board of Health fully supports implementation of a state program as soon as reasonably possible so these federal dollars can be used to provide meaningful access to health care for children in Montana who have no public or private insurance coverage. The Board of Health also urges the State to commit to providing the necessary matching public funds in the next five years to insure the maintenance of health insurance coverage for eligible children.

BE IT FURTHER RESOLVED that the State program be designed to encourage access to vital well-child and preventive, public health services in order to maximize our ability to enhance the health and well-being of Montana's children and to minimize expenditures for preventable injuries and illnesses.

Dated this 6th day of November, 1997.



Cindy Lewis
Chair, Lewis and Clark City-County Board of Health

Section 6
Strategic Plan



Lewis & Clark Public Health

Strategic Plan

Effective Date: July 2018 - July 2023

Version: 1.0

Document Number:	ADM-102
Document Title:	LCPH Strategic Plan 2018-2023
Document Owner	Administration
Approval Date:	July 26, 2018
Approved By:	Board of Health
Effective Dates:	July 26, 2018 until July 27, 2023

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Lewis and Clark Public Health Strategic Plan

Approved By: Drenda Niemann	Title: Health Officer, Lewis and Clark Public Health	Date: July 26, 2018
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1.0 How This Plan Was Developed

Members of the Lewis and Clark City-County Board of Health and staff of Lewis and Clark Public Health (LCPH) worked together over eight months to develop this strategic plan, which covers the five-year period from July 2018 to July 2023. Staff of the Local Government Center, Montana State University Extension in Bozeman, facilitated the process. For a full list of participants, see Section 6.0.

The Board of Health and health department used information from the 2015 Community Health Report, the 2016 Community Health Improvement Plan, and a targeted survey of community and department strengths and challenges to determine strategic direction. Regular progress checks and semi-annual reviews will ensure that the plan reflects effective methods for addressing community public health needs.

In a half-day meeting on April 26, 2018, the Board of Health met with the department's Strategic Planning Steering Committee to set high-level strategic direction for LCPH through mission and vision statements, values, and overarching goals.

On May 17, at a regular all-staff meeting, health department employees reviewed the board's high-level strategic direction and discussed more detailed strategies and activities with which to implement it.

Throughout parts of May, June, and July, the steering committee used these criteria to finalize the strategies and develop action items that:

- Captured the intent of the guidance provided by the Board of Health and department staff.
- Pushed the department to progress above and beyond its regular daily work.
- Were considered "doable."
- Were viewed as important steps to improving the health department infrastructure, the programs and services we offer, and the health of county residents.

Once a final draft was completed, department staff were asked to review it and take a short survey specifically addressing these questions:

1. How well do the strategies and actions reflect the work done at the May all-staff meeting?
2. How realistic are the strategies, actions steps, and timelines?
3. Are there any missing resources that would help the department accomplish its goals, strategies, and action steps?
4. Provide any suggested edits.

The steering committee reviewed staff feedback and incorporated suggestions where appropriate. The Board of Health adopted this strategic plan at its July 26, 2018, regular meeting.

2.0 Mission, Vision, Values

2.1 Mission Statement

The Board of Health reviewed, discussed, and made no changes to the department's long-time mission statement:

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

2.2 Vision Statement

The Board of Health adopted the following vision statement for the health department:

Healthy people in a safe and healthy environment.

2.3 Values

These are the chief values the health department and its staff will strive to demonstrate in their work with clients, partners, patients, community members, and each other:

Leadership: Cultivating a proactive and forward-thinking approach to public health.

Collaboration: Working together for health improvement.

Inclusiveness: Ensuring equitable opportunities to lead safe and healthy lives.

Effectiveness: Using best practices effectively to achieve health improvement.

Integrity: Serving the community professionally, honestly, and dependably.

3.0 Goals

These are the overarching goals the Board of Health established for the health department for the next five years:

Goal 1	Consider health equity and social determinants of health in all aspects of public health work.
Goal 2	Expand the role of public health in improving mental health , with a focus on wellness and resilience, mental illness, and substance abuse.
Goal 3	Improve health across the lifespan , with a focus on people over age 65 and under age 5.
Goal 4	Promote a safe and healthy environment , with a focus on environmental health, built environment, and public health preparedness.
Goal 5	Explore new frameworks for delivering public health services, with a focus on organizational framework, funding, data analytics, and Public Health 3.0.

3.1 Goal 1: Health Equity

Goal 1: Consider health equity and social determinants of health in all aspects of public health work.					
Strategy	Action Steps	Resources	Responsibility	Timeframe	Linkages
1.1 Improve awareness and understanding of how social determinants affect population health.	1.1.1 Include comparative health data related to social determinants in Community Health Assessment.	Healthy Together partners State health department	Systems Improvement Manager	Summer/Fall 2018	See PHAB Measure 1.1.2
	1.1.2 Assess internal training needs and develop training plan for staff on health equity and social determinants, their public health implications, and how to address them in public health work.	National and state public health improvement resources	Systems Improvement Manager	Winter 2018 and ongoing	See PHAB Measure 1.1.4
	1.1.3 Provide training to community partners and public on health equity and social determinants of health and their impact in Lewis and Clark County.	Healthy Together National and state public health improvement resources Healthy Communities Coalition	Systems Improvement Manager	Fall 2018 and ongoing	

Lewis and Clark Public Health Strategic Plan

Goal 1: Consider health equity and social determinants of health in all aspects of public health work.					
Strategy	Action Steps	Resources	Responsibility	Timeframe	Linkages
1.2 Enhance access to public health services by addressing barriers to health equity.	1.2.1 Assess current practices and policies related to: <ul style="list-style-type: none"> • customer service, • communications, • program delivery, and • built environment to determine how well we serve people of diverse abilities.	MT Independent Living Project UM Disability and Health Program National Center on Health, Physical Activity, and Disability (NCHPAD)	Inclusiveness Work Group Health Officer Division Administrators	Assessment complete by Fall 2018 Re-assess annually	See PHAB Standard 7.1
	1.2.2 Draft and adopt an LCPH health equity policy.	National Association of County and City Health Officers (NACCHO)		Spring 2019	
	1.2.3 Train staff on inclusiveness and assessment findings and recommendations.	Other local health departments	Inclusiveness Work Group	Fall 2018 and annually	
	1.2.4 Prioritize and begin to implement assessment recommendations.		Inclusiveness Work Group Health Officer Division Administrators	Spring 2019	
1.3 Ensure that all LCPH educational/outreach materials are inclusive of target populations in the county that experience health inequities and disparities.	1.3.1 Assess program-specific needs for educational/outreach materials that are inclusive of all target populations.		Program supervisors	Winter 2018 and re-assess annually	See PHAB Standard 3.1
	1.3.2 Update, revise, and create inclusive, program-specific educational/outreach materials for target populations.	MT State agencies	Communications Manager Program supervisors & staff	Spring 2019 and ongoing	

Lewis and Clark Public Health Strategic Plan

3.2 Goal 2: Mental Health

Goal 2: Expand the role of public health in improving mental health. <i>(with a focus on wellness and resilience, mental illness, and substance abuse)</i>					
Strategy	Action Steps	Resources	Responsibility	Timeframe	Linkages
2.1 Increase staff knowledge, awareness of mental health and substance abuse issues.	2.1.1 Assess staff need for training in suicide prevention, mental illness, substance abuse, and adverse childhood experiences (ACEs) and develop training plan.	MT Suicide Prevention Program NAMI Local Advisory Council on Mental Illness (LAC)	LCPH member(s) of County Suicide Prevention Work Group and LAC	Fall 2018	See 2016 CHIP Priority: Mental Health
	2.1.2 Implement and evaluate effectiveness of training plan.	Youth Connections		Spring 2019 and ongoing	
2.2 Strengthen and expand partnerships and collaborative activities to improve mental health and substance abuse outcomes.	2.2.1 Seek funding to address mental health, wellness, and substance abuse prevention.	Suicide Prevention Work Group United Way State health department Family Resources Shodair Intermountain MT HealthCare Foundation Youth Connections Coalition Other granting agencies	Community Health Promotion Division Administrator Health Officer	Fall 2018 and ongoing	See 2016 CHIP Priority: Mental Health
	2.2.2 Expand CONNECT Referral System to include more mental health and substance abuse resources.	Grants		CONNECT Coordinator	

3.3 Goal 3: Health across the Lifespan

Goal 3: Improve health across the lifespan. <i>(with a focus on people over age 65 and under age 5)</i>					
Strategy	Action Steps	Resources	Responsibility	Timeframe	Linkages
3.1 Identify and implement strategies for addressing Alzheimer’s Disease and dementia.	3.1.1 Working with community partners, explore becoming a Dementia-Friendly Community/County (<i>a place or culture in which people with dementia and their caregivers are empowered, supported and included in society, understand their rights and recognize their full potential</i>)	Dementia Friendly America (www.dfamerica.org) LCPH Inclusiveness Workgroup Area Agency on Aging Riverstone Health/City of Billings (Dementia Friendly Billings) Missoula CCHD/City of Missoula (Dementia Friendly Missoula) City and county officials	Disease Control and Prevention Administrator (Lead)	Summer 2019 and ongoing	
	3.1.2 Enhance use of the CONNECT Referral System for aging services.	Area Agency on Aging	CONNECT Coordinator	Summer 2019 and ongoing	
3.2 Incorporate evidence-based practices that help reduce Adverse Childhood Experiences (ACEs).	3.2.1 Assess family and child health programs for trauma-responsiveness using Elevate MT checklist.	Elevate Montana	Community Health Promotion Division Administrator	Fall 2018 and annual re-assessment	See 2016 CHIP Strategy: Expand access to training and professional development related to ACEs
	3.2.2 Adopt trauma-informed and responsive practices within all division programs and services.				
	3.2.3 Plan, implement, and evaluate an ACEs and trauma-responsive training plan.				
	3.2.4 Expand services to support children with special health-care needs.	United Way YWCA Rocky Mountain Development Council Pediatric clinics Primary-care providers	Community Health Promotion Division Administrator	Spring 2019 and ongoing	

Lewis and Clark Public Health Strategic Plan

Goal 3: Improve health across the lifespan.

(with a focus on people over age 65 and under age 5)

Strategy	Action Steps	Resources	Responsibility	Timeframe	Linkages
	3.2.5 Expand number of family and child resources included in CONNECT Referral System.		CONNECT Coordinator	Spring 2019 and ongoing	
3.3 Adopt evidence-based practices that reduce obesity in children and adults.	3.3.1 Increase participation in WIC services.	State health department National WIC Association	WIC Team	Fall 2018 and ongoing	
	3.3.2 Advocate for improved access to physical activity and healthy foods.	Kids Hunger Coalition Healthy Communities Coalition Early Childhood Coalition Food Share	Chronic Disease Prevention Team	Fall 2018 and ongoing	See 2016 CHIP strategies related to physical activity and nutrition
	3.3.3 Expand CONNECT Referral System to be more inclusive of services for health & wellness.		CONNECT Coordinator	Fall 2019 and ongoing	
3.4 Improve management of chronic disease.	3.4.1 Conduct a quarterly workplace wellness activity for LCPH.	State health department	Chronic Disease Prevention Team	Spring 2019 and ongoing	See PHAB Measure 8.2.4
	3.4.2 Promote “Living Life Well” program among individuals and their caregivers living with chronic disease.	State health department	Chronic Disease Prevention Team	Fall 2018 and ongoing	
	3.4.3 Research and select one action step from Chronic Disease Self-Management Education (CDSME) programs.	Healthy Communities Coalition Administration for Community Living	Chronic Disease Prevention Team	Spring 2020	

3.4 Goal 4: Safe, Healthy Environment

Goal 4: Promote a safe and healthy environment. <i>(with a focus on environmental health, built environment, and public-health preparedness)</i>					
Strategy	Action Steps	Resources	Responsibility	Timeframe	Linkages
4.1 Improve the built environment by enhancing collaboration and identifying gaps in partnerships across programs.	4.1.1 Build and train a health department team to advocate for improved built environment.	City and County Planning, Public Works, Park & Rec Prickly Pear Land Trust	Healthy Communities Coalition Chronic Disease Prevention Team	Fall 2019 and ongoing Fall 2018 and ongoing	
	4.1.2 Participate in efforts and advocate to improve the built environment. Share public health data.	MT Dept. of Transportation Healthy Communities Coalition			
	4.1.3 Lead a public health visioning charrette to align stakeholders and highlight the importance of the built environment.	Health-care providers Hospitals Private-sector builders State and local agencies Bike Walk Helena Downtown Business Improvement District		Spring 2020	
	4.1.4 Mobilize partners to develop a home-safety inspection program.	Housing First City and county governments	Health Officer Division administrators	Fall 2020	
4.2 Enhance capacity to respond to public health emergencies.	4.2.1 Inform, educate, and empower the public on personal preparedness using a variety of media.	State and County Disaster and Emergency Services State health department MCPHEP FEMA (Ready.gov)	Communications Manager Public Health Emergency Preparedness Coordinator	July 2018 ongoing	
	4.2.3 Train incident command staff in roles and responsibilities of assigned ICS positions.	State and County Disaster and Emergency Services FEMA	Public Health Emergency Preparedness Coordinator	Fall 2018 and ongoing	

Lewis and Clark Public Health Strategic Plan

Goal 4: Promote a safe and healthy environment.

(with a focus on environmental health, built environment, and public-health preparedness)

Strategy	Action Steps	Resources	Responsibility	Timeframe	Linkages
4.3 Expand collaboration with multiple partners to implement effective environmental health programs.	4.3.1 Influence environmental health policy through advocacy with the Montana Legislature.	MT Environmental Health Association	Licensed Establishment Program Supervisor Environmental Health Division Administrator	Fall 2018 and ongoing	
	4.3.2 Identify and engage new partners for collaboration on existing environmental health programs and their improvement.	City and County Planning	Environmental Health Division Administrator	Spring 2019 and ongoing	
	4.3.3 Collect and distribute information on air-quality health impacts within the Air Quality Protection District.	St. Peter’s Health State health department Health-care providers Healthy Communities Coalition: Air Quality Workgroup School Districts	Air Quality Program Supervisor Asthma Home Visiting RN Communications Manager	Fall 2018 and ongoing	See 2016 CHIP strategies related to reducing particulate pollution

3.5 Goal 5: New Frameworks

Goal 5: Explore new frameworks for delivering public health services.

(with a focus on organizational framework, funding, data analytics, and Public Health 3.0)

Strategy	Action Steps	Resources	Responsibility	Timeframe	Linkages
5.1 Lead community conversations and collaborative efforts regarding current public health challenges, trends, and solutions.	5.1.1 Identify and train staff in effective group facilitation.	NACCHO State health department State Professional Development Center Other health departments	Health Officer Division Administrators Systems Improvement Manager	Summer 2019 and annually	
	5.1.2 Share resources (e.g. people, space, funding) with community partners.	United Way State health department St. Peter’s Health Rocky Mountain Development Council Montana Health Care Foundation Local businesses Local school districts Healthy Communities Coalition	Health Officer Division Administrators Systems Improvement Manager	Fall 2018 and ongoing 2019, 2022 CHIPs	
5.2 Increase use of data and data systems to drive public health advocacy and service delivery.	5.2.1 Collect meaningful local data and incorporate into the community health assessment.	State Epidemiologists State Office of Systems Improvement MT Dept. of Environmental Quality Healthy Together	Systems Improvement Manager	2018, 2021 CHAs	See PHAB Measure 1.2.3
	5.2.2 Identify and implement effective and efficient data collection methods at a county level.	State Epidemiologists State Office of Systems Improvement Healthy Together Other health departments	Systems Improvement Manager Health Officer Division Administrators	Fall 2018 and ongoing	

Lewis and Clark Public Health Strategic Plan

Goal 5: Explore new frameworks for delivering public health services.

(with a focus on organizational framework, funding, data analytics, and Public Health 3.0)

Strategy	Action Steps	Resources	Responsibility	Timeframe	Linkages
	5.2.3 Create a public portal for county public health data.	County IT department State Epidemiologists State Office of Systems Improvement Healthy Together Other health departments	Systems Improvement Manager	Spring 2020	
5.3 Make technology work for us in public health.	5.3.1 Identify and invest in strategic technology solutions.	County IT Department County GIS Office IT consultants Other health departments	Systems Improvement Manager Health Officer Division administrators Program supervisors	Fall 2018 and ongoing	See Quality Improvement Work Plan: Goal 2 See PHAB Measure 11.1.6
	5.3.2 Conduct a quality-improvement project to improve the health department website.	County IT Department GIS Office IT consultants Other health departments	Communications Manager Quality Council	Spring 2019	
	5.3.3 Implement VMSG performance management dashboard fully within the health department.	Knowledge Capital Alliance	Systems Improvement Manager Health Officer Division Administrators Program supervisors	Fall 2018	
	5.3.4 Implement e-Clinical Works in appropriate programs.	PureView Health Center Cascade County Health Department RiverStone Health	Disease Control and Prevention Division Administrator Community Health Promotion Division Administrator	Spring 2019	
	5.3.4 Develop a technology plan that includes staff training.	County IT IT consultants	LCPH Management Team	Spring 2019	

Lewis and Clark Public Health Strategic Plan

Goal 5: Explore new frameworks for delivering public health services.
(with a focus on organizational framework, funding, data analytics, and Public Health 3.0)

Strategy	Action Steps	Resources	Responsibility	Timeframe	Linkages
5.4 Seek public health innovation.	5.4.1 Send staff to national and state conferences and/or participate in webinars to learn about public-health innovations and best-practice interventions.	American Public Health Association MT Public Health Association National Network of Public Health Institutes NACCHO Other health departments	Systems Improvement Manager Health Officer Division administrators Program supervisors All staff should be included	Fall 2018 and annually	
	5.4.2 Develop and implement a formalized process for staff to share and integrate public-health innovations and best-practice interventions they learn about at conferences and through webinars.		LCPH Management Team	Spring 2019	

4.0 Public Health Strengths and Challenges

4.1 SWOT Survey

Lewis and Clark Public Health conducted a survey in April 2018 to identify internal and external strengths and challenges of the health department. The survey was distributed by email to about 140 individuals, including all health department staff, members of the Board of Health, local government officials, health-care professionals, and community partners. Seventy-five people responded to the survey, just under half of them employees of LCPH.

4.2 Internal Environment

Strengths	Challenges
PHAB accreditation	Limited resources (staff, time, funding)
Collaboration internally and externally	Inadequate information technology
Knowledgeable, dedicated, and proactive staff	Divisive office space
Supportive leadership	Internal communication

4.3 External Environment

Opportunities	Threats
Reliance on community partnerships	Funding (not enough, too restrictive)
Expanded view of public health (i.e. social determinants)	Misunderstanding of role of public health
Expanding public health role in addressing mental illness	Current political climate

5.0 Implementing This Plan

5.1 Implementation Responsibilities

The Board of Health and LCPH management team are responsible jointly for ensuring that this strategic plan is implemented.

Within six months of adoption of this plan, each division of LCPH is expected to develop an annual work plan that includes measurable and time-framed targets for completing the action steps outlined here.

5.2 Review and Revision

Strategic planning is an ongoing process, not a product. This document reflects the best understanding of needs and the decisions to address those needs at the time it was written. But if the plan is to remain useful and effective, it must evolve along with community and department needs, emerging issues, and growing understanding of what interventions are feasible and effective.

A process to review and revise this plan on a regular basis will allow the department to adapt to new circumstances and incorporate new knowledge.

The LCPH management team will be responsible for reviewing the plan on a semi-annual basis and revising if deemed necessary. The team will report on the status of the plan, along with any revisions, to the Board of Health twice a year during regular board meetings.

Substantive changes to this plan will be recorded in the Record of Changes on page ii.

5.3 Maintenance and Availability

This plan will be maintained as part of the LCPH official documents management system. It will be available to all staff on the public health intranet at <https://intranet.lccountymt.gov/public-health/official-documents/>

6.0 Participants in the Process

6.1 Board of Health

Jim Benish, Chair
Anne Weber, Vice Chair
Wilmot Collins, Helena Mayor
Jack Copps, Helena School Superintendent
Jenny Eck, Helena Legislator
Andy Hunthausen, County Commissioner
Kammy Johnson
Dr. Adron Medley
Scott St. Clair

6.2 Strategic Planning Steering Committee

Melanie Reynolds, Health Officer and Department Director
Eric Merchant, Disease Control and Prevention Administrator
Kathy Moore, Environmental Services Administrator
Drenda Niemann, Community Health Promotion Administrator
Gayle Shirley, Systems Improvement Manager

6.3 Facilitator

Dan Clark, Local Government Center, MSU Extension

6.4 Public Health Staff

Melissa Baker	Health Educator, Cancer Control Program
Heather Baker-Parmer	Accounting Technician
Katie Bevan	Asthma Home Visiting Nurse
Rae Brown	Case Manager, Family and Child Health
Marissa Cover	Case Manager, Home and Community Based Services
Sarah Crowley	Home Visiting Program Supervisor
Greg Daly	Case Manager, Family and Child Health
Sharon Davis	Administrative Assistant, Environmental Services
Nicole Foster	Case Manager, Home and Community Based Services
Linda Gleason	Public Health Nurse
Megan Grotzke	CONNECT Referral Coordinator
Jolene Helgerson	Senior Administrative Assistant
Laura Hendley	Registered Sanitarian/Environmental Health Specialist
Eric Henrich	Environmental Health Specialist
Sarah Howe-Cobb	Public Health Nurse, Augusta
Karen Lane	Prevention Programs Manager
Amanda Lias	Case Manager, Home & Community-Based Services
Brett Lloyd	Emergency Preparedness Coordinator
Shelly Maag	Public Health Nurse Supervisor
Robie Marcoux	Home & Community-Based Services Supervisor

Lewis and Clark Public Health Strategic Plan

Jennifer McBroom	Water Quality Community Outreach/Watershed Coordinator
Beth Norberg	Environmental Health Specialist
Maggie Petaja	Receptionist, WIC
Jay Plant	Environmental Health Specialist
Frank Preskar	Program Manager, Environmental Services
Laurel Riek	Program Manager, Licensed Establishments
Theresa Rivers	Aide, WIC
Peter Schade	Water Quality Specialist
Sarah Shapiro	Health Educator, Tobacco Use Prevention
Gayle Sheldon	Administrative Assistant
Linda Simmons	Case Manager, Home & Community Based Services
Maria Stolle	Certified Professional Authority, WIC
Ardis Sullivan	Billing Clerk
James Swierc	Hydrogeologist, Water Quality Protection District
Mary Weiler	Front Desk Clerk
Karen White	Licensed Practical Nurse
Jan Williams	Environmental Health Specialist
Sherry Winchell	Registered Dietitian, WIC



Lewis & Clark
Public Health

Helena, Montana

Section 7

Ordinances

Section 4

Montana Clean Indoor Air Act

**LEWIS AND CLARK COUNTY
OUTDOOR AIR QUALITY REGULATIONS**

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LEWIS AND CLARK COUNTY OUTDOOR AIR QUALITY REGULATIONS

CHAPTER 1 PROGRAM AUTHORITY AND ADMINISTRATION

Rule 1.101 - Title

These regulations shall be known and cited as the Lewis and Clark County Outdoor Air Quality Regulations.

Rule 1.102 - Authorities for Program

The authorities to promulgate these regulations are provided in Article XI, Section 4(b) of the Constitution of the State of Montana and in §75-2-301, Montana Code Annotated (MCA).

Rule 1.103 - Intent and Purpose

- (1) It is the purpose of these regulations to achieve and maintain such levels of outdoor air quality as will protect human health and safety in Lewis and Clark County.
- (2) The intent of these regulations is to maintain the level of air pollutants at or below those standards set forth in §17.8.2 and 17.8.3, Administrative Rules of Montana (ARM).

Rule 1.104 - Scope

- (1) The provisions of these regulations apply to all sources of air pollution within the area defined in the attached Air Pollution Control District Map and legal description with the exception of air pollution sources over which jurisdiction is retained by the Montana Board of Environmental Review pursuant to §75-2-301 (5), MCA.
- (2) The provisions of these regulations do not supersede the provisions set forth in Chapter 9 of the State of Montana Air Quality Control Implementation Plan: Emergency Episode Avoidance Plan.

Rule 1.105 - Severability

In the event any section, subsection or other portion of these regulations is for any reason held invalid or unconstitutional by a court of competent jurisdiction, 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.

CHAPTER 2 **DEFINITIONS**

- (1) “Air Pollution Control District” means the area within which the Lewis and Clark County Outdoor Air Quality Regulations are enforced.
- (2) “Air Quality Ratings” are “Good”, “Watch” and “Poor”.
 - (a) “Good” means
 - (i) ambient air particulate matter (PM) concentrations averaged over an eight hour period are less than 60% of any state or federal ambient 24-hour standard established for PM 2.5, and
 - (ii) scientific and meteorological data indicate the average PM 2.5 concentrations over any eight-hour period may be reasonably expected to remain below 60% of any state or federal ambient 24-hour standard for the next 24 hours.
 - b) “Watch” means
 - (i) ambient air PM concentrations averaged over an eight-hour period are between 60% and 80% of any state or federal ambient 24-hour standard established for PM 2.5, and
 - (ii) scientific and meteorological data indicate the average PM 2.5 concentrations over any eight-hour period may be reasonably expected to remain below 80% of any state or federal ambient 24-hour standard for the next 24 hours.
 - (c) “Poor” means
 - (i) ambient air PM concentrations averaged over an eight-hour period are 80% or more of any state or federal ambient 24-hour standard established for PM 2.5, and
 - (ii) scientific and meteorological data indicate the average PM 2.5 concentrations over any eight-hour period may be reasonably expected to exceed 80% of any state or federal ambient 24-hour standard for the next 24 hours.
- (3) “Board” means the Lewis and Clark City - County Board of Health.

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- (4) “Bonfire” means a ceremonial fire or small recreational fire for the purpose of celebrating a particular organization related event, or for a social gathering, picnic, campout or other related event.
- (5) “Health Department” means the Lewis and Clark City - County Health Department.
- (6) “Incinerator” means any single- or multiple-chambered combustion device that burns combustible material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the purpose of removal, destruction, disposal, or volume reduction of any portion of the input.

Incinerator does not include:

- (a) Safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants, or elemental phosphorus plants;
 - (b) Space heaters that burn used oil;
 - (c) Wood-fired boilers; or
 - (d) Wood waste burners, such as tepee, wigwam, truncated cone, or silo burners.
- (7) “Management burning” means any person conducting any outdoor burning for any purpose including but not limited to forestry/wildlife management, licensed landfill management, firefighter training exercises, commercial film productions or fuel hazard reduction that is designated as necessary by a fire protection agency.
 - (8) “Opacity” means the degree, expressed in percent, to which emissions reduce the transmission of light and obscure the view of an object in the background.
 - (9) “Open burning” means outdoor combustion of material with or without a receptacle, including but not limited to bonfires and small recreational fires.
 - (10) “Particulate matter” or “PM” means any material, except water in uncombined form, that is or has been airborne and exists as a liquid or a solid at standard conditions. For the purposes of this definition, standard conditions are defined in the applicable test method in CFR 40 Part 50, Appendix L and Appendix J; Part 51, Appendix M; and Part 53.
 - (11) “PM 2.5” means particulate matter with an aerodynamic diameter of less than or equal to a nominal 2.5 micrometers as measured by a reference method based on

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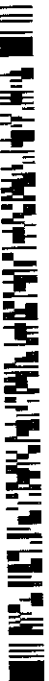
40 CFR Part 50, Appendix L and designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53.

- (12) "Pellet stove" means a commercially sold stove that burns only automatically fed biomass, pelletized fuels.
- (13) "Person" means any individual, partnership, institution, joint-stock company, unincorporated association, or society or government agency, or other corporation of any character whatsoever.
- (14) "Regulations" means the Lewis and Clark County Outdoor Air Quality Regulations.
- (15) "Solid fuel burning device" means any fireplace, fireplace insert, wood stove, wood burning heater, wood-fired boiler or similar device burning any solid fuel used for aesthetic, cooking, or heating purposes.

CHAPTER 3 **AIR QUALITY ACTION STAGES**

Rule 3.101 - Prohibitions and Actions

- (1) When the Health Department declares a Good stage no specific action is required.
- (2) When the Health Department declares a Watch stage it shall request voluntary reductions in the use of solid fuel burning devices.
- (3) When the Health Department declares a Poor stage:
 - (a) A person may not operate a solid fuel burning device unless it is exempt under Rule 5.101(4) or a variance or exemption has been granted under these regulations.
 - (b) A person owning, operating or in control of a solid fuel burning device may not cause, allow or discharge any emissions from such a device that are of an opacity greater than twenty percent. Emissions produced during the building of a new fire for a period or aggregated periods not exceeding 15 minutes in any 24-hour period are exempt from opacity requirements.
 - (c) A person may not idle diesel or locomotive engines for over two hours in any 12-hour period.
 - (d) A person may not conduct open burning.



- (e) A person may not operate an incinerator.
- (f) Operators of solid fuel burning devices have four (4) hours to discontinue their use before warnings and/or violation may be issued by the Health Department.
- (g) If the Poor rating lasts for longer than 48 hours, and meteorological data indicate that air quality may reasonably be expected to continue to decline, the Health Department may identify additional suspected significant contributors of particulates and may order suspected contributing activities/operations to cease. Such activities may include, but are not limited to construction activities, restaurants of a type known for particulate emissions, and management burns. The Health Department may pursue suspension of activities beyond the Air Pollution Control District that are suspected of contributing to deterioration of air quality within the District.

CHAPTER 4
SOLID FUEL/VISIBLE EMISSIONS//INCINERATION

Rule 4.101 - Prohibited Burning

- (1) Within the Air Pollution Control District, a person may not:
 - (a) Burn any material in a residential solid fuel burning device except regular black and white newsprint, untreated Kraft paper, untreated wood and lumber, and wood and paper products manufactured for the sole purpose of use as heating fuel;
 - (b) Burn coal as a solid fuel at any time.
- (2) A person may not operate an incinerator in violation of the requirements of §17.8.316, ARM which are hereby adopted and incorporated by reference.

Rule 4.102 - Visible Emissions

- (1) A person owning, operating, or in control of a residential solid fuel burning device may not cause, allow, or discharge emissions that exhibit an opacity of 40% or greater averaged over 6 consecutive minutes.
 - (a) Emissions produced during the building of a new fire for a period or aggregated periods not exceeding 15 minutes in any 24-hour period are exempt from opacity requirements.



- (2) Only Health Department personnel or designees who have successfully completed the Visual Emissions Evaluation Course and hold current certification may determine opacity.
- (3) An opacity determination must follow all requirements, procedures, specifications and guidelines set forth in 40 CFR Part 60, Appendix A, method 9 or by an in-stack transmissometer that complies with all requirements, procedures, specification and guidelines contained in 40 CFR Part 60, Appendix B, performance specification 1. Where the presence of uncombined water is the only reason for failure of an emission to meet an applicable opacity limitation contained in these regulations that limitation shall not apply.

CHAPTER 5

EXEMPTIONS AND VARIANCES

Rule 5.101 - Exemptions

- (1) A person who has an economic need to burn solid fuel for residential space heating purposes may apply for a low-income exemption to burn during Poor air quality days. A person may demonstrate such a need by certifying his or her eligibility for energy assistance according to economic guidelines established by the U.S. Office of Management and Budget under the Low Income Energy Assistance Program as administered by the Montana Department of Public Health and Human Services.
 - (a) The applicant shall attach proof of participation in one of the following programs:
 - (i) Low Income Energy Assistance Program (LIEAP)
 - (ii) Families Achieving Independence in Montana (FAIM)
 - (iii) Supplemental Security Income (SSI)
- (2) A person who has a heating system that is temporarily inoperable may apply for an exemption to burn on Poor air quality days.
 - (a) The applicant shall attach proof, from a licensed heating specialist, detailing why the heating system is inoperable and the estimated length of time that the system will be inoperable.
- (3) The application for an exemption shall contain the following information:
 - (a) The name and complete address of the applicant;
 - (b) The reason for and estimated duration of the exemption; and



- (c) The applicant's signature and date.
- (4) Solid fuel burning devices with average pm 2.5 particulate emission rates of less than 7.5 grams per hour as certified by EPA are exempt from these regulations, except in no case shall emissions from such stoves exceed 20% opacity during a Poor air quality episode.

Rule 5.102 - Variances

- (1) A person may operate a solid fuel burning device during a Poor air quality rating if the Health Board grants a variance from these regulations.
- (2) The Health Board may grant a person a variance or partial variance if it determines:
 - (a) Compliance with the requirements from which the variance is sought would produce hardship without equal or greater benefits to the public; and
 - (b) The emissions proposed to occur under a variance do not constitute an unreasonable danger to public health or safety.
- (3) Application for a variance shall be made on forms supplied by the Health Department.
- (4) The application for variance shall be submitted to the Environmental Services Administrator at least 14 working days prior to a regularly scheduled Health Board meeting.
- (5) After receiving a timely request under (4) above, the Environmental Services Division Administrator shall notify the Health Board Chair.
- (6) The Health Board Chair in consultation with the Health Officer and the Environmental Services Division Administrator will determine whether the variance request will be heard by the Health Board or by a hearing officer.
- (7) The Health Board Chair will instruct the Environmental Services Division Administrator to schedule the variance request for a public hearing.
- (8) If the variance request will be heard by a hearing officer, the Health Board Chair will appoint a hearing officer.
- (9) The hearing officer will conduct a public hearing and make a written recommendation to the Health Board



- (10) The recommendation of a hearing officer is subject to approval by a quorum of the Health Board at the next regularly scheduled Health Board meeting.
- (11) Any decision of the Health Board or a recommendation of a hearing officer must be supported by findings of fact.
- (12) The Health Board may not grant a variance authorizing any source to emit air pollutants in excess of standards set forth at §17.8.2 and 17.8.3, ARM.

CHAPTER 6
ENFORCEMENT AND PENALTIES

Rule 6.101 - General Provisions

- (1) Action under this Rule is not a bar to enforcement of these regulations, or regulations or orders made pursuant thereto, by injunction or other appropriate remedy, as provided in §75-2-413, MCA. The Health Board or the Health Department may institute and maintain in the name of the county or the state any and all enforcement proceedings.
- (2) All fines collected under this chapter are deposited in the Outdoor Air Quality Fund 186.
- (3) It is the intention of the Health Board to impose absolute liability upon persons for conduct that violates any part, provision or order issued pursuant to these regulations. Unless otherwise specifically provided, a person may be guilty of an offense without having, with respect to each element of the offense, either knowledge, negligence, or specific intent.
- (4) It is the specific intention of the Health Board that these regulations impose liability upon persons for violations of a part, provision or order issued pursuant to these regulations.
- (5) A person is responsible for conduct which is an element of an offense if the conduct is either that of the person himself or that of another and he is legally accountable.
- (6) A person is legally accountable for the conduct of another under these regulations when he:
 - (a) causes another to perform the conduct, regardless of the legal capacity or mental state of the other person; or
 - (b) either before or during the commission of an offense with the purpose to promote or facilitate such commission, he solicits, aids, abets, agrees or

attempts to aid such other person in the planning or commission of the offense.

Rule 6.102 - Criminal Penalties

Except as provided for in Rule 6.104, a person who violates a provision, regulation, or rule enforced under these regulations, or an order made pursuant to these regulations, is guilty of an offense and upon conviction subject to a fine not to exceed ten thousand dollars (\$10,000.00). Each day of the violation constitutes a separate offense.

Rule 6.103 - Civil Penalties

- (1) Except as provided in Rule 6.104, a person who violates a provision, rule or order under these regulations, after notice thereof has been given by the Health Department, is subject to a civil penalty not to exceed ten thousand dollars (\$10,000) per violation. Each day a violation continues constitutes a separate violation.
- (2) Upon request of the Health Department the county attorney may petition the district court to impose, assess and recover the civil penalty. The civil penalty is in lieu of the criminal penalty provided in Rule 6.102.

Rule 6.104 - Penalties

- (1) Notwithstanding the provisions of Rule 6.102, a person who violates a provision of these regulations (Lewis and Clark Outdoor Air Quality Regulations) is guilty of a criminal offense and subject, upon conviction, to a fine not to exceed five hundred dollars (\$500.00). Each day a violation continues constitutes a separate offense.
- (2) Notwithstanding the provisions of Rule 6.103, any person who violates any of the provisions of these regulations is subject to a civil penalty not to exceed five hundred dollars (\$500.00). Each day a violation continues constitutes a separate violation. The civil penalty is in lieu of the criminal penalty provided for in Rule 6.102, and may be pursued in any court of competent jurisdiction.
- (3) The civil penalty or criminal fine for a violation of these regulations during the calendar year:

First violation - Warning
Second Violation – One Hundred Dollars (\$100)
Third Violation – Two Hundred Dollars (\$200)
Fourth Violation – Five Hundred Dollars (\$500)

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CHAPTER 7
ADMINISTRATIVE PROCEDURES AND HEALTH BOARD HEARINGS

Rule 7.101 - Notice of Violation

- (1) Whenever the Health Department determines that there are reasonable grounds to believe that a violation of any provision of these regulations has occurred, the Health Department may issue a written notice to be served personally or by registered or certified mail on the alleged violator or his agent.
- (2) This notice must specify the provision of these regulations alleged to have been violated and the facts alleged to constitute the violation.
- (3) If the Health Department issues a Notice of Violation to a person for a first violation of any provision of these regulations, the Health Department shall provide such person with a summary of the regulations that affect solid fuel burning devices.

Rule 7.102 – Appearance Before the Health Board

The Health Department or Health Board may require alleged violators of these regulations to appear before the Health Board for a hearing at a time and place specified in the Notice of Violation.

Rule 7.103 – Other Remedies

Injunction under this Rule 8.101 does not bar enforcement of these regulations by injunction, seeking penalties or other appropriate remedy.

Rule 7.104 - Credible Evidence

For the purpose of establishing compliance with these regulations or establishing whether a person has violated or is in violation of any standard or limitation adopted pursuant to these regulations or Title 17, Chapter 8 of the Montana Code Annotated, nothing in these regulations precludes the use, including the exclusive use, of any relevant evidence.

Rule 7.105 - Administrative Review

- (1) A person subject to a Notice of Violation issued under the authority of these regulations may request an administrative review by the Health Officer or his or her designee (Hearing Officer).
- (2) A request for an administrative review must be received with fifteen (15) days of the issuance of a Notice of Violation.

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- (3) A request for an administrative review does not suspend or delay the Health Department's notice, order or action, except as otherwise provided for in these regulations.
- (4) The Hearing Officer shall schedule a review within ten (10) days after receipt of the request. The review may be scheduled beyond ten days after receipt of the request by mutual consent of the Health Department and the party requesting the review.
- (5) The Hearing Officer shall provide written or verbal notice to the person requesting the review of the date, time and location of the scheduled hearing.
- (6) The Hearing Officer may continue the administrative review for a reasonable period following the hearing to obtain information necessary to make a decision.
- (7) The Hearing Officer shall affirm, modify, or revoke the Notice of Violation, Order to Take Corrective Action, or other action, in writing, following the completion of the administrative review. A copy of this decision must be sent by certified mail or hand delivered to the person who requested the review.

Rule 7.106 – Health Board Hearings

- (1) Any person subject to an Order to Take Corrective Action or an action taken by the department under the authority of these regulations may request a hearing before the Health Board following the conclusion of an administrative review.
- (2) The Health Board shall schedule a hearing within sixty (60) days after receipt of a written request and shall notify the applicant of that hearing.
- (3) The Health Board may and on application by a party shall compel the attendance of witnesses and the production of evidence on behalf of the parties.
- (4) Public hearings must proceed in the following order:
 - (a) first, the Health Department shall present a staff report, if any.
 - (b) second, the person who requested the hearing shall present relevant evidence to the Health Board; and
 - (c) third, the Health Board shall hear any person in support of or in opposition to the issue being heard and shall accept any related letters, documents or materials.
- (5) After a hearing regarding an Order to Take Corrective Action, the Health Board shall issue a final decision that affirms, modifies or rescinds the Health Department's Order to Take Corrective Action. In addition, the Health Board may

issue an appropriate order for the prevention, abatement or control of the emissions involved.

- (6) A person aggrieved by an order of the Health Board may apply for rehearing upon one or more of the following grounds and upon no other grounds:
 - (a) the Health Board acted without or in excess of its powers;
 - (b) the order was procured by fraud;
 - (c) the order is contrary to the evidence;
 - (d) the applicant has discovered new evidence, material to him which he could not with reasonable diligence have discovered and produced at the hearing; or
 - (e) competent evidence was excluded to the prejudice of the applicant.
- (7) The petition for a rehearing must be filed with the Health Board within thirty (30) days of the date of the Health Board's order.

Rule 7.107 - Judicial Review

- (1) Within thirty (30) days after the application for rehearing is denied, or if the application is granted, within thirty (30) days after the decision on the rehearing, a party aggrieved thereby may appeal to the District Court.
- (2) The appeal shall be taken by serving a written notice of appeal upon the chair of the Health Board, which service shall be made by the delivery of a copy of the notice to the chair and by filing the original with the Clerk of Court. Immediately after service upon the Health Board, the Health Board shall certify to the District Court the entire record and proceedings, including all testimony and evidence taken by the Health Board. Immediately upon receiving the certified record, the District Court shall fix a day for filing of briefs and hearing arguments on the cause and shall cause a notice of the same to be served upon the Health Board and the appellant.
- (3) The District Court shall hear and decide the cause upon the record of the Health Board. The District Court shall determine whether the Health Board regularly pursued its authority, whether the findings of the Health Board were supported by substantial competent evidence, and whether the Health Board made errors of law prejudicial to the appellant.
- (4) Either the Health Board or the person aggrieved may appeal from the decision of the District Court to the Supreme Court. The proceedings before the Supreme

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12/12/2011 04:06 PM Pages: 14 of 15 Fees: 0.00
Paulette DeHart Clerk & Recorder, Lewis & Clark MT

Court are limited to a review of the record of the hearing before the Health Board and of the district court's review of the record.

CHAPTER 8
REVIEW AND REVISIONS TO REGULATIONS

Rule 8.101 - Review

The Health Department shall periodically review the effectiveness of these regulations and shall make appropriate recommendations to the Lewis and Clark County Board of County Commissioners for revisions of these regulations. Such review shall include the levels of particulate matter measured as micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) contained in the ambient air within the Air Pollution Control District. Such review shall also take into account other air quality pollutants regulated by the EPA and DEQ, including but not limited to lead, carbon monoxide, sulfur dioxide and nitrous oxides.


Rule 8.102 - Amendments and Revisions

- (1) The Board of County Commissioners may enact any amendments or revisions to these regulations that have been approved by the Montana Board of Environmental Review.
- (2) The Board of County Commissioners grants to the Health Board the authority to establish the policies and procedures that provide for the implementation of the Lewis and Clark County Outdoor Air Regulations.

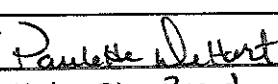
Rule 8.103 - Repealer and Effective Date

- (1) All previous rules, regulations, resolutions and ordinances as adopted by the Board of County Commissioners governing outdoor air quality in the Air Pollution Control District are hereby repealed.
- (2) These regulations will be in full force and effect upon final approval by the Montana Board of Environmental Review.

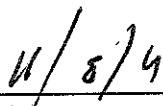
Reviewed and approved by the Lewis and Clark County Commission September 1, 2011.



Derek Brown, Chair

ATTEST: 


Paulette DeHart
Clerk to The Board



Date

These regulations effective on the date reviewed and approved by the Montana Board of Environmental Review, by memorandum and order dated September 23, 2011.

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Section 7

Community Decay Ordinance

AN ORDINANCE TO CONTROL COMMUNITY DECAY

WHEREAS, Section 7-5-2111, MCA gives counties the authority to regulate, control, and prohibit conditions that contribute to community decay; and

WHEREAS, the Lewis and Clark County Commissioners have determined there is a need for a comprehensive ordinance to control community decay in Lewis and Clark County outside the boundaries of incorporated cities; and

WHEREAS, the Lewis and Clark County Commissioners have determined the community decay ordinance passed by the Board of Commissioners on March 17, 1987 is inadequate to address current needs in the county; and

WHEREAS, the Lewis and Clark County Commissioners desire to adopt a new community decay ordinance:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF LEWIS AND CLARK COUNTY, STATE OF MONTANA:

1. PURPOSE

The purpose of this ordinance is to regulate, control, and prohibit conditions that contribute to community decay on or adjacent to public roadways within the unincorporated areas of Lewis and Clark County.

2. DEFINITIONS

The following definitions apply to this ordinance:

- (a) "Abate" means to eliminate or remove all of the conditions that constitute a violation of this ordinance.
- (b) "Adjacent to any public roadway" means a property that directly abuts or shares a border with a public road right-of-way.
- (c) "BOCC" means the Lewis and Clark Board of County Commissioners.
- (d) "Community decay" means a public nuisance created by allowing rubble, debris, junk, or refuse to accumulate resulting in conditions that are injurious to health, indecent, offensive to the senses, or obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property. "Community Decay," as used in this ordinance, may not be construed or defined to apply to normal farming, ranching, or other agricultural operations or to a farm, ranch, or other agricultural facility, or any appurtenances thereof, during the course of its normal operations, or to normal activities at a shooting range.
- (e) "Department" means the City-County Health Department or its designee.
- (f) (1) "Junk Vehicle" means a motor vehicle, including component parts:
 - (i) that is discarded, ruined, wrecked, or dismantled;
 - (ii) that, except as provided in subsection (f)(2), is not lawfully and validly licensed, and
 - (iii) that remains inoperative or incapable of being driven.





- (2) If a vehicle is permanently registered under MCA § 61-3-562 and meets the criteria for a junk vehicle under subsection (f)(1), the vehicle is a junk vehicle.
- (g) "Nuisance" has the meaning contained in Section 27-30-101, MCA (2005).
- (h) "Owner" means an individual, firm, partnership, company, association, corporation, city, town, or any other entity, whether organized for profit or not, owning any land, easement, or right-of-way as recorded in the official record of the clerk and recorder.
- (i) "Person" means an individual, firm, partnership, company, association, corporation, city, town, or any other entity, whether organized for profit or not.
- (j) "Public nuisance" means a nuisance that affects, at the same time, an entire community or neighborhood or any number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

3. VIOLATIONS

It shall be a violation of this ordinance to allow or maintain conditions that contribute to community decay on or adjacent to any public roadway within Lewis and Clark County. Conditions that may contribute to community decay include, but are not limited to, the following:

- (a) Metal Fixtures, Vehicles, Appliances, and Related Items. The storage or accumulation of iron, metal, component vehicle and machine parts, junk vehicles, household appliances, barrels, and other salvaged metal items.
- (b) Boxes, Building Materials, and Related Items. The storage or accumulation of cardboard, packing material, construction and building material, demolition waste, concrete or concrete blocks, or other similar materials.
- (c) Recreational Vehicles. The storage or accumulation of wrecked, ruined, or dismantled snowmobiles, four wheelers, camp trailers, pedal bikes, motorbikes, and boats or their component parts.
- (d) Modular or Mobile Homes, Sheds, Buildings. The storage, accumulation, or presence of mobile or permanent structures that are uninhabited and dilapidated due to neglect or inattention.
- (e) Garbage or Trash. The storage or accumulation of trash or garbage that is not contained in a garbage receptacle.
- (f) Furniture. The storage, accumulation, or presence of household furniture not designed for outdoor use.
- (g) The storage or accumulation of raw materials, equipment parts, or bulk commodities.
- (h) Other Rubble, Debris, Junk, or Refuse. The storage or accumulation of any other rubble, debris, junk, or refuse meeting the definition of community decay.

4. ENFORCEMENT AND ABATEMENT

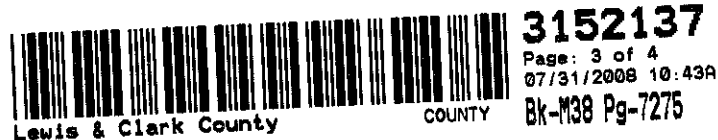
This ordinance may be enforced pursuant to the following procedures:

- (a) Upon receipt of a complaint or upon observation of conditions showing that community decay may exist upon a property within Lewis and Clark County, the Department shall inspect the property alleged to be in violation of this ordinance and shall determine whether a violation exists.

- (b) If the Department determines that a violation of this ordinance exists, the Department shall notify the owner of the property, in writing, of the violation. The notice shall be sent by certified mail or served on the owner of the property by a law enforcement officer and shall conform to the "Contents of Notice" section of this ordinance.
- (c) Within fifteen (15) working days from the receipt of the notice, the owner of the property in violation may submit, in writing, a plan of abatement to the Department. Such plan may be approved, approved with modifications, or disapproved by the Department. If approved or approved with modifications, further enforcement under this ordinance shall be deferred for the period specified in the abatement plan. The proposed abatement plan shall include the following:
1. type of abatement proposed;
 2. date abatement is to commence;
 3. reasons abatement cannot be completed within thirty (30) days after receipt of the notice of violation;
 4. date abatement is to be complete.
- (d) The owner of the property in violation shall have thirty (30) days from the receipt of the notice to abate the violation or be in the process of abatement in accordance with an abatement plan approved by the Department.
- (e) After thirty (30) days from the receipt of the notice by the owner of the property in violation, the Department shall determine whether the violation has been abated or is in the process of abatement in accordance with an approved abatement plan.
- (f) If the property owner fails to abate the conditions constituting community decay within thirty (30) days or within the time period specified in the approved abatement plan, the Department shall send the property owner written notification of the property owner's failure to abate the violation. The notification shall be sent by certified mail or served on the owner of the property by a law enforcement officer and shall provide the property owner with ten (10) additional days to complete abatement.
- (g) If the property owner fails to complete abatement of the violation within ten (10) days, as described in subsection (f), the Department may petition the Justice Court for a show cause hearing. At the hearing, the Justice Court shall determine whether proper notice was made and whether a violation of this ordinance existed at the end of the 10-day period referenced in subsection 4(f). If the Justice Court determines a violation existed at the end of the 10-day period, the court shall issue an order authorizing the Department to enter upon the property and abate the violation.
- (h) The Department shall assess the actual costs of abatement incurred by the Department to the property owner. Nonpayment of the assessment shall become a lien upon the property and is enforceable in the same manner as the nonpayment of property taxes.

5. CONTENTS OF NOTICE

The notice of violation shall state the following:





- (a) That the Department has determined a violation of this ordinance exists on the property;
- (b) The nature of the violation and its location;
- (c) The name of the property owner and any other person the Department determines to be responsible for abatement;
- (d) The steps necessary to abate the violation;
- (e) The date abatement must be completed in the absence of an approved abatement plan;
- (f) That failure to comply with the notice within the time specified, unless extended by an approved abatement plan, enables officers and employees of Lewis and Clark County to enter upon the property for the specific purpose of abating the violation.
- (g) That Lewis and Clark County is authorized to assess the property owner for the actual costs of the abatement and nonpayment of the assessment becomes a lien upon the property and is enforceable in the same manner as the nonpayment of property taxes.

6. APPEAL PROCESS

District Court. Persons aggrieved by a decision of the Justice Court may appeal to the First Judicial District Court for review pursuant to Section 3-10-115, MCA. The appeal must be filed within 30 days after the decision of the Justice Court.

7. COMMUNITY DECAY FUND

Any liens collected under the provisions of this ordinance shall be paid to the Lewis and Clark County Treasurer and placed to the credit of a fund to be known as the "Community Decay Fund."

8. SEVERABILITY

Should any court declare any part of this ordinance unconstitutional or invalid, the ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid, shall remain in effect.

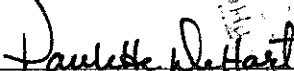
PASSED on first reading the 17th day of July, 2008, and passed on second and final reading this 31st day of July, 2008, by the Board of County Commissioners, Lewis and Clark County, State of Montana.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Ed Tinsley, Chairman



ATTEST:


Paulette DeHart, Clerk of the Board

EFFECTIVE DATE OR ORDINANCE: August 31, 2008

Section 7

Litter Ordinance

ORDINANCE NO. 2013-1

AN ORDINANCE TO CONTROL LITTER WITHIN LEWIS AND CLARK COUNTY AND ESTABLISHING PROCEDURES FOR ITS ENFORCEMENT

WHEREAS, Section 7-5-2109(1)(a), Mont. Code Ann. (MCA), provides that a county commission may regulate, control, and prohibit littering on public and private property within a county by adoption of an ordinance; and

WHEREAS, the Lewis and Clark County Commission desires to adopt this ordinance to prohibit littering generally, to define litter, to create the Litter Control Program, and to authorize the Administrator of the Environmental Health Services Division and the Sheriff's Office to investigate reported litter and to serve Complaints accompanied by Notices to Appear on persons who violate this Ordinance;

NOW, THEREFORE, THE LEWIS AND CLARK COUNTY COMMISSION ENACTS THE FOLLOWING ORDINANCE:

1. Definitions

- (a) "Agency" means the Lewis and Clark County Sheriff's Office, the Environmental Health Services Division, or the Litter Control Program.
- (b) "Litter" (the noun) means any quantity of uncontained solid waste, such as trash, debris, rubbish, refuse, garbage, or junk. Litter does not mean:
 - i. pieces of lead, copper, or brass deposits directly resulting from shooting activities at a shooting range (§ 7-5-2109(1)(b), MCA) or
 - ii. a "notice of violation" card placed on a motor vehicle illegally parked in a disability parking space. (§ 7-5-2109(1)(c), MCA).
- (c) "Litter" (the verb) means to drop, scatter, or allow the spread or accumulation of litter (the noun) on or onto any person's property, including easements and rights-of-way.
- (c) "Litter Control Program" means the program within the Environmental Health Services Division of the Lewis and Clark City-County Health Department that applies and enforces the provisions of this Ordinance to reduce litter in Lewis and Clark County.
- (c) "Person" means an individual, firm, partnership, company, association, corporation, city or town, county, or any other entity, whether organized for profit or not, and whether governmental or not.



- (d) "Violation" means the commission of an act prohibited under Section 2 of this Ordinance.

2. Prohibited Acts

It shall be unlawful for:

- (a) any person to litter (verb) on any public or private property, including public or private rights-of-way, within Lewis and Clark County.
- (b) any person to litter (verb) on private property owned or occupied by the same person.

3. Authority and Duties of the Agency

The Agency has the following authority and duties:

- (a) duty to inspect or investigate a property or area when a member of the public or law enforcement alleges a violation of this Ordinance;
- (b) duty to determine whether there has been a violation of this Ordinance;
- (c) authority to send a Notice of Violation, in certain circumstances, to the violator, allowing thirty (30) days to remove the litter;
- (d) authority to serve a written Complaint and Notice to Appear on the person responsible for the violation, and to file the Notice and Complaint in Justice Court; and
- (e) duty to provide the County Attorney with sufficient documentation to enable him or her to prosecute the violation.

4. Request for Assistance

The Environmental Health Services Division or Litter Control Program may request the Sheriff's Office to assist in carrying out the duties set forth in 3(a) through 3(e), pursuant to § 50-2-120, MCA.

5. Penalty

- (a) A violation of this Ordinance constitutes a misdemeanor;
- (b) The Justice of the Peace may impose a fine not to exceed \$200.00 per violation;
- (c) Failure to pay the fine may result in a lien being placed on the violator's property;

- (e) Absolute liability will be imposed for a violation of this Ordinance; and
- (f) Violation of this Ordinance may not be punishable by imprisonment.

6. Jurisdictional Area

This Ordinance applies to the whole of Lewis and Clark County except in Helena, East Helena and any other incorporated municipalities that have ordinance making powers.

7. Effective Date

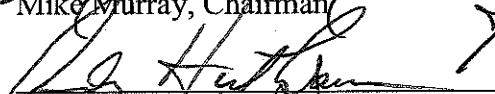
This Ordinance will take effect thirty days after its adoption by the Lewis and Clark County Commission.

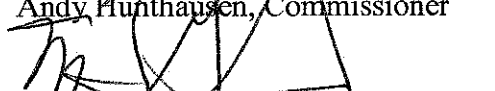
8. Severability

If any provision of this ordinance is declared invalid by any court or tribunal, the remaining provisions of this Ordinance shall not be affected thereby.


PASSED on first reading this 22 day of August 2013, by the Board of County Commissioners, Lewis and Clark County, State of Montana.


Mike Murray, Chairman


Andy Hunthausen, Commissioner


Susan Good Geise, Commissioner

Attest:


Danielle Dehart, Lewis and Clark County Clerk and Recorder



PASSED on second reading and final reading this 03 day of September 2013, by the Board of County Commissioners, Lewis and Clark County, State of Montana.

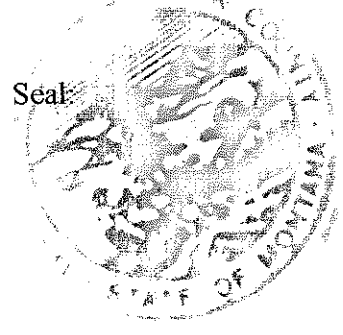
Mike Murray
Mike Murray, Chairman

Andy Hunthausen
Andy Hunthausen, Commissioner

Susan Good Geise
Susan Good Geise, Commissioner

Attest:

Paulette DeHart
Paulette Dehart, Lewis and Clark County Clerk and Recorder



Section 8

Policies

Section 8

Media Policy

Document Number:	
Document Title:	Lewis and Clark City-County Board of Health Media Policy
Document Owner	Administration Board of Health
Approval Date:	March 24, 2016
Approved By:	Anne Weber, Chair
Effective Dates:	March 24, 2012 until

1.0 Purpose

To ensure that communication with the public through traditional and social media by the Lewis and Clark City-County Board of Health and its individual members is handled in a consistent, appropriate, and strategic manner that helps to support the mission of Lewis and Clark Public Health and local government in general.

2.0 Scope

This policy applies to all members of the Board of Health, as well as all members of committees, work groups, and task forces appointed by the Board of Health. In addition, it may affect staff of the Health Department.

3.0 Policy

Background: Reports by news media about the Lewis and Clark City-County Board of Health (Board of Health) influence public perception of and confidence in the board and its role in overseeing public health functions in our community. News reports about the board and its activities also may affect public perceptions of Lewis and Clark Public Health (Health Department), local government, and public health, in general.

For these reasons, the Board of Health has elected to define, through this policy, the responsibilities of its members with regard to 1) requests for information from representatives of the news media and 2) proactive strategies for disseminating information to the public through traditional and social media.

It shall be the policy of the Board of Health to ensure that all communications with the media are:

- Accurate
- Timely
- Consistent
- Professional
- Transparent

4.0 Procedures

- The chair of the Board of Health will serve as spokesperson for the board and in that capacity will
 - represent the views and positions of the full board;
 - inform board members, the city-county health officer, and the Health Department Communications Office of any contact with the media as the board representative (preferably in advance);
 - initiate statements to the media upon approval of the Board of Health; and
 - designate other board members or the health officer to act as spokesperson when appropriate.

Document Owner:	<i>Administration Board of Health</i>	Last Reviewed/Revised:	<i>March 24, 2016</i>
Document Title	<i>Lewis and Clark City-County Board of Health Media Policy</i>		Page: 1 of 2

If no member of the Board of Health is available to provide requested information to a reporter, the health officer, who is the primary spokesperson for the Health Department and has the authority to speak on any issue of public health importance, may contact the media on the board's behalf. Alternatively, the health officer may delegate this role to a knowledgeable staff member when appropriate.

- The board chair or designee will respond to media inquiries in a timely fashion, recognizing that reporters have deadlines to meet. If another priority prevents a prompt response, the chair or designee should let the reporter know when he/she can expect a response.
- At the request of the board through the health officer, the Communications Office of the Health Department may develop and disseminate news releases and other media outreach on behalf of the board. The Communications Office does not act as a spokesperson for the board unless directly asked to do so by the board chair with the approval of the health officer.
- Any board member may provide copies of handouts from board meetings to members of the media.
- When speaking to the media on behalf of the board, spokespersons should not speculate or express personal opinions.
- Any information provided in an article, column, letter to the editor, media interview, or social media post that is represented as the viewpoint of the full board must be reviewed by all board members and approved in advance by consensus. If the board is unable to reach consensus, a majority vote is required.
- This policy recognizes the right to free speech of any board member communicating about health-related issues as a citizen of this community. However, in such instances, board members are expected to clarify that they are not speaking as representatives of the board. For example, any column or letter to the editor submitted by a board member should specifically state that it does not represent the views of the Board of Health.
- Questions or concerns about application of this policy should be directed to the Health Officer and the Health Department's Communications Office.

Document Owner:	<i>Administration Board of Health</i>	Last Reviewed/Revised:	<i>March 24, 2016</i>
Document Title	<i>Lewis and Clark City-County Board of Health Media Policy</i>		Page: 2 of 2

Section 8

Board Committee Appointment

Lewis and Clark County Policy Board and Committee Appointments

To function efficiently and effectively, Lewis and Clark County depends upon many citizen volunteers who serve on appointed boards and committees. The very nature of local government centers on the myriad of tasks these volunteers provide to their fellow citizens.

This policy addresses recruitment and selection of citizens to serve on county boards and committees as well as general principles regarding the conduct of meetings and terms and requirements of appointments.

Recruitment and Selection

The Commission Office will keep an updated list of all board members, dates of service for individual members, and expiration of current terms readily available online for interested citizens. Prior to the expiration of a term of office for a member or immediately upon notification of a vacancy, a news release will be prepared seeking applicants for the position. Interested citizens will complete an application form which will be reviewed by the Commission. Applicants may be asked to interview for the position by the Commission. When the Commission has made an appointment they will notify the successful applicant, the unsuccessful applicants, and the Chair of the respective board or committee. In the event that an appointment is not made by the next regularly scheduled board or committee meeting, the current member may continue to serve until an appointment is made.

For joint appointments made by the City of Helena and Lewis and Clark County, the Mayor of the City and the Chair of the Board of County Commissioners will consult and recommend to their respective commissions a citizen for appointment.

It is the responsibility of the Chair of the respective board or committee to provide the new member with necessary materials such as bylaws, minutes, relevant policies, etc. to function effectively. Clerical assistance may be requested from the Commissioners' office.

Terms of Office

Most terms of office for county boards and committees are defined in state law. In Lewis and Clark County, the Board of County Commissioners give preference to new applicants for a board position when an incumbent member has completed two (2) terms or six (6) years, whichever is longer. This does not preclude the Commission from making re appointments of incumbents seeking additional terms for the appointment of board members serving at the sole discretion of the Board of County Commissioners. Appointment of incumbents to more than two (2) terms may, at the discretion of the Commission, be for less than the full term. Past or current service on a board does not confer any special privilege or right to be re appointed as the designated County Representative on any board subject to appointment by the County Commission.

Conflict of Interest

To the extent possible, the Commissioners will avoid appointing individuals who may have or appear to have conflicts of interest. However, instances may arise where a member may have a conflict. In such instances, the member must state the conflict and abstain from taking action on

the issue. A conflict of interest is a situation where an individual has an opportunity for direct or indirect personal or financial gain as a result of their membership on a board or committee or as a result of an official action taken as a member of a board or committee.

Board Travel

From time to time, it is necessary for board members to travel on behalf of the county. Travel expenses are to be budgeted for in the same manner as all other board and department expenses. Travel reimbursements shall be limited to transportation costs, lodging, meals and conference fees, and any other such costs as may be necessarily incurred in the course of attending to the business of Lewis and Clark County. Reimbursement will be made in a manner consistent with the claims policy of Lewis and Clark County.

Meeting Attendance

It is important that members attend regular and special meetings called to carry out the business of boards and committees. Unexcused absences from three consecutive regular meetings or twenty-five percent of all meetings held during a year will constitute a vacancy, and the Chair will notify the commission that a vacancy exists.

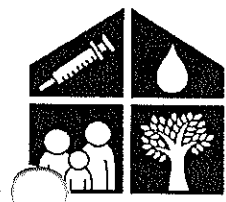
Board Meetings

All board and committee meetings are open to the public. Agendas of regular meetings shall be distributed in accordance with applicable bylaws and/or statutory requirements, including distribution to the newspaper, library, board members and the commissioners' office. Every effort will be made to post copies of agendas online in advance of all board and committee meetings. Each agenda must include a provision for public comment. Copies of all meeting minutes shall be mailed to all members of the board or committee and the Commissioners' office.

Policy Adopted by BoCC on December 1, 2011

Section 8

On-Site Wastewater Regulations



LEWIS & CLARK CITY-COUNTY BOARD OF HEALTH

1930 Ninth Avenue
Helena, MT 59601
PH: 406.4HEALTH or
406.443.2584
Fax: 406.457.8990

Lewis and Clark City-County Board of Health Policy
Lewis and Clark County On-Site Wastewater Regulations
Adopted October 23, 2008

Background

The Board may adopt policies establishing the criteria for determining whether the Board or a hearings officer will hear a variance request.

3.4 (5) 2008 Onsite Wastewater Regulations:

The Board Chair, in consultation with the Health Officer and the Environmental Services Division Administrator, will determine whether the variance request will be heard by the Board or by a hearings officer. The Board may adopt policies establishing criteria to guide this decision.

The Board may adopt policies on selection of a hearings officer.

3.4 (8) 2008 Onsite Wastewater Regulations: *If the variance request will be heard by a hearings officer, the Board Chair will appoint a hearings officer. The Board may adopt policies establishing criteria to guide the selection of a hearings officer.*

Policy

The Board Chair, in consultation with the Health Officer and Environmental Services staff, must determine whether a variance request will be heard by the full Board or a hearing officer. If the Board Chair determines the variance is to be heard by a hearing officer, the Chair shall either act as the hearing officer or designate another Board member to act as the hearing officer.

Variance hearings will be held at the appointed time and place, in accordance with the hearing procedure currently used by the Board.

The full Board will be notified by the County Environmental Services Division Staff of the time and date of the hearing.

After the hearing, the hearings officer makes a recommendation for a decision in writing. It is to approve, deny or approve with conditions. The hearings officer bases his/her decision on facts presented during the hearing. The hearings officer will develop findings of fact.

The recommendation of the hearings officer is presented at the next regularly scheduled meeting of the Board of Health and is ratified or struck by the Board. The Board can only vote on the decision based on the findings of fact in the case.

The Board of Health will review this policy at its April 2009 Board of Health Meeting.

Adopted by the Lewis and Clark City-County Board of Health on October 23, 2008.

David Krainacker, Chairman

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

Section 9

On-Site Wastewater Treatment Regulations

LEWIS AND CLARK COUNTY

ON-SITE WASTEWATER TREATMENT REGULATIONS

2020

LEWIS AND CLARK PUBLIC HEALTH
ENVIRONMENTAL HEALTH DIVISION
316 NORTH PARK, HELENA, MT 59623
(406) 447-8351

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SECTION 1. AUTHORITY, SCOPE, AND REVISIONS

1.1. TITLE

This must be known and cited as: THE REGULATIONS GOVERNING THE ON-SITE TREATMENT OF WASTEWATER IN LEWIS AND CLARK COUTNY.

1.2 AUTHORITY AND FEES

- (1) The Board promulgates these regulations under the authority of Section 50-2-116. MCA.
- (2) Fees must be charged for the administration of these regulations under the authority of Section 50-2-116, MCA.
- (3) Pursuant to 50-2-116, MCA, local boards of health must adopt regulations no less stringent than those in Title 17, Chapter 36, Sub-Chapter 9 of the Administrative Rules of Montana (A.R.M.).
- (4) Construction or alteration of on-site wastewater treatment systems must conform to the requirements found in Montana Department of Environmental Quality (DEQ) Circular DEQ-4 and A. R. M. 17.36.900.
- (5) Local boards may adopt stricter requirements or specifications than those found in A.R.M 17.36.900, as provided in 50-2-116 and 50-2-130, MCA.

1.3 FINDINGS

The Board finds that

- (1) Regulating the treatment and disposal of water and the design, construction, use, alteration, maintenance or repair of on-site wastewater treatment systems within Lewis and Clark County leads to the control of environmental pollution and communicable diseases; and
- (2) These regulations are necessary for the protection of the public health and the control of environmental pollution within Lewis and Clark County

1.4 SCOPE

- (1) These regulations apply to any person constructing, using, maintaining, altering, or repairing new, existing, or abandoned on-site wastewater

treatment systems, including making load increases to existing systems on parcels of land that are subject to these regulations.

- (2) Parcels that have undergone state subdivision review must also conform to these regulations.

1.5 REVISION

Revisions to these regulations must be made as needed to ensure proper administration and to allow for improved methods of on-site wastewater treatment. The Board must hold a public hearing before any revision to these regulations.

1.6 VIOLATIONS

- (1) A person who violates any of the provisions of these regulations is subject to the penalties described in Section 9.2.
- (2) More than one person may violate a single regulation, and in that case, each person is subject to the penalties described in Section 9.2.

SECTION 2. GENERAL REGULATIONS

2.1 PUBLIC HEALTH THREATS

It is a violation of this regulation to construct, use, alter, or make load increase to any on-site wastewater treatment or disposal system that may:

- (1) discharge any wastewater to ground surface, or to any state water;
- (2) contaminate any actual or potential drinking water supply;
- (3) cause public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;
- (4) cause a public health hazard by being accessible to person or animals;
- (5) violate any law or regulation governing water pollution or wastewater treatment and disposal, including the rules contained in these regulations;
- (6) pollute or contaminate state waters, in violation of Section 75-5-605, MCA; or

- (7) degrade state waters unless authorized pursuant to Section 75-5-303, MCA; or
- (8) cause a nuisance due to odor, an unsightly appearance, or other aesthetic consideration.

2.2 GENERAL PROHIBITIONS

- (1) It is a violation of this regulation to construct, repair, use, alter or make load increase to any on-site wastewater treatment system without strict compliance with the provisions of these regulations and the possession of a valid permit issued pursuant to these regulations.
- (2) It is a violation of these regulations to begin construction or to drill any well prior to the issuance of a department letter of approval or valid on-site wastewater treatment permit.

2.3 CONSTRUCTION PROHIBITIONS

- (1) Construction on a parcel of land prior to the issuance of a valid on-site wastewater treatment system permit must result in the doubling of the permit fee and may include additional penalties as provided in Section 9.2.
- (2) No construction may begin on a parcel of land unless all applicable permits and approvals are obtained from all other governmental agencies.

2.4 OCCUPANCY PROHIBITIONS

It is a violation of these regulations to occupy or allow occupation of any dwelling unit or other structure served by a piped water supply unless the structure is connected to:

- (1) An on-site wastewater treatment system approved under the current regulations governing on-site wastewater treatment in Lewis and Clark County; or
- (2) An on-site wastewater treatment system approved under earlier regulation, ordinances, or resolutions of Lewis and Clark County; or
- (3) An on-site wastewater treatment system installed prior to the enactment of any Lewis and Clark County regulations, ordinances, or resolutions governing the same; or

- (4) An on-site wastewater treatment system approved through a variance granted by the Board; or
- (5) A public sewer system approved by the Montana Department of Environmental Quality (DEQ).

2.5 PROHIBITED SYSTEMS

- (1) The installation of cesspools for the disposal of wastewater is specifically prohibited.
- (2) Wastewater holding tanks may not be used as a permanent method of wastewater disposal except as provided in Section 4.2
- (3) The installation of any system must comply with specifications and regulations in the most current version of DEQ Circular DEQ-4.

2.6 SYSTEMS REQUIRING CONNECTION TO PUBLIC WASTEWATER

If a Montana Department of Environmental Quality approved public collection and treatment system is readily available within a distance of 200 feet of the property line for connection to a new source of wastewater, or as a replacement for a failed system, and the owner or managing entity of the public collection and treatment system approves the connection, wastewater must be discharged to the public system.

- (1) A public system is not “readily available” if there is evidence demonstrating that connection to the system is physically or economically impractical, or that easements cannot be obtained.
- (2) A connection is “economically impractical” if the cost of connection to the public system equals or exceeds three times the cost of installation of a proposed onsite wastewater treatment system approved by the Department.

2.7 CONNECTION TO ABANDONED SYSTEMS

A person may not connect to, use, or maintain an abandoned system unless:

- (1) The system meets current standards as determined by an inspection and the issuance of a permit by the Department; or
- (2) The person has obtained a permit and has performed the permitted alterations prior to connection or use.

2.8 FAILED SYSTEMS

- (1) The owner and/or occupant of the premises must report a failed system to the Department.
- (2) Use of or maintenance of a failed wastewater treatment system violates these regulations.
- (3) Upon determining that a system has failed, the Department shall give written notice of the violation to the owner and/or occupant of the property.
- (4) Upon receipt of written notice, the owner and/or occupant must immediately stop the flow of wastewater.
- (5) The owner and/or occupant shall repair or replace the failed system in accordance with the provisions of these regulations within 30 days of receipt of notice of violation for a system failure.
 - (a) An owner and/or tenant who fails to repair and restore the failed wastewater treatment system within 30 days of receipt of notice of violation shall vacate the property. Each day of failure to vacate constitutes a separate violation of this regulation.
 - (b) The owner of the property may voluntarily vacate the premises instead of repairing or replacing the failed system, provided that all surface contamination is properly remediated, and the failed system is made inoperable. The abandoned tank must be pumped and then removed or filled with approved solid materials.
 - (c) If any part of the system repair requires a variance from this regulation, or if other special circumstances exist, the property owner/tenant must provide a written plan to the Department within 30 days of receipt of notification of violation. The Department may approve an extension.
- (6) The Department may require the owner and/or occupant to remove and dispose of contaminated soil. The Department must approve any disposal or removal.
- (7) Before making repairs or replacing a failed system or any of its components parts, an owner/tenant shall acquire a permit.

- (a) The Department may require a site evaluation to ensure that repairs or replacement of the failed system complies with all current regulations.
- (b) The owner and/or occupant shall comply with all current regulations and pay all fees associated with the site evaluation and permit.
- (c) The Department may permit use of components of the failed system that meet current regulations.
- (d) The Department may require submittal of proof of compliance with the permit.

2.9 DESIGN AND OPERATION LIMITS

- (1) The Department does not design on-site wastewater treatment systems.
- (2) The requirements set forth in a permit do not guarantee the proper operation of any system.

SECTION 3. PERMIT PROCEDURES AND REQUIREMENTS

3.1 APPLICATIONS TO CONSTRUCT ALL SYSTEMS

- (1) Application for a permit to construct an on-site wastewater treatment system is made by completing a comprehensive permitting application and an application for site evaluation available from the Lewis and Clark County Permitting Office and submitting all required fees and information.
- (2) The applicant for a permit must submit all fees and all information required by these regulations before the Department must begin the review of the application.
- (3) The Department may require the applicant to submit the results of a percolation test performed in accordance with Circular DEQ-4. The Department may also require that applicant to submit the floor plan of the proposed house to verify the number of bedrooms.
- (4) The Department must review the site evaluation application and conduct a site inspection to determine compliance with these regulations.

- (5) The Department must give written approval or denial within 20 working days from the receipt of a complete site evaluation application and full payment of associated fees.
- (6) In the case of on-site community or multi-family systems, or systems that require engineering review, the Department must give written approval or denial within thirty working days of receipt of a complete site evaluation application and full payment of associated fees.

3.2 PERMITS TO CONSTRUCT NEW SYSTEMS

- (1) A permit to construct a new on-site wastewater treatment system must only be issued by the Department upon approval of the site evaluation application.
- (2) The permit supplied by the Department must be available at the site of construction and must remain on the site until final inspection by the Department.
- (3) A permit issued by the Department is valid for a one-year period. If system construction and final department approval of the installed system has not been completed within this period, the applicant must reapply and meet all requirements of the regulations in effect at the time of reapplications.

3.3 PERMITS TO ALTER OR REPLACE EXISTING SYSTEMS

- (1) Prior to the alteration or replacement of an existing system, a valid permit must be obtained following the procedures contained in Section 3.1 and 3.2
- (2) A permit to alter or replace an existing system, or any portion thereof, may not be issued unless the entire system meets all requirements of these regulations.
- (3) A person requesting to repair or replace an existing system that does not meet the requirements of these regulations must obtain a variance from the Board following the procedures contained in Section 3.4.
- (4) The abandoned tanks from replaced systems must be pumped, and then removed or filled with approved solid materials.
- (5) In an emergency, the installation of a tank by a certified installer may begin upon verbal approval from the Department provided that:

- (a) The completed application is submitted no later than the end of the next working day; and
 - (b) All standard inspection procedures in Section 7.0 are followed.
- (6) The Department may require an illegally installed system to be uncovered for inspection prior to final department approval. The Department must not issue a permit for a system installed illegally unless all current regulations are met.
- (7) Owner and/or occupants found to violate these regulations because of load increases to the system must:
- (a) Obtain a permit that reflects the correct load increase and that conforms to all other requirements in accordance with these regulations, or
 - (b) Obtain an operation and maintenance inspection in accordance with Section 8.4 of these regulations at an interval not to exceed three (3) years.

3.4 DENIAL OF PERMITS TO CONSTRUCT, OR ALTER ON-SITE WASTEWATER TREATMENT SYSTEMS AND VARIANCE PROCEDURE

- (1) If an application for an on-site wastewater treatment system permit is denied, the applicant may:
- (a) Seek department approval for a new site; or
 - (b) Request a variance from these regulations.
- (2) A completed application for variance must be submitted to the Environmental Service Division administrator at least 14 working days prior to a regularly scheduled Board meeting.
- (3) The applicant or designated representative shall attend the variance hearing in person or via telephone.
- (4) After receiving a timely request under (2) above, the Environmental Services Division administration must notify the Board Chair.
- (5) The Board Chair, in consultation with the Health Office and the Environmental Services Division administrator, must determine whether

the variance request must be heard by the Board or by a hearing officer. The Board may establish criteria to guide this decision.

- (6) The Board Chair must instruct the Environmental Service Division administrator to schedule the variance request for a public hearing.
- (7) If the variance request must be heard by the Board, a public hearing must be conducted by a quorum of the Board at the next regularly scheduled Board meeting.
- (8) If the variance request must be heard by a hearing office, the Board Chair must appoint a hearing officer. The Board may adopt policies establishing criteria to guide the selection of a hearing officer.
- (9) The hearing officer must conduct a public hearing and submit in writing to the Board proposed findings of fact, conclusion of law, and a written recommendation.
- (10) A quorum of the Board shall act on the recommendation at the next regularly scheduled Board meeting following the public hearing.
- (11) A decision or order of the Board must include findings of fact and conclusions of law.
- (12) The Board may grant a variance from a requirement only if it finds that the following criteria are met:
 - (a) Granting a variance will not:
 - (i) Contaminate any actual or potential drinking water supply;
 - (ii) Cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;
 - (iii) Cause a public health hazard by being accessible to persons or animals;
 - (iv) Violate any law or regulation governing water pollution or wastewater treatment and disposal, including the rules contained in ARM 17.36.901 thru 17.36.924, except for the rule that the variance is requested from;

- (v) Pollute or contaminate state waters, in violation of 75-5-605, MCA;
 - (vi) Degrade state waters unless authorized pursuant to 75-5-303, MCA; or
 - (vii) Cause a nuisance due to odor, unsightly appearance or other aesthetic consideration.
- (b) Compliance with the requirement from which the variance is requested would result in undue hardship to the applicant;
 - (c) The variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented;
 - (d) No alternatives that comply with the requirement are reasonably feasible; and
 - (e) The variance requested is not more than the minimum needed to address the extraordinary conditions.
- (13) The Board must make specific findings of fact that support the conclusions of law.
 - (14) The Board may place any reasonable conditions on a variance granted under this regulation.
 - (15) The applicant shall have 20 days from the date of Board approval to sign an acceptance of variance or the variance shall be withdrawn. A time extension may be granted at the Department's discretion.
 - (16) An applicant for a variance may appeal the Board's final decision to the Montana DEQ pursuant to A.R.M. 17.36.924.

SECTION 4. REQUIREMENT FOR ALLOWABLE SYSTEMS

4.1 SEPTIC TANK REQUIREMENTS

- (1) All wastewater treatment systems must include a septic tank to provide primary treatment.
 - (a) The septic tank must receive all wastewater from the structure being served.

- (b) All septic tanks must be designed and constructed in compliance with the specifications contained in the most current version of DEQ Circular DEQ-4.
- (c) All septic tanks must be equipped with an effluent filter; and
- (d) All septic tanks must have risers to grade.

(2) Septic Tank Sizing

- (a) The minimum tank sizing for residential flows is determined by the following chart:

NUMBER OF BEDROOMS	MINIMUM TANK SIZE, GALLONS
1 - 3	1000
4 - 5	1500
6 - 7	2000
8	2250
9	2500
ADD 250 GALLONS FOR EACH ADDITIONAL BEDROOM AFTER 9	

- (b) The minimum tank sizing for non-residential flows is described in the most current version of DEQ Circular DEQ-4.

4.2 HOLDING TANK REQUIREMENTS

- (1) The Department may approve holding tank systems if the facility to be served is for seasonal use only.
- (2) Holding tanks must meet the design and construction requirements in the most current version of DEQ Circular DEQ-4.
- (3) Permit applications for holding tanks must include plans for the proposed holding tank system. The plans must include the following information:
 - (a) The method of monitoring tank levels; and
 - (b) The method for waterproofing the tank; and
 - (c) A maintenance plan, which must include annual water tightness testing and submittal of periodic pumping receipts by a licensed septic tank pumper; and

- (d) The method for tank stabilization if seasonal high groundwater is expected to be within 12 inches of the tank's base.

4.3 SITE REQUIREMENTS

- (1) The minimum safe distances for sitting the various component parts on an on-site system must be measured horizontally and must comply with Table 4A below:

FEATURE	SEALED COMPONENTS (a) AND OTHER COMPONENTS (b)	ABSORPTION SYSTEMS (c)
PUBIC OR MULTI-USER WELL/SPRING	100	100
OTHER WELLS (d)	50	100
SUCTION LINES	580	100
CISTERNS	25	50
ROADCUTS, ESCARPMENTS	10 (d)	25
SLOAPS > 35% (f)	10 (d)	25
PROPERTY BOUNDARIES (g)	10	10
SUBSURFACE DRAINS	10	10
WATER MAINS (h)	10	10
DRAINFIELD/SAND MOUNDS (c)	10	0
FOUNDATION WALLS	10	10
SURFACE WATER, SPRINGS	50	100
FLOOD PLAIN, 100 yr	Sealed component—(a) Other component 100 (b)	100

Definitions of (a) - (e) from the table above:

- (a) Sealed components included sewer lines, sewer mains, septic tanks, grease traps, distribution boxes, dosing tanks, pumping chambers, holding tanks, and sealed pit privies. Holding tanks and sealed pit privies must be located at least ten (10) feet outside the floodplain or any openings must be at least two (2) feet above the floodplain elevation;
- (b) Other components include intermittent and recirculating sand filters, package plants, and evapotranspiration systems;
- (c) Absorption systems include absorption trenches, absorption beds, sand mounds, and other drainfield-type systems that are not lined or sealed. This term also includes seepage pits and unsealed pit privies;

- (d) Other wells include, but are not limited to, irrigation and stock watering, but do not include observation wells as addressed in the most current version of DEQ Circular DEQ-4;
 - (e) Sewer lines and sewer mains may be located in roadways and on steep slopes if the lines and mains are safeguarded against damage;
 - (f) Down-gradient of the sealed component, other component, or drainfield/sand mound;
 - (g) Easements may be used to satisfy the setback to property boundaries;
 - (h) Sewer mains that cross water mains must be laid with a minimum vertical separation distance of 18 inches between the mains.
- (2) A 100-foot separation must be maintained between all surface waters and the treatment field and one hundred percent replacement area.
 - (3) The Department must measure setback from surface waters without designated flood plains from the mean high water level.
 - (a) For those water courses where no 100-year flood plain is established, the Department must use local interpretive data, high water marks, and/or other acceptable field data.
 - (b) If the location of the boundary is in question, delineation must be referred to the Montana Department of Natural Resources and Conservation for final determination.
 - (4) On-site wastewater treatment systems must not be located in an area where surface water accumulates or in areas of unstable landforms.
 - (5) Wastewater treatment systems must be located to maximize the vertical separation in distance from the bottom of the absorption trench to the seasonally high groundwater level, bedrock, or other limiting layer, but under no circumstances may this vertical separation be less than four feet of natural soil.
 - (6) If the applicant or the reviewing authority has reason to believe that groundwater level may be within seven feet of the surface at any time of the year within the boundaries of the system, the Department may require data to demonstrate that the minimum separation is four feet.

- (a) The Department may require the applicant to install groundwater observation wells to a depth of at least ten feet to determine the seasonally high groundwater level.
 - (b) Measurement of groundwater must occur for a sufficient period of time to determine a peak and a sustained decline in the groundwater level.
- (7) The Department may require separations greater than four feet between the trench bottom and the highest level of seasonally high groundwater and/or unsuitable treatment material for systems proposed in soil type II, as designated in Table 4B.
- (8) The Department requires that a soil analysis of the site be done by the Department.
- (9) The Department requires treatment fields to be installed with the laterals perpendicular to the slope (parallel to the contour).
- (10) The area to be used for an original on-site wastewater treatment field or replacement area must be located and maintained so that it is free of buildings, driveways, livestock confinements, or any other structures.
- (11) The Department may allow stabilized fill to be used pursuant to the provisions as outlined in the most current version of DEQ Circular DEQ-4.
- (12) Replacement areas and plans must comply with requirements of these regulations.
 - (a) Each new or expanded wastewater treatment system must provide a replacement area or replacement plan.
 - (b) Sites designated as one hundred percent replacement areas must be separate from the original site and meet all current site requirements for new systems; and
 - (c) The one hundred percent replacement area must be designated on the permit application and evaluated at the same time as the initial treatment site; and
 - (d) The expansion of existing treatment fields or the addition of new treatment fields on a site must not interfere with or use the space designated as a required treatment field replacement area.

4.4 TREATMENT FIELD REQUIREMENTS

- (1) The minimum size of a treatment field is based on the soil characteristics of the site and the estimated wastewater flow to the proposed system.
- (2) Non-residential treatment systems are sized based upon the estimated daily wastewater flow per capita unit in the most current version of DEQ Circular DEQ-4.
- (3) The number of bedrooms, as determined by the Department, is used to estimate the daily wastewater flow for residential structures.
 - (a) An unfinished basement is counted as one bedroom.
 - (b) Minimum allowable daily flow for any residence is based on 2 bedrooms.
- (4) The Department determines soil texture, structure, and type using the soil data obtained from the on-site evaluation conducted by the Department.
- (5) The Department considers each dwelling unit (for example mobile home, condominium, recreational vehicle) an individual installation and evaluates each dwelling unit based on the site evaluation results and the sizing requirements.
- (6) Accessory building flows are determined based on the most current version of DEQ Circular DEQ-4.
- (7) All non-standard systems are sized in accordance with the most current version of DEQ Circular DEQ-4.
- (8) A distribution box must be used in all gravity systems, which utilize an odd number of laterals.
- (9) All laterals are of equal length unless the system is pressure dosed.

(10) **TABLE 4B: LINEAR FEET OF PERFORATED PIPE REQUIRED FOR RESIDENTIAL ON-SITE WASTEWATER TREATMENT FILEDS**

SIZING CHART- GRAVEL TRENCHES
(gravity=2 foot wide, pressure dose=3 foot wide)

Soil Type	Texture	APP. Rate	TYPE	(225 gpd)	(300 gpd)	(350 gpd)	(400 gpd)	(450 gpd)
				2 br	3 br	4 br	5 br	6 br
II	Course to medium sand	0.8	gravity	140	190	220	250	280
			pressure dosed	95	125	145	170	190
III	fine sand to loamy sand	0.6	gravity	190	250	290	335	375
			pressure dosed	125	170	195	220	250
IV	loam sandy loam	0.5	gravity	225	300	350	400	450
			pressure dosed	150	200	235	270	300
V	sandy clay loam silt loam	0.4	gravity	280	375	440	500	565
			pressure dosed	190	250	290	335	375
VI	silty clay loam	0.3	gravity	375	500	585	670	750
	clay loam		pressure dosed	250	335	390	445	500
VII	clays, silty clays	0.2	gravity	565	750	875	1000	1125
	sandy clay		pressure dosed	375	500	585	656	750

All 36" wide trenches must be pressure dosed

- (10) If gravel less chambers are used, the linear feet in the sizing chart above may be reduced by 25 percent.
- (11) The Department requires special construction practices as outlined in the most current version of DEQ Circular DEQ-4 for type VI and VII because soils may be easily damaged during construction of the trenches.

- (12) The Department requires pressure-dosing for any system with more than five hundred (500) lineal feet or 1000 square feet of drainfield, calculated before applying any reductions, regardless of soil type.
- (13) The Department allows three-foot wide trenches if the system is pressure-dosed.
- (14) If needed, a sample of soils must be submitted to the Natural Resources Conservation Service and sizing must be based on their soils determination.

4.5 MINIMUM CONSTRUCTION REQUIREMENTS

All wastewater treatment systems must be designed and constructed in compliance with the specifications contained in the most current version of DEQ Circular DEQ-4.

SECTION 5. REQUIREMENTS FOR EXPERIMENTAL SYSTEMS

5.1 GENERAL COMPLIANCE

All experimental on-site wastewater systems must comply with the specifications contained in the most current version of Circular DEQ-4.

SECTION 6. CERTIFIED INSTALLER PROGRAM

6.1 CERTIFICATION PROGRAM

- (1) Installers of on-site wastewater treatment systems may be certified by the Department. Certification is a privilege extended to an installer and not a right.
- (2) Certification means that the installer has demonstrated that he/she has sufficient knowledge of these regulations so as to be able to install systems in total compliance with these regulations.
- (3) Certified installers have a duty to keep current on changes to these regulations. The Department notifies installers about changes to the regulations via mail at the latest address provided to the Department by the installer.
- (4) Application for certification must be in writing and must contain the applicant's name, address, phone number, and other information deemed necessary by the Department.

- (5) To become certified, an installer must either:
 - a
 - (1) Attend the Department's training course;
 - (2) Satisfactorily pass the certification examination with a minimum score of 80 percent correct; and,
 - (3) Pay a non-refundable examination fee; or,
 - b Provide proof of current certification from a Department approved national organization.
- (6) Certification is valid for one year.
- (7) A certified installer must be on-site at all times during layout and installation of a system.

6.2 RENEWAL OF CERTIFICATION

- (1) Each certification must expire annually on December 31.
- (2) There will be an annual fee to renew certification. Installers who have not renewed their certification by 5pm on the last business day of January must have their certification revoked.
- (3) If the certification is revoked due to renewal date deadline, the applicant can become recertified under Section 6.1 above.
- (4) The Department may require attendance at workshops held for certified installers to update their knowledge of current Department regulations and most current technology for installing on-site wastewater treatment systems.

6.3 RECORDS

Every certified installer must maintain and submit to the Department such data and records as are required by the Department to determine compliance with these regulations.

6.4 REVOCATION OF CERTIFICATION

- (1) In addition to the penalties in Section 9.2, if a certified installer or a person contracted or employed by a certified installer has begun construction of any unpermitted system, the Department must revoke

the certified installer's certification for a period of 30 days. The installer may become re-certified at the end of the 30 day period by attending the next available training class, paying double the normal examination fee and passing the examination with a minimum score of 80 percent correct.

- (a) For the second offense, the Department must revoke the certified installer's certification for a period of 180 days. The installer may become re-certified after 180 days by attending the next available training class, paying triple the normal examination fee and passing the examination with a minimum score of 80 percent correct.
- (b) A third offense shall result in a permanent revocation of certification.

SECTION 7. INSPECTIONS

7.1 INSPECTION OF SYSTEMS INSTALLED BY CERTIFIED INSTALLERS

- (1) The Department may allow self-inspections of systems installed by a certified installer.
 - (a) The installer must notify the Department when a system is complete and ready for inspection.
 - (b) The Department must notify the installer of its decision to allow a self-inspection within 8 working hours.
- (2) The Department must conduct inspection within 16 working hours of the notified completion time.
- (3) Department inspections must be conducted only during normal Department working hours, excluding Saturdays, Sundays and holidays.
- (4) Systems incomplete at the time of the Department inspection may be subject to a reinspection at the convenience of the Department, and to additional fees for the reinspection.
- (5) A system must not be inspected by the Department if a hard copy or electronic version of the permit cannot be produced on request. Reinspection must be at the convenience of the Department, and may be subject to reinspection fees.

- (6) All necessary corrections must be completed by the installer and inspected by the Department before final approval of the system can be given.
- (7) In the case of self-inspection, the certified installer must complete and submit the certified installer's inspection form within ten calendar days of completion of the system. Failure to submit the certified installer's form within the ten-day period must result in no further permits being issued to that installer until all outstanding forms for completed systems have been submitted.
- (8) A certified installer completing and submitting a certified installer's inspection form for a system must personally inspect the finished system and assumes liability for non-compliance of the system.
- (9) Where site restrictions dictate, and with prior Department approval, certified installers may backfill parts of a system when necessary to be able to complete the rest of the system. When backfilling occurs, all corners, Y's and T's, and the inlets shall be left uncovered for inspection.

7.2 INSPECTION OF SYSTEMS INSTALLED BY NON-CERTIFIED INSTALLERS

- (1) Non-certified installers may only install standard gravel or gravel less on-site wastewater treatment systems. In addition to the penalties in Section 9.2, violation of this section will require reinspection of the system. Reinspection must be at the convenience of the Department and may be subject to reinspection fees.
 - (1a) A non-certified property owner may install a non-standard system on their own property if:
 - (a) The system serves no more than one single-family residence.
 - (b) A design compliant with the most current version of DEQ Circular DEQ-4 is submitted to the Department and approved prior to issuance of the permit.
 - (2) Prior to the issuance of a permit the non-certified installer must:
 - (a) Set an appointment and meet with a sanitarian to discuss the installation and specifications of the system; and
 - (b) Stake out the area intended for the system; and

- (c) Have a site evaluation conducted by the Department.
- (3) No backfilling of the system may occur unless authorized by the Department.
- (4) The Department must inspect completed systems no later than 24 working hours after the notice of completion.
- (5) Department inspections must be conducted only during normal Department working hours, excluding Saturdays, Sundays, and holidays.
- (6) A system must not be inspected by the Department if a hard copy or electronic version of the permit cannot be produced on request. Reinspection must be at the convenience of the Department, and may be subject to reinspection fees.
- (7) If the system is not in compliance, all necessary corrections must be completed and inspected by the Department before final approval by the Department. Reinspection must be at the convenience of the Department and may be subject to reinspection fees.
- (8) Use of a new system prior to final inspection and approval by the Department constitutes a violation of this regulation and is subject to penalties under Section 9.2 of this regulation.

SECTION 8. OPERATION AND MAINTENANCE

8.1 GENERAL REQUIREMENTS

- (1) Only an owner and/or occupant, licensed septage hauler, or person certified by the Department may perform operation and maintenance on an onsite wastewater treatment system as required by these regulations.
- (2) Systems exempt from this section include those located on:
 - (a) Parcels within an incorporated Sewer District (MCA 7-13-2201), if the district performs regular operation and maintenance pursuant to a written operation and maintenance plan reviewed and approved by the Department;
 - (b) Parcels connected to a municipal sewer system under MCA 7-13-2201 through 7-13-2351;

- (c) Parcels served by a system maintained pursuant to a valid operation and maintenance service contract in accordance with Appendix D of DEQ Circular DEQ-4.
 - (i) Verification that the contract is valid must be submitted annually on written forms or by methods specified for use by the Department.
 - (d) Parcels that utilize a sewage holding tank in accordance with Section 4.2.
 - (e) Parcels without a piped water supply to the dwelling unit that utilize an unsealed or sealed pit privy. The owner and/or occupant may be required to submit routine pumping receipts.
- (3) Systems that require a permit under Section 3 of these regulations must comply with the operation and maintenance requirements of Section 8.4 (7) not less than three years from the date of final Department approval of the issued permit.

8.2 OWNER/OCCUPANT RESPONSIBILITIES AND REQUIREMENTS

- (1) The owner/occupant must prevent adverse impacts to the system, which includes primary and replacement soil treatment areas, caused by use, activities, or other situations including, but not limited to:
 - (a) Encroachment such as buildings, structures, or materials;
 - (b) Vehicular traffic;
 - (c) Surface or storm water;
 - (d) Compaction, excavation, grading, cutting, or ditching of soil on top of or adjacent to a system in violation of the horizontal setback requirements contained in Table 4 A.
- (2) The owner/occupant shall monitor the use of the system to ensure conformance with these regulations.
- (3) Within 45 days of written Department Notices, the owner/occupant shall comply with either (a) or (b) below:

- (a) Complete the Assessment for Septic Tank Pumping Frequency, and pump the septic tank(s) at the interval required by the Assessment criteria.
 - (i) The Department shall determine septic tank pumping frequency based on Assessment results as follows:
 - (1) High Frequency: Means a score of 25-36 Assessment points which requires the septic tank(s) to be pumped at least once every three (3) years;
 - (2) Medium Frequency: Means a score of 12-24 Assessment points which requires the septic tank(s) to be pumped at least once every four (4) years;
 - (3) Low Frequency: Means a score of 0-11 Assessment points which requires the septic tank(s) to be pumped at least once every five (5) years.
 - (ii) Criteria used to determine the pumping frequency, must include but are not limited to the following:
 - (1) System age;
 - (2) System type;
 - (3) Water softening units and/or garbage disposals;
 - (4) Water usage and conservation measures;
 - (5) Date of most recent septic tank(s) pumping and/or inspection;
 - (6) Number of people served by the system;
 - (iii) The completed Assessment for Septic Tank Pumping Frequency, the pumping record, and the applicable fees must be submitted on forms or by other methods specified by the Department.

- (b) Obtain an operation and maintenance inspection performed by a certified operation and maintenance professional at an interval not to exceed four (4) years.
 - (i) The results of the operation and maintenance inspection, the septic tank(s) pumping record, and applicable fees must be submitted on written forms or by other methods specified by the Department.
 - (ii) The septic tank(s) must be pumped by a licensed septage hauler as determined by the inspection.
 - (iii) Deficiencies noted during the inspection must be corrected as required in Section 8.4 (9) of these regulations.

- (4) The owner shall correct any deficiencies discovered in an operation and maintenance inspection.
 - (a) The owner/occupant of an onsite wastewater treatment system with Type I deficiencies must repair or replace the system immediately, or as directed by the Department. These CRITICAL deficiencies include, but are not limited to:
 - (i) Sewage being discharged to ground surface;
 - (ii) Sewage being discharged to surface water or a cesspool;
 - (iii) Septic tanks that are leaking, collapsing, or overflowing;
 - (iv) Sewage backed-up into the structure;
 - (v) Septic tank lids that are broken/missing;
 - (vi) Effluent pump not functioning;
 - (vii) Floats or controls in effluent pump tank missing/not functioning;
 - (viii) Distribution lines leading into or out of the septic tank and/or drainfield that are broken, collapsed, or blocked;
 - (ix) Broken or collapsed lines within a drainfield;

- (x) Broken or blocked distribution system;
 - (xi) Tree roots within any part of the system; and,
 - (xii) System electrically unsafe.
- (b) The owner/occupant of an onsite wastewater treatment system with Type II deficiencies must repair or replace the system within thirty (30) days of the operation and maintenance inspection. These SERIOUS deficiencies must include, but are not limited to:
- (i) High water alarm inoperable;
 - (ii) Septic tank baffles missing or broken;
 - (iii) Floats or controls in the effluent pump tank not positioned properly;
 - (iv) Effluent filters blocked, missing, or broken.
- (c) The owner/occupant of an onsite wastewater treatment system with Type III deficiencies at time of inspection must be corrected before the next required operation and maintenance inspection. These MODERATE deficiencies must include but are not limited to:
- (i) Access lids from septic tank not to grade;
 - (ii) Cleanout not accessible;
 - (iii) Access ports or risers not available for distribution systems;
 - (iv) Drainfield used for parking, driving, heavy livestock traffic;
 - (v) Drainfield and/or septic tank(s) not easily accessible;
 - (vi) Free space not adequate between the inlet and the baffle (2-4 inches);
 - (vii) Tank not installed properly so that the outlet is lower than the inlet;
 - (viii) Tank(s) not set level.

8.3 OPERATION AND MAINTENANCE (O AND M) SERVICE PROVIDER RESPONSIBILITIES AND REQUIREMENTS

- (1) O and M service providers may perform their services only when their certification is in good standing and in conformance with these regulations. Certification is a privilege extended to an O and M service provider and is not a right.
- (2) Certification means that the O and M service provider has demonstrated sufficient knowledge of these regulations to perform an operation and maintenance inspection in compliance with these regulations.
- (3) O and M service providers have a duty to keep current on changes to these regulations.
- (4) To become certified, an applicant must:
 - (a) Complete an application;
 - (b) Pay the non-refundable fee;
 - (c) Attend a Department approved certification course;
 - (d) Pass the certification exam
- (5) All certification fees will be established by the examining authority.
- (6) Prior to 5pm on the last business day of January, O and M service providers must submit both documentation that their certification is current and fees for renewal. Failure to provide either will result in Department revocation of the certification.
- (7) If the Department revokes certification for failure to meet the renewal deadline, the Department may recertify the provider pursuant to subsection (4) above.
- (8) The first year of certification is probationary. Criteria used to evaluate the fitness of the applicant for final certification include:
 - (a) Demonstrated competence with onsite wastewater treatment system rules and regulations; and

- (b) Demonstrated ability to effectively communicate and coordinate with the Department and the public.
- (9) If the Department does not grant final certification, the applicant may re-apply for certification after a one-year interval.
- (10) As part of certification or recertification, the Department may require attendance at workshops.
- (11) Performance criteria for O and M service providers include:
 - (a) Performs operation and maintenance service in accord with these regulations;
 - (b) Possesses equipment that allows for the proper inspection for a system;
 - (c) Submits operation and maintenance fees and reports on forms or by other methods specified by the Department within fifteen calendar days after completing an inspection;
 - (d) Submits Type I deficiencies reports on forms or by other methods specified by the Department within two working days after completing and inspection;
 - (e) Submits complete, truthful, and accurate inspection and maintenance reports to the Department and owner.
- (12) In order to avoid conflicts of interest, the department requires the following:
 - (a) O and M service providers, both licensed and certified, must provide the Department a description of any dual relationships. The Department must post the description on its website and must make the description available in written form to the public. Such dual relationships include but are not limited to being a certified O and M service provider and:
 - (i) Installing septic systems;
 - (ii) Designing, selling, or distributing proprietary products;
 - (iii) Working for or owning a pumping company.

- (13) In addition to the penalties in Section 9.2, if certified provider or a person contracted or employed by a certified provider has a first offense violation any of the requirements in Section 8.5, the Department must revoke the provider's certification for a period of 30 days. The provider may become re-certified after 30 days by attending a Department approved certification class, paying double the normal certification fee, and passing certification.
- (a) For a second offense the Department must revoke the provider's certification for a period of 180 days. The provider may become re-certified after 180 days by attending a Department approved certification class, paying triple the normal certification fee, and passing the examination.
 - (b) For a third offense the Department must permanently revoke the provider's certification.
 - (c) The provider may request an administrative hearing before the Health Officer pursuant to Section 9.2.

8.4 DEPARTMENT RESPONSIBILITIES AND REQUIREMENTS

The Department must:

- (1) Develop forms and reporting systems to facilitate conformance with these regulations;
- (2) Provide written notification to owners and occupants that they are required to perform operation and maintenance tasks for their system.

SECTION 9. ENFORCEMENT AND SEVERABILITY

9.1 ACCESS RIGHTS

- (1) The Department is authorized and directed to make such inspections as are necessary to determine compliance with these regulations.
- (2) It is the responsibility of the owner or occupant of a property to give the Department 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 molest or resist representatives of the Department in the discharge of their duty, including inspection made before, during, and after the installation and final approval of a system.

9.2 ENFORCEMENT AND PENALTIES FOR VIOLATIONS

- (1) Violations of any of the provision of these regulations are a misdemeanor and are punishable as provided for in Section 50-2-124, MCA.
- (2) Instead of, or in addition to criminal proceedings, these regulations may be enforced through civil remedies and penalties as described below.
- (3) When the Department has reason to believe a violation of these regulations has occurred, it may cause written notice and an order to take corrective action to be served personally or by certified mail on the alleged violator or the violator's agent. The notice must state:
 - (a) The section of the regulations violated;
 - (b) The facts constituting the violation;
 - (c) The specific nature of the corrective action that the Department requires;
 - (d) The date the corrective action must be completed;
 - (e) The applicable amount of the administrative penalty to be assessed, if any;
 - (f) The date by which any administrative penalty must be paid;
 - (g) That the alleged violator may request a hearing before the Lewis and Clark City-County Health Officer by filing a written request no later than 30 days after service of the notice and order.
 - (h) The Department may allow the alleged violator to submit a compliance plan if they demonstrate a hardship or other extenuating circumstance that prohibits immediate compliance with all regulations.
 - (i) The compliance plan must not create any public health threat listed in Section 2.1 of this regulation.

- (ii) The compliance plan must include a date that all necessary corrective actions will be completed.
- (4) The order becomes final 31 days after the notice is served unless the person named requests a hearing before the Lewis and Clark City-County Health Officer.
 - (a) The request for a hearing must be filed with the Department no later than 30 days after service of a notice and order under subsection (2).
 - (b) The hearing must be held within 30 days, unless the alleged violator and the Department agree to an extension.
 - (c) A record of the evidence presented at the hearing, including a recording of any oral testimony or argument, must be preserved for possible review by the District Court.
 - (d) At the hearing, the Department and the alleged violator must be allowed to present evidence and arguments orally or in writing. All testimony, whether oral or written, shall be given under oath or affirmation.
 - (e) If after a hearing, the Health Officer finds that that a violation has occurred, he/she shall issue an order for the corrective action or assess an administrative penalty, or both.
 - (f) The order may include an administrative civil penalty of \$250 for the first violation of these regulations and \$500 for each subsequent violation.
 - (g) Administrative civil penalties shall be paid to the Department within ten days of receipt of notice and deposited in the Health Fund.
 - (h) If after a hearing, the Health Officer finds that a violation has not occurred or is not occurring, the original order shall be rescinded.
- (5) The alleged violator may appeal the decision of the Health Officer to the 1st Judicial District Court within 30 days of the Health Officer's order.
- (6) At any time, the Health Officer may obtain the assistance of a sheriff, constable, or other peace officer to enforce an order of the Department or the Health Officer.

- (7) Instead of issuing an order or after issuing an order, the Health Officer may pursue a civil action, in the name of Lewis and Clark County, to restrain and enjoin acts in violation of these regulations.
- (8) The Health Officer may pursue a civil action, in the name of Lewis and Clark County, to recover any expenses incurred from any person who refused or neglected to comply with an order of the Health Officer. This action may be filed together with the action described in subsection (7).

9.3 SERVERABILITY

- (1) 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 must be considered a separate provision of these regulations and such holding must not affect the validity of the remaining portions of these regulations, which must remain in full force and effect.

SECTION 10. DEFINITIONS

10.01 ABANDONED SYSTEM means a system is considered to be abandoned when it meets one of the following criteria:

- (1) The system has not been used for two (2) years, or
- (2) The use of the system has been discontinued because of connection to an improved, on-site system or a public sewer system. Systems for recreational cabins or dwellings used regularly, but infrequently, shall not be considered abandoned.

10.02 ACCESSORY BUILDING means a subordinate building or structure on the same lot as the main building, which is under the same ownership as the main building, and which is devoted exclusively to an accessory use such as a garage, workshop, art studio, guesthouse, or church rectory.

10.03 ALTERATION means physically changing a system by relocating, modifying, repairing, extending or replacing, all portions of a system.

10.04 ASSESSMENT FOR SEPTIC TANK PUMPING FREQUENCY means the form that the system owner used to report information to the Department about household and system use practices. The reported information is then used by the Department to determine the frequency at which the owner must have the septic tank(s) pumped.

- 10.05 BOARD** means the Lewis and Clark City-County Board of Health.
- 10.06 BEDROCK** means material that cannot be readily excavated by hand tools, or material that does not allow water to pass through or material that does not provide for the adequate treatment and disposal of wastewater.
- 10.07 BEDROOM** means any room that is or may be used for sleeping. An unfinished basement shall be considered as an additional bedroom.
- 10.08 CERTIFIED INSTALLER** means any individual who has attended required training and demonstrated an adequate knowledge of the regulations governing on-site wastewater treatment by passing all required examinations and paid the required certification fees.
- 10.09 CESSPOOL** means a seepage pit without a septic tank to pretreat the wastewater.
- 10.10 CONSTRUCTION** means the building or renovation of any structure intended for human occupancy, including excavation for foundations or footings, that would result in an increase in wastewater flow; the drilling of a well or the provisions of water to a site intended for human occupancy; or work on or the installation of any part of an on-site wastewater treatment system.
- 10.11 DEPARTMENT** means the Lewis and Clark City-County Health Department.
- 10.12 DOSING TANK** means a watertight receptacle receiving effluent from the septic tank or other treatment device and equipped with an automatic siphon or pump designed to discharge effluent.
- 10.13 DRAIN ROCK** means the rock or coarse aggregate used in an absorption system, sand filter, or seepage pit. Drain rock must be washed, be a maximum of 2 1/2 inches in diameter and larger than the orifice size unless shielding is provided to protect the orifice, and contain no more than two (2) percent passing the #8 sieve. The material must be of sufficient competency to resist slaking or dissolution. Gravels of shale, sandstone, or limestone may degrade and may not be used.
- 10.14 DWELLING** means any structure, building or portion thereof, which is intended or designed for human occupancy and that must be supplied with water by a piped water system.

- 10.15 EMERGENCY** means any situation that poses a threat to the health of the public or the environment by allowing untreated wastewater to be exposed to the ground surface or discharged to the aquifer.
- 10.16 FAILED SYSTEM** means an on-site wastewater system that no longer provides the treatment and/or disposal for which it was intended, or violates any of the requirements of A.R.M 17.36.913.
- 10.17 FINAL DEPARTMENT APPROVAL** means approval granted upon review and acceptance of the permitted system installation or receipt of the certified installer's inspection form or professional engineer's as-builts.
- 10.18 FLOODPLAIN** means the area adjoining the watercourse or drainway that would be covered by the floodwater or a flood of one-hundred year frequency except for sheet flood areas that receive less than one (1) foot of water per occurrence and are considered Zone B areas by the Federal Emergency Management Agency. The floodplain consists of the floodway and the flood fringe, as defined in the A.R.M Title 36, Chapter 15.
- 10.19 GRAY WATER** means any wastewater other than toilet wastes or industrial chemicals, and includes but is not limited to shower and bath wastewater, kitchen wastewater, and laundry wastewater.
- 10.20 GROUNDWATER OBSERVATION** means water level observation in a properly constructed well conducted for a long enough period of time to detect a peak and then a sustained decline in water level. Water level observing must be performed in accordance DEQ Circular with DEQ 4 in Appendix C.
- 10.21 HEALTH OFFICER** means County health Officer appointed by the Lewis and Clark City-County Board of Health or his or her designee.
- 10.22 HELENA VALLEY GROUNDWATER VULNERABILITY STUDY AREA** means the area that lies within the boundary of the Helena Valley Groundwater Vulnerability Project. Final Project Report dated June 18, 2008.
- 10.23 INFILTRATIVE SURFACE** means the soil interface that receives the effluent wastewater below the drain rock or sand.
- 10.24 INSTALLERS** means those person who are involved in the actual physical construction of on-site wastewater treatment systems.
- 10.25 LEVEL II TREATMENT** means a wastewater treatment system that must provide a higher degree of treatment than conventional systems, including the removal of at least sixty (60) percent of nitrogen as measured from the raw effluent load to the system. The term does not include treatment systems for industrial waste.

- 10.26 LICENSED SEPTAGE HAULER** means a person licensed by the State of Montana to remove and transport wastewater from onsite wastewater treatment systems to an approved facility.
- 10.27 LIMITING LAYER** means bedrock, an impervious layer, or seasonally high ground water.
- 10.28 LOAD INCREASE** means the addition of bedrooms in a dwelling or an increase in the volume of wastewater flow.
- 10.29 MAINTENANCE** means routine or periodic action taken to assure proper system performance, extend system longevity, and /or assure a system meets performance requirements.
- 10.30 MONITORING** means the periodic or continuous checking of an onsite wastewater treatment system, which is performed by observation and measurements, to determine if the system is functioning as intended and if system maintenance is needed. Monitoring also includes maintaining accurate records that document monitoring activities.
- 10.31 MUNICIPAL SEWER SYSTEM** is defined in MCA §7-13-2201 through §7-13-2351, the term “municipality”, as used in this part and part 23, includes a consolidated city and county, or town and includes all corporations organized for municipal purposes within the districts.
- 10.32 NON-CERTIFIED INSTALLER** means any individual who has not attended required training, demonstrated an adequate knowledge of the regulations governing on-site wastewater treatment by passing all required examinations, and paid the required certification fees. Non-certified also refers to any certified installer who has had his/her certification revoked.
- 10.33 OCCUPANCY** means the fact or condition of using or residing in a building or part of a building that is served by a piped water supply, including residential, commercial, or any other type of building.
- 10.34 ON-SITE WASEWATER TERATMETN SYSTEM** means any form of subsurface wastewater treatment and all wastewater treatment systems for individual residences.
- 10.35 OPERATION** means the act or process of operating or functioning or using an onsite wastewater treatment system.

- 10.36 OPERATION AND MAINTENANCE SERVICE PROVIDER** means a qualified person certified by the Department to perform operation and maintenance inspections and repairs not requiring a permit on onsite wastewater treatment systems.
- 10.37 OWNER** means a person or person, who have legal title to, or possession of, real property, a building, structure, or place of business.
- 10.38 OWNERS AGENT** means a person or business that an owner authorizes to represent them.
- 10.39 PERMEABILITY** means the capacity of the soil to transmit fluids. The degree of permeability depends upon the amount, size and shape of the soil pores and their interconnections. Permeability is measured by the rate at which a fluid of standard viscosity can move a given distance through an interval of time.
(Dictionary of Geologic Terms)
- 10.40 PERMIT** means the written authorization form the Lewis and Clark City-County Health Department to install a new on-site wastewater treatment system or repair, replace, expand, alter, or improve and existing on-site wastewater treatment system or any part thereof.
- 10.41 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.
- 10.42 PIPED WATER SYSTEM** means a plumbing system that conveys water from a source, including but not limited to wells, cisterns, springs, or surface water into a structure.
- 10.43 PRIVATE SEWER** means a sewer receiving the discharge from one building sewer and conveying it to the public sewer system or a wastewater treatment system.
- 10.44 PUBLIC SYSTEM** means a system for collection, transportation, treatment, or disposal of wastewater that serves 15 or more families or 25 or more persons daily for a period of at least 60 days in the calendar year. In estimating the population served, the reviewing authority shall multiply the number of living units times the county average of persons per living unit based on the most recent census data.
- 10.45 PUMPING RECORD** means the record or report provided by the licensed septage hauler that records the date of removal of wastewater and the size and condition of the septic tank(s) and/or dosing tank(s).

- 10.46 REPLACEMENT SYSTEM** means an on-site wastewater treatment system proposed to replace a failed, failing, or contaminating system.
- 10.47 SEALED PIT PRIVY** means an enclosed receptacle designed to receive non-water-carried toilet wastes into a watertight vault.
- 10.48 SEASONAL** means occupancy of a residence for not more than one hundred twenty (120) days in a calendar year and which would not qualify as the primary residence of a taxpayer for federal income tax purposes related to capital gains on the sale or exchange of residential property.
- 10.49 SEEPAGE PIT** means a covered underground receptacle that receives wastewater after primary treatment and permits the wastewater to seep into surrounding soil.
- 10.50 SEPTIC TANK** means a storage-settling tank in which settled sludge is in immediate contact with the wastewater flowing through the tank while the organic solids are decomposed by anaerobic action.
- 10.51 SEWER DISTRICT** is defined in MCA §7-13-2201 through §7-13-2351 as a unit of local government separate and distinct from a municipality, but a district may be treated as a municipality when applying for a grant, a loan, or other financial assistance from the state.
- 10.52 SHARED WASTEWATER SYSTEM** means a wastewater system that serves or is intended to serve two (2) living units or commercial structures. The total people served may not be 25 or more. In estimating the population served, the reviewing authority shall multiply the number of living units times the county average of person per living unit based on the most recent census data.
- 10.53 SITE EVALUATION** means an evaluation to determine if a site is suitable for the installation of a subsurface wastewater treatment system.
- 10.54 SLOPE** means the rate that a ground surface declines in feet per 100 feet. It is expressed as percent of grade.
- 10.55 SOIL PROFILE** means a description of the soil strata to a depth of eight feet using the USDA soil classification system.
- 10.56 STATE WATERS** means a body of water, irrigation system, or drainage system, either surface or underground; however, this does not apply to irrigation waters where the waters are used up within the irrigation system and the waters are not returned to any other state waters.

- 10.57 SUBDIVISION** means a division of land or land so divided that creates one or more parcels containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any re-subdivision and any condominium or area, regardless of size, that provides permanent multiple space for recreational camping vehicles or mobile homes.
- 10.58 SUBSURFACE WASTEWATER TREATMENT SYSTEM** means the process of wastewater treatment in which the effluent is applied below the soil surface or into a mound by an approved distribution system.
- 10.59 SURFACE WATER** means any body of water whether fresh or saline, including watercourses such as impoundments, lakes, streams, irrigation ditches, or ponds.
- 10.60 SYSTEM** means all components of any wastewater treatment system from the point of exit from the structure/dwelling to the end of the distribution network (including but not limited to: pipe, septic tank, dose tank, pumps, manifold, distribution box, perforated pipe, chambers).
- 10.61 SYNTHETIC DRAINAGE FABRIC** means a nonwoven drainage fabric with a minimum weight per square yard of four (4) ounces, a water flow rate of 100 to 200 gallons per minute per square foot, and an apparent opening size equivalent to a #50 to #110 sieve.
- 10.62 TYPE I DEFICIENCY** means an instance of non-compliance noted during an operation and maintenance inspection or risk assessment that is considered an immediate public health threat and poses concerns for public and environmental safety.
- 10.63 TYPE II DEFICIENCY** means an instance of non-compliance noted during an operation and maintenance inspection or risk assessment that has the potential to result in a type I deficiency and may create damage to the onsite wastewater treatment system.
- 10.64 TYPE III DEFICIENCY** means an instance of non-compliance during an operation and maintenance inspection or risk assessment that has the potential to interfere with the overall performance of the system and may interfere with proper operation and maintenance of the onsite wastewater treatment system.
- 10.65 UNSTABLE LAND FORMS** refers to areas showing evidence of mass down-slope movement such as debris flows, landslides, rock falls, and hummock hill slopes with undrained depressions up-slope. Unstable landforms may exhibit slip surfaces roughly parallel to the hillside; landslide scars and curving debris ridges;

fences, trees, or telephone poles that appear tilted; and tree trunks that bend uniformly as they enter the ground.

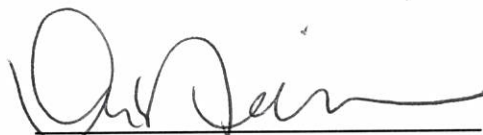
- 10.66 UNSUITABLE TREATMENT MATERIAL** means any rock that cannot be readily excavated by hand tools, or is essentially impermeable, or has open fracture or solution channels.
- 10.67 VARIANCE** means the granting, by the Board, of an exception to the minimum requirements set out in these regulations, or to the requirements in Title 17, Chapter 36, Subchapter 9 of the Administrative Rules of Montana, or to the requirements in DEQ Circular DEQ-4.
- 10.68 WASTEWATER** means a combination of liquid wastes that may include chemicals, hose wastes, wash water, human excreta and animal or vegetable matter in suspension or solution.
- 10.69 WASTEWATER TREATMENT SYSTEM or WASTEWATER DISPOSAL SYSTEM** means a system that receives wastewater for purposes of treatment, storage, or disposal. The term includes, but is not limited to, pit privies and experimental systems.
- 10.70 WELL** means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

SECTION 11 REPEALER AND EFFECTIVE DATE

- 11.1** All previous rules, regulations, resolutions and ordinance as adopted by the Board governing the on-site treatment of wastewater in Lewis and Clark County are hereby repealed.
- 11.2** These regulations must be in full force and effect on the 27th day of February, 2020.
- 11.3** These regulations shall be reviewed and evaluated by the Board two (2) years from the effective date, and every two (2) years thereafter.

LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH


Justin Murgel, Chair
Lewis and Clark City-County Board of Health


Drenda Niemann, Health Officer
Lewis and Clark County

Section 10

East Helena Soil Displacement & Disposal Regulations

**THE REGULATIONS GOVERNING
SOIL DISPLACEMENT AND
DISPOSAL IN THE EAST HELENA
SUPERFUND AREA IN LEWIS AND
CLARK COUNTY, MONTANA.**

2020

Lewis and Clark Public Health

Lead Education and Assistance Program
316 North Park, Helena, MT 59623
(406)-457-8583

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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

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.

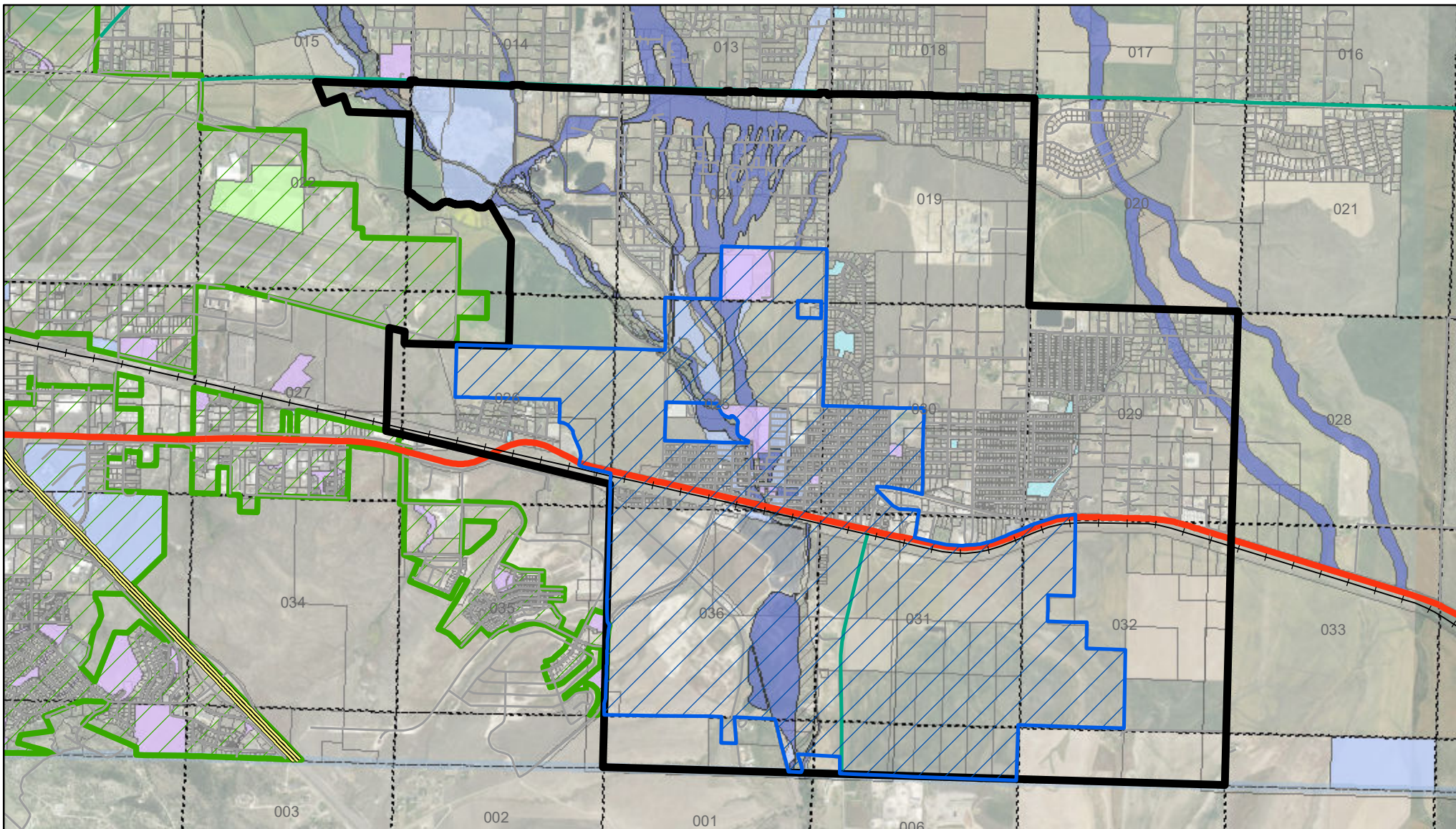
Lewis and Clark City-County Board of Health


Justin Murgel, Chair
Lewis and Clark City-County Board of Health

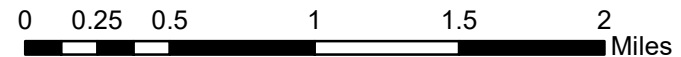

Date


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

Section 11

Rabies Control Regulations

LEWIS AND CLARK COUNTY RABIES CONTROL REGULATION
(BOH-19-01)

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LEWIS AND CLARK COUNTY RABIES CONTROL REGULATION

1 PURPOSE

The Lewis and Clark City-County Board of Health (Board) sets forth this regulation to protect the public health, safety, and welfare of the people and animals of Lewis and Clark County and to control and prevent the spread of rabies.

2 EFFECTIVE DATE AND REVIEW PROCEDURES

- 2.1. All provisions established under this regulation shall become effective upon adoption by the Board.
- 2.2. At any time, the Board may propose additions or revisions to these regulations. Changes proposed to the regulation by the Board shall be processed for adoption as prescribed by existing County Administrative Regulations.

3 AUTHORITY AND SCOPE OF REGULATION

- 3.1. Mont. Code Ann. Sections 50-2-116(1)(f) and (g) require local boards of health to identify, assess, prevent, and ameliorate conditions of public health importance and to protect the public from the introduction of and spread of communicable disease. Mont. Code Ann. § 50-2-116(2) authorizes local boards of health to adopt regulations that do not conflict with regulations adopted by the Montana Department of Public Health and Human Services (DPHHS) for the control of communicable disease. Rabies or potential rabies exposure is identified as a reportable communicable disease.
- 3.2. This Regulation shall apply in all parts of Lewis and Clark County where a comparable Regulation does not exist. The requirement to vaccinate dogs, cats and ferrets is applied throughout Lewis and Clark County. Where rabies vaccination of dogs, cats and ferrets is required by municipal code (ordinance) and is consistent with the regulations prescribed herein, municipalities shall continue to administer the municipal code including enforcement.

4 DEFINITIONS

- 4.1. "Animal" means any member of the order Mammalia, all of which are capable of being infected with and transmitting rabies.

- 4.2. “Animal Control Officer” means a person designated by the Lewis and Clark County Sheriff or Chief of Police of any incorporated city in Lewis and Clark County to assist with the enforcement of the provisions of this Regulation.
- 4.3. “Animal Shelter” means the Lewis and Clark County Animal Shelter that is operated by Lewis and Clark Humane Society for the purpose of impounding or harboring animals.
- 4.4. “Bite” means the wound made by a biting animal where the skin has been penetrated by the teeth of an animal.
- 4.5. “Cat” means any domestic feline animal (*Felis catus*).
- 4.6. “Confinement for Observation” and/or “Confined for Observation” means isolation of an animal that has caused a potential human rabies exposure to prevent further potential exposure and watch for signs and symptoms of rabies.
- 4.7. “Department” means Lewis and Clark Public Health.
- 4.8. “Dog” means any domestic canine animal (*Canis familiaris*).
- 4.9. “Ferret” means any domestic animal that is descended from the European polecat (*Mustela putorius furo*).
- 4.10. “Lewis and Clark County Enforcement Officer” means any Animal Control Officer or any Lewis and Clark County Law Enforcement Officer.
- 4.11. “Health Officer” means the Health Officer appointed by the Lewis and Clark City-County Board of Health in accordance with Mont. Code Ann. § 50-2-116(1)(a), or his or her designee.
- 4.12. “Owner” means a person having the right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied by that person. This term shall not apply to veterinarians or kennel operators who have temporary custody, for a period of less than 60 days, of animals owned by others.
- 4.13. “Potential Rabies Exposure” means a bite or by contamination from an animal or wild animal of a mucous membrane, scratch, abrasion or open wound of a human by the saliva or other infectious material and direct, or suspected, contact between a bat and a human.
- 4.14. “Rabies Vaccination” (used interchangeably with “Rabies immunization” and “Rabies Vaccine Administration”) means the inoculation of an animal with an anti-rabies vaccine administered by a licensed veterinarian or under the direct supervision of a licensed veterinarian as defined in Mont. Code Ann. § 37-18-305.
- 4.15. “Rabies Vaccine” means an anti-rabies vaccine approved for use in the United States.

- 4.16. "Wild Animal" means any non-domesticated member of the order Mammalia, all of which are capable of being infected with and transmitting rabies, excluding domestic dogs, cats and ferrets; domestic livestock; hybrids of domestic and wild animals; legally captive wild animals, rodents and rabbits.

5 HEALTH OFFICER, LAW ENFORCEMENT OFFICERS

- 5.1. The Health Officer or his or her designees are responsible for and are hereby vested with the power and authority to enforce this regulation.
- 5.2. As provided in Mont. Code Ann. § 50-2-120 the Health Officer may request a sheriff or other peace officer to assist the Health Officer in carrying out the provisions of this regulation.
- 5.3. As provided in Mont. Code Ann. § 50-2-122, MCA, it is unlawful to hinder a Health Officer in the performance of his or her duties, remove or deface any placard or notice posted by the local health officer, or violate a confinement for observation regulation.

6 RABIES VACCINATION REQUIREMENTS – DOGS, CATS AND FERRETS

- 6.1. Initial Vaccination:
- (a) Every dog, cat or ferret that is at least 3 months old shall be vaccinated and any subsequent vaccinations shall be administered in accordance with the vaccine manufacturer's recommendation.
 - (b) Regardless of age, any dog, cat or ferret with no record of rabies vaccination shall be required to be vaccinated and the initial vaccination will confer immunity as stated in part (c) of this Subsection.
 - (c) Any dog, cat or ferret receiving an initial vaccination is not considered effectively vaccinated for 28 days.
- 6.2. Revaccination:
- (a) Regardless of the age of a dog, cat or ferret at initial vaccination, subsequent doses shall be administered according to the vaccine manufacturer's recommendation.
 - (b) Thereafter, the interval between revaccinations shall conform to the recommendations of the vaccine manufacturer.
- 6.3. Vaccination Exemption: If, after an animal receives one initial and one booster rabies vaccination, a licensed veterinarian determines that an additional vaccination would endanger the animal's life due to disease or other medical considerations, the animal

may be exempted from the requirement for revaccination while the condition exists. The licensed veterinarian must complete and submit to the Department an “Exemption from Rabies Vaccination Certificate” on a form approved by the Department. A copy of the Certificate shall be provided to the Department. If an exempted animal bites another animal or person, then the animal must be confined for observation as specified in 9.4

6.4. Proof of Rabies Vaccination:

All dogs, cats, and ferrets shall be vaccinated by a licensed veterinarian against rabies in accordance with procedures recommended in the latest version of the U.S. Public Health Compendium for rabies vaccine, and are to be identified on the health certificate by the date of rabies vaccination and the serial number of the rabies vaccination and tag. ARM 32.3.213. A proof of rabies vaccination certificate using the National Association of State Public Health Veterinarians (NASPHV) Form 51 (revised 2007) or equivalent will be issued by the Veterinarian. A copy of the form will be provided to the Owner and the original filed with the veterinarian, Animal Shelter, or other Animal Welfare Organization incorporated and operated under section 501(c)(3) of the Internal Revenue Code (IRS). Along with a copy of the Certificate, the veterinarian will issue a durable tag. The tag will include the year of vaccination, name of the clinic/veterinarian, an address of the clinic/veterinarian and a unique number. The tag number will be placed on the Certificate.

6.5. The Owner is responsible for assuring that the rabies tag is securely attached to a collar or harness or show proof of current rabies status as indicated in Section 6.3 upon request.

6.6. Any unvaccinated dog, cat or ferret of more than 3 months of age that is acquired or moved into Lewis and Clark County must be vaccinated within 30 days of purchase or arrival unless there is documented evidence of current vaccination.

6.7. The safety and efficacy of rabies vaccination for wild animals and hybrids of wild animals have not been established and no rabies vaccinations are licensed for these animals. Wild animals and hybrids of wild animals will be treated as unvaccinated animals.

7 VACCINATION FOR RABIES PRIOR TO TRANSFER OF ANIMAL OWNERSHIP

7.1. It is unlawful for any person to sell, offer for adoption, or give away any dog, cat or ferret over 3 months of age unless such animal has been vaccinated against rabies as prescribed by this regulation.

- 7.2. Licensed veterinary clinics, animal shelters, and animal welfare organizations incorporated and operated under section 501(c)(3) of the Internal Revenue Code are not required to vaccinate an animal in their care, but may not sell, adopt or give away an unvaccinated animal.

8 REPORTING POTENTIAL RABIES EXPOSURE AND SUSPECTED RABIES

- 8.1. It shall be the duty of every Lewis and Clark County Enforcement Officer and all healthcare providers of Lewis and Clark County to ensure that the Health Officer is notified when animal bite victims are treated or when potential rabies exposure incidents are reported.
- 8.2. Any person having knowledge of an animal known to have rabies or symptoms suggestive or consistent with rabies, as determined by a veterinarian, shall report the facts immediately to the Health Officer and the State Veterinarian.
- 8.3. Any person having knowledge of any animal or person having been bitten by an animal susceptible to rabies shall report the facts immediately to the Health Officer.

9 INVESTIGATIONS AND MANAGEMENT OF POTENTIAL RABIES EXPOSURE

- 9.1. The Health Officer must apply generally accepted control measures, as identified in the most recent version of the National Association of State Public Health Veterinarians Compendium of Animal Rabies Prevention and Control, for confirmed or potential rabies exposures to a human by a species susceptible to rabies infection.
- 9.2. The Health Officer must investigate each report of potential rabies exposure and gather, at a minimum, information about the circumstances of the potential rabies exposure; nature of the exposure; name, age, and address of the exposed individual; vaccination status of the animal in question; treatment of the exposed person; and eventual outcome for both animal and person involved.
- 9.3. As soon as possible after investigating a report of potential rabies exposure, the Health Officer must inform the exposed person or the individual responsible for the exposed person, if that person is a minor, whether or not post-exposure treatment is recommended to prevent rabies.
- 9.4. Whenever the circumstances involve a dog, cat, or ferret the Health officer must:
 - (a) Order the animal confined for observation for signs and/symptoms of illness during a ten-day period at the Animal Shelter, veterinary facility, or other facility approved by the Health Officer. Any illness in the animal during the confinement for observation or before release is evaluated by a veterinarian for signs and

symptoms suggestive of rabies. If the symptoms observed are consistent with rabies, the Health Officer shall order the animal euthanized and the head or appropriate tissue sent to the Montana Department of Livestock's diagnostic laboratory for rabies analysis. The Health Officer may also order an animal euthanized subsequent to confinement for observation and the brain analyzed.

- (b) Require the animal be vaccinated against rabies prior to release from confinement for observation. Vaccination should not occur during the 10 day confinement for observation period in order to avoid the potential for development of a response to vaccination, which could result in the affected animal being unnecessarily euthanized.
- (c) If an animal dies during the confinement for observation period, the animal's head shall be sent to the Montana Department of Livestock's diagnostic laboratory for rabies testing.
- (d) If a biting animal has a current rabies vaccination the Health Officer may permit the owner to confine the animal at home under strict confinement for observation for a minimum of 10 days. Home confinement is subject to a determination by the Health Officer or Lewis and Clark County Enforcement Officer that the owner is cooperative, responsible, has the facilities to confine the animal and will allow observation of the confined animal by the Health Officer and/or Lewis and Clark County Enforcement Officer upon request. Permission for home confinement for observation may be revoked by the Health Officer at any time during the confinement period.

9.5. If a potential rabies exposure involves other animals such as domestic livestock; captive wild animals; hybrids of wild animals; rodents; or rabbits, the animal must be kept in a secure area, if possible, to prevent escape until decisions can be made regarding human health risks.

10 IMPOUNDMENT

- 10.1. Animals that are subject to impoundment under this regulation include but are not limited to:
 - (a) Any animal kept or maintained contrary to the provisions of this Regulation;
 - (b) An animal subject to a potential rabies exposure investigation; or
 - (c) An animal to be held for confinement for observation or isolation.
- 10.2. The cost of impoundment shall be the responsibility of the Owner. It is unlawful for any person to refuse or neglect to surrender any animal subject to impoundment. At the direction of the Health Officer, any Lewis and Clark County Enforcement Officer shall seize and impound such animal at the Owner's expense.
- 10.3. Animals impounded under this regulation shall be released to the Owner at the end of the confinement for observation period, as determined by the Health Officer. The

Owner shall be required to pay any impoundment costs, including veterinarian evaluation or treatment and vaccination, prior to release of the animal. If an impounded animal is not claimed by its Owner and fees and costs paid within 72 hours of the end of the confinement for observation or investigation period, the Owner forfeits all rights, title and interest thereto to Lewis and Clark Humane Society and the animal is subject to adoption in accordance with the Lewis and Clark Humane Society policies and procedures.

11 WILD ANIMALS


This section shall be administered in conjunction with the Montana Department of Public Health and Human Services and the Montana Department of Livestock. Where this Section of the regulation conflicts with the application of the Montana Code Annotated or the Administrative Rules of Montana, the Montana Code Annotated and/or the Administrative Rules of Montana shall prevail.

- 11.1. If a wild animal has bitten or otherwise exposed a person to the possibility of contracting rabies, the animal may be destroyed and the animal's head sent to the Montana Department of Livestock's diagnostic laboratory for rabies testing.

12 PENALTIES FOR VIOLATIONS

- 12.1. A person who does not comply with these rules adopted by the Board is guilty of a misdemeanor. Upon conviction, the person shall be fined not less than \$10 or more than \$200. Mont. Code Ann. §50-2-124.
- 12.2. Each day of violation constitutes a separate offense. Mont. Code Ann. §50-2-124 (3).
- 12.3. Fines, except justice's court fines, must be paid to the county treasurer. Mont. Code Ann. § 50-2-124 (4).


LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH



Jim Benish, Chair

03/28/2019

Date



Drenda Niemann, Health Officer
Lewis & Clark Public Health

3/28/19

Date

Section 12

Health Department Program Summaries



Program Summaries 2022

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The mission of the Lewis and Clark Public Health is to improve and protect the health of all Lewis and Clark County residents.

COMMUNITY HEALTH PROMOTION

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The Community Health Promotion Division is responsible for promoting and providing a variety of programs and services for the benefit of residents of Lewis and Clark County and surrounding counties. Division staff focuses on pregnancy and parenting support, WIC supplemental nutrition, and chronic disease prevention.

HEALTHY FAMILIES HOME VISITING

The Healthy Families Home Visiting team provides voluntary, preventive in-home services to pregnant women and families with young children. The Healthy Families Home Visiting team is made up of trained professionals in the areas of nursing, education, social work, and psychology. The goal is to provide support, screening, education, community referrals, and advocacy to improve physical, cognitive, and emotional health outcomes for children, parents, and caregivers, utilizing multiple evidence-based programs. Parents as Teachers (PAT) is an evidence-based home visiting model which teaches parents about developmental milestones and increases family literacy. PAT serves families with children up to age five. Nurse-Family Partnership (NFP) serves first time, pregnant women who may have high risk factors and serves families with children up to age two. The Montana Asthma Program assists individuals with a primary diagnosis of asthma and are having trouble controlling symptoms. This program focuses on children but can serve individuals at any age. The home visiting team also provides Circle of Security Parenting education classes and parent support groups are available to anyone in our community and focuses on developing specific relationship capacities. The 7 Generations program serves the caregivers, children under 3, and incarcerated parents at the Lewis and Clark Detention Center (LCDC). This is a long-term collaboration between LCPH and LCDC to reduce intergenerational incarceration. A Home Visiting Nurse from the team leads the county's Fetal, Infant, Child, Maternal Mortality review team (FICMMR).

WIC

The Supplemental Nutrition program for Women, Infants, and Children (WIC) provides health and nutrition assessment and education. The program serves pregnant and breastfeeding women, infants and children to age five. Supplemental food specific to individual nutritional issues is provided through vouchers redeemable at grocery stores. Eligibility is determined by nutritional assessment and income. WIC is one of the primary referral sources to many other social service and health programs in the department and in the community. The program sees an average of 1000 participants a month, and works closely with the Home

Visiting Program to provide comprehensive nutrition education and breastfeeding support to families in Lewis and Clark County. WIC brings almost \$1 million dollars to Lewis and Clark County annually through redeemed WIC checks. WIC includes two special projects: Farmers' Market Program, which encourages families to purchase locally grown fruits and vegetables at the Farmers' Market and Peer Counseling for breastfeeding support.

COMPREHENSIVE CANCER CONTROL

Comprehensive Cancer Control staff provides public education, community outreach and cancer screening services to residents of Lewis and Clark, Broadwater, Jefferson, and Meagher counties. The program implements evidence-based interventions to prevent cancer and increase cancer-screening rates in the region. The screening services target under/uninsured men and women ages 21-64 who meet financial eligibility guidelines. Payment for breast and cervical cancer screenings is available through the program. Case management and patient navigation services are available for women in the program who are diagnosed with breast or cervical cancer. Patient navigation is also available to women who meet eligibility requirements but do not need their screenings paid for. Community funding from United Way supplement and make available services for people in need who do not meet program eligibility requirements. Additionally, staff provides technical assistance to worksites as they assess, plan, implement, and evaluate comprehensive worksite wellness initiatives. The health department facilitates the Healthy Communities Coalition, which brings together community partners to address chronic disease impacts and plan evidence-based strategies to address the identified need, including cancer prevention.

CONNECT REFERRAL SYSTEM

CONNECT is a bidirectional referral network that allows client contact information to be sent between service providers. The secure web-based system is available at no cost to approved organizations that make client referrals. The goal of CONNECT is to reduce common barriers for external referrals and increase client uptake in services. CONNECT is for social service agencies, schools, medical providers, mental health providers, and anyone offering a necessary support service to families, children, or adults. Staff is responsible for recruiting and training new agencies and providing technical assistance to system users.

BEHAVIORAL HEALTH SYSTEMS IMPROVEMENT

The Behavioral Health Systems Improvement Specialist is the County point of contact for behavioral health, and is responsible for the aspects of the Community Health Improvement Plan that relate to the topic. Staff works with key partners to create crisis and continuum of care design, implementation, and evaluation of strategies and best practices to improve the capacity and performance of the local behavioral health systems. Staff coordinates the Behavioral Health Systems Improvement Leadership Team and the Lewis and Clark County Local Advisory Council.

SUICIDE PREVENTION PROGRAM

The Suicide Prevention Program at Lewis and Clark Public Health serves to reduce suicide in Lewis and Clark County through community empowerment and multi-sector collaboration. Because suicide is a complex issue, the program follows a multi-pronged, evidence-based approach to address these unnecessary deaths through prevention, intervention, and postvention. Strategies include community and workforce education, means reduction, cultural competency, and support for loss survivors. It also focuses on higher-risk populations, including service members, veterans and their families, LGBTQ, youth, and seniors. Funded by a three-year Mental Health Awareness Grant from the Substance Abuse and Mental Health Services Administration, the Suicide Prevention Program is overseen by a suicide prevention coordinator/ health educator. This position facilitates the Lewis and Clark Suicide Prevention

Coalition, organizes awareness events, and collaborates with stakeholders to identify, adopt and implement best practice models at the local level.

SAFER COMMUNITIES MONTANA

Staff leads and participate in the work of Safer Communities Montana (SCM). SCM advocates for suicide prevention in Lewis and Clark County through collaboration with the firearm and pharmaceutical communities to reduce means access by people at-risk. SCM does so by providing appropriate suicide prevention tools and training to pharmacies, firearm-related businesses, health providers, and community members. We strive to create a community that is more aware, educated, and understanding of how to protect an at-risk customer, patient or loved one from accessing lethal means to attempt suicide.

TOBACCO USE PREVENTION PROGRAM

The Lewis & Clark County Tobacco Use Prevention Program serves both Lewis & Clark and Broadwater counties to raise community awareness about the harmful health effects of tobacco. Staff works to reduce tobacco use and exposure to secondhand smoke among youth and adults, develop and implement tobacco prevention policies, decrease the promotion of tobacco products, and link people who want to quit using tobacco to cessation services. The program partners with the community, working with area schools to enhance tobacco control policies, tobacco prevention education, and youth advocacy activities, and collaborating with health groups, prevention organizations, and citizens to reduce the burden of tobacco-related disease and preventable death in our community. The health department leads the Healthy Communities Coalition, which brings together community partners to address chronic disease impacts and plan evidence-based strategies to address the identified need, including tobacco prevention.

DISEASE CONTROL AND PREVENTION DIVISION

Laurel Riek - Division Administrator
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The purpose of the Disease Control and Prevention Division is to protect the public from communicable disease, provide immunizations to people of all ages, provide rural school nursing, inspect restaurants and other licensed facilities, and prepare the health department for emergency response.

COMMUNICABLE DISEASE CONTROL & SURVEILLANCE

Communicable disease has the potential to affect every county resident. The most susceptible people are those who are unimmunized or under-immunized, those with weakened immune systems, and those whose work or leisure activities put them at risk for disease.

Public health nurses investigate reports of communicable disease received from medical care providers, hospitals, and laboratories. Environmental Health Specialists investigate illnesses that may have been caused by contaminated food, water or by infected insects. Disease investigation helps prevent the spread of communicable disease. Communicable disease staff conduct walk in immunization clinics. They also do tuberculosis case control; HIV/AIDS testing, counseling, and prevention education; rural public health nursing; child care immunization record assessment, and communicable disease surveillance.

DENTAL SCREENING

A public health nurse coordinates a countywide screening program that uses school nurses, dental hygienists and dentists to screen elementary school children (grades 3 and 4) for dental decay. The local dental society arranges to assess children who are unable to pay for needed treatment. Children are seen in local dentists'

offices and at the Cooperative Health Center (CHC) Dental Clinic. The dental hygienists and school nurses provide dental education for children in grades one and five.

EMERGENCY PREPAREDNESS

The purpose of the health department's emergency preparedness program is to improve the department's ability to respond to threats to public health. Staff's work includes improving surveillance of communicable diseases; updating emergency response plans; improving emergency communications capability; and conducting preparedness exercises.

HIV/AIDS COUNSELING AND TESTING SERVICES

HIV/AIDS prevention services include anonymous testing and counseling, and primary prevention activities such as peer education and outreach to high-risk, hard-to-reach target populations. Public health nurses do partner notification work for all HIV positive individuals.

IMMUNIZATIONS

Nurses provide immunizations for people of all ages; assess records for families, schools and day cares; and educate the public about immunizations. Immunization clinics are held at the health department every Monday, Wednesday, and Friday from 11am to 4:30 p.m. Off-site clinics are provided for seasonal influenza immunizations.

LICENSED ESTABLISHMENT INSPECTION

The purpose of the licensed establishment program is to prevent communicable diseases from food, insects, and unsanitary conditions, to ensure compliance with state rules for licensed establishments, and to provide education to the community.

Environmental Health Specialists inspect hotels, motels, bed and breakfast facilities, public swimming pools and spas, campgrounds and trailer courts, daycares, and group homes. Food establishment inspection includes Farmers Market, mobile food units, and short term events. They concentrate on food facilities because of the large number of people potentially at risk. Food establishment inspections include observing preparation and storage procedures, monitoring food temperatures, seeking potential sources of cross-contamination, observing hygienic practices of employees, and reviewing the general sanitation and maintenance of the establishment.

RURAL PUBLIC HEALTH NURSING & RURAL SCHOOL NURSING

A part-time public health nurse from Augusta covers the Augusta area. She manages communicable disease, maternal childcare, provides immunizations, adult care information, first aid, and community education. She is also a liaison between Augusta residents and the Cooperative Health Center (CHC).

Once a month during the school year, a public health nurse travels to Wolf Creek Lincoln, and Canyon Creek schools to provide school nurse services. School nursing includes:

- health lessons,
- screening and referral for vision, hearing, dental, and scoliosis
- assessing student health concerns
- assessing immunization records

SEXUALLY TRANSMITTED DISEASES

Public health nurses investigate and act to control the spread of all reported cases of sexually transmitted diseases in the county

HIV PREVENTION SERVICES

HIV/AIDS prevention services include: anonymous testing and counseling; primary prevention activities such as peer education and outreach to high risk hard to reach target populations..

TUBERCULOSIS CONTROL

Public Health nurses administer TB screening tests, refer clients with positive skin tests for medical workup, and manage preventive/curative medications for clients with infection or disease. They also manage follow-up of TB cases in the county and provide education about TB for clients, their families, and community groups.

ENVIRONMENTAL SERVICES DIVISION

Kathy Moore - Division Administrator

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The Environmental Services Division protects public health by making sure the air, soil, and water are not contaminated with pollutants that endanger human health. The division concerns itself with on-site wastewater, subdivision review, air and water quality, animal control, community decay enforcement, junk vehicles, and East Helena lead education.

AIR QUALITY

The health department contracts with the Montana Department of Environmental Quality (DEQ) to monitor and control air quality. An air quality monitor is located at Rossiter School in the Helena valley, and is run every third day throughout the year. In addition, under this contract, sanitarians enforce the Outdoor Air Quality Regulations. These regulations control the types of fuels that can be burned, the opacity or density of the smoke emanating from chimneys and they restrict burn on poor air quality days.

EAST HELENA LEAD EDUCATION AND ASSESSMENT PROGRAM (LEAP)

The goal of the program is to protect public and environmental health, and to protect the cleanup activities that that occurred. LEAP provides lead education to the community, facilitates blood lead screening for all residents and regulates the movement and use of potentially contaminated soil through the East Helena Soils Regulation. Program staff maintains soil, dust, and water sampling data collected in the East Helena area during residential environmental assessments and through the larger soils removal program run by US EPA.

Childhood blood lead levels have been dropping for the past 20 years in East Helena, according to Lewis & Clark Public Health in-house studies. The drop can be attributed to many factors, including the removal of lead from gasoline and paint, the closing of the Asarco smelter, and the remediation of approximately 1500 residential yards and community facilities. Based on current available data, blood levels of children in East Helena is lower than the national average. Regulations were recently adopted to govern the displacement and disposal of soils within the East Helena Superfund Area, in order to protect cleanup efforts and preserve public health. The program oversees implementation of the regulations.

JUNK VEHICLES

The health department contracts with the Montana Department of Environmental Quality (DEQ) to administer the junk vehicle program. Sanitarians enforce state law, which requires vehicles that are unlicensed, substantially wrecked and inoperable, to be removed, shielded from public view, or licensed. A variable number of vehicles are hauled each year as a free service under this program. The number hauled is highly dependent on the market value of metal. When metal prices are up, people tend to haul their own

junk vehicles. The program is also responsible for annual inspections of the licensed vehicle wrecking facilities as well as complaints regarding unlicensed facilities.

ON-SITE WASTEWATER

The Environmental Services Division protects public health and controls environmental pollution by regulating treatment and disposal of wastewater in Lewis and Clark County. Activities include site evaluation, permitting and inspection of new wastewater treatment systems, as well as investigation of complaints and enforcement of the on-site wastewater treatment regulations. The program also includes a maintenance program that requires wastewater system owners to perform maintenance activities every 3-5 years.

SUBDIVISION REVIEW

The health department contracts with the Montana Department of Environmental Quality (DEQ) to review minor subdivisions proposed in the county. A minor subdivision is defined as a division of land creative five or fewer lots that are less than 20 acres in size. Subdivision review ensures that an adequate supply of potable water is available, along with proper wastewater treatment and solid waste disposal facilities. It is integrated into the on-site wastewater treatment and permitting program.

WATER QUALITY PROTECTION DISTRICT (WQPD)

The WQPD was created in July 1992 to preserve, protect, and improve water quality within district boundaries. This goal is accomplished by protecting and reducing the risk of contamination to surface and groundwater supplies. Projects and programs of the District include: Water Watchers education program for fourth and fifth graders; water quality sampling and monitoring; outreach; public education; protection of Tenmile Creek, Silver Creek and Prickly Pear-Lake Helena Watershed; assessment of groundwater resources within district boundaries.

COMMUNICATIONS & SYSTEM IMPROVEMENT

Damian Boudreau

Communications & System Improvement Manager

(406) 457-8908, dboudreau@lccountymt.gov

COMMUNICATIONS

The communications manager focuses on media relations and dissemination of public information through a variety of channels. This position writes and distributes news releases, columns, editorials, and letters to the editor. It also writes and designs a staff newsletter, weekly health news digests, brochures, posters, and other promotional materials for the agency. This position maintains the agency's website and social media accounts (Facebook, Twitter, Instagram, Snapchat) account. This position also provides guidance related to messaging and dissemination of public information.

SYSTEM IMPROVEMENT

This position serves as accreditation coordinator for the agency with the Public Health Accreditation Board (PHAB). It facilitates meetings of the agency's Accreditation Work Group and provides resources needed for accreditation. It also collects, analyzes, and compiles the Community Health Assessment and helps to facilitate quality improvement in the agency and an ongoing community health improvement process.

The mission of the Lewis and Clark Public Health is to improve and protect the health of all Lewis and Clark County residents.

Section 13

Public Health All Hazard Annex



Lewis & Clark
Public Health

Public Health All-Hazard Annex

To the Lewis & Clark County
Emergency Operations Plan

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Record of Changes

<u>Changes Made</u>	<u>Changed By</u>	<u>Date of Change</u>
Updated phone numbers and department info, duty officer info	Brett Lloyd	August 3, 2018
Updated phone numbers and department info, duty officer info	Brett Lloyd	June 1, 2021

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1.0 Introduction

1.1 Purpose

The purpose of the LCPH All Hazard Annex is to identify procedures and considerations for the LCPH Divisions and staff during emergencies or disasters. It is not intended to define Standard Operating Procedures/Guidelines (SOP/SOG), but to provide a framework for operations involving or managed by LCPH personnel.

1.2 Scope

This plan establishes provision of public health services during emergency situations. Hazards that are addressed in this plan include floods, earthquakes, natural disasters, and communicable disease outbreaks that result in a public health emergency. It specifically addresses the following:

1. Response to communicable disease outbreaks in Lewis and Clark County
 - a. An outbreak of epidemic proportions may create a need for additional medical resources, morgue facilities, epidemiological investigations and control measures to prevent the further incidence of disease. Plans already exist for some of these responsibilities and will not be addressed here. They are listed below:
 - i. The **Lewis & Clark County Emergency Operations Plan** identifies strategies for coordinated emergency response by medical organizations, coroner, and private or volunteer organizations.
 - ii. The **Lewis & Clark County Emergency Operations Plan ESF #6 and ESF #8** annexes provide a mechanism for Ambulance Services to respond to a mass casualty incident.
 - iii. The **Lewis & Clark County Emergency Operations Plan** also addresses morgue, identification and notification procedures for disaster situations.
 - iv. The **American Red Cross** is chartered by Congress to provide mental health services after a disaster. The local Red Cross Chapter will implement crisis-counseling procedures for victims, response personnel and their families.
 1. The ARC maintains a list of providers to be contacted when needed.
 2. When the crisis has gone beyond local resources, the DES critical incident stress management (CISM) team can be called in for assistance.
2. Equipment failure or a disaster or emergency that causes the facility to be unusable requires relocation for re-establishment of essential functions. The Health Officer or designee has the authority to order relocation.

1.3 Policies

- The Health Department is responsible for developing emergency public health services plans and operating within the legal authority delegated to the County Board of Health.
- The Board of County Commissioners has adopted NIMS (National Incident Management System) for emergency response and management.

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- The Lewis & Clark City-County Board of Health has established the National Incident Management System as the standard for incident management.
- The Lewis and Clark City-County Health Officer or his/her designee will be responsible for the direction and control of public health activities. When a public health emergency escalates to EOC activation, the Health officer may need to participate in a Unified Command System.

2.0 Situation & Assumptions

2.1 Situation

- Lewis & Clark County is vulnerable to a host of natural, man-made, and technological hazards.
- These hazards could result in mass casualties or fatalities, disruption of food and/or water distribution and utility services, the loss of water supply, wastewater, and solid waste disposal services, and other situations that could create potential public health hazards or serious health risks.
- One of the primary concerns of public health officials is disease control. This involves the prevention, detection and control of disease causing agents, maintaining safe water, and food sources, and continuation of wastewater disposal under disaster conditions.
- Lewis & Clark County does not have large scale morgue storage capabilities.
- The County's response during incidents, emergencies, or disasters is based on the availability of resources. If the response requirements go beyond local capabilities, mutual aid, state, and/or federal assistance will be requested.
- The Commissioners have the authority to declare a State of Emergency within their jurisdictions and the responsibility to request a state or federal declaration if appropriate. *Requests for State or Federal assistance must go through the DES Coordinator.*
- The County Health Officer has broad authority over matters of public health to include air and water quality concerns, food supplies, wastewater systems, and disease prevention, and control measures.

2.2 Assumptions

- Emergencies and disasters may occur without warning at any time of day or night, and may cause a public health emergency.
- Emergency operation of public health services should be an extension of normal duties.
- Public health resources located in Lewis & Clark County will be available for use during emergency situations; however, these resources may be adversely impacted by the emergency.
- Damage to facilities that use or store hazardous materials, sewer lines and water distribution systems, and secondary hazards such as fires could result in toxic environmental and public health hazards that pose a threat to response personnel and the general public. This includes exposure to hazardous chemicals, biological and/or radiological substances, contaminated water supplies, crops, livestock, and food products.
- It is necessary that the health department be prepared to carry out disaster response on an independent basis. It is likely that outside assistance will be available in most major disaster situations within 72 hours of the event.
- The public may require guidance on how to avoid health hazards caused by the disaster or arising from its effects.
- Some types of emergency situations, like floods, may affect a large proportion of our county, making it difficult to obtain mutual aid from the usual sources.

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- Demand for resources may be critical.
- A lack of coordination between response personnel from local, regional, state and federal agencies will impede adequate emergency management.
- Volunteers may help perform essential tasks; their efforts must be anticipated and coordinated.

3.0 Concept of Operations

3.1 General

LCPH will attempt to mitigate as many public health emergencies as possible through consistent and proven activities such as:

- Prevent and Control Communicable Disease by:
 - Surveillance as described in the Lewis and Clark Public Health Communicable Disease Investigation and Surveillance Protocol including case investigations .
 - Activities to raise and sustain vaccine coverage in all populations.
 - Conduct routine immunization clinics.
 - Maintain immunization registry.
 - Facilitate awareness activities, immunization campaigns and education opportunities
- Risk-based inspections of all food service establishments.
- Enforce sewage and solid waste disposal local and state regulations. Certify septic system installers and license septic system pumpers.
- Provide education and/or training for LCPH staff on:
 - Basic emergency response – naturally occurring disasters and terrorism; including response to situations involving wastewater and refuse disposal, food, air, and water monitoring, vector control, and the provision of minimum quantities of safe drinking water during emergency conditions.
 - Surveillance and investigation procedures for communicable diseases;
 - Prevention of communicable disease outbreaks
 - Mass prophylaxis strategies
 - Risk Communication
 - Isolation and Quarantine Protocols
 - Continuity of Operations (COOP)

Should a public health emergency occur however, emergency operation of public health services will be mainly an extension of normal duties. This involves:

- 1) Detection and control of disease-causing agents by:
 - a. Disease surveillance and investigation;
 - b. Emergency Medical Countermeasures
 - c. Quarantine and isolation; and
 - d. Activation of the Strategic National Stockpile (SNS).
- 2) Maintaining a safe water sources.
- 3) Maintaining a safe food supply.
- 4) Proper treatment and disposal of waste.

- 5) Monitoring air quality and issuing public advisories.
- 6) Coordination of laboratory activities regarding examination of food, water, air and processing of human samples for diagnostic tests;
- 7) Precautions for preventing transmission of disease from the deceased.
- 8) Implementing the Lewis and Clark County [Communicable Disease Investigation & Surveillance Protocol](#)
- 9) Sources for emergency medical supplies;
- 10) Providing public information and education
- 11) Maintaining access to support for public health services 24 hours /day.

Depending on the size and scope of the incident, most public health operations will likely be conducted “on-site” under an ICS structure while the County Emergency Operations Center (EOC) may serve as the central location for health and medical interagency coordination, information sharing and management, and executive decision-making. *(For more information, see the Lewis & Clark County EOP, ESF 8: Public Health & Medical Annex).*

3.2 Notification

Access to Lewis and Clark Public Health 24 hours a day 7 days a week is via answering service at [406-523-5564](tel:406-523-5564).

The LCPH management team shares the “24/7 phone” coverage. Contact information for access to 24 hour emergency support is included in the resources kit that accompanies the phone.

Internal Notification

Health Department Staff will be notified of a public health emergency by the following:

1. During work hours by briefings, telephone or e-mail.
2. During off hours by:
 - A. Telephone / Cell Phone / Text Messaging
 - 1) Staff telephone numbers and *24/7 Response Guidelines* are available in the *Public Health Emergency Management Manual* and the *24/7 Resource Manual* carried by the management member on call
 - 2) Call tree for management to supervisors to staff
 - 3) Internet/intranet notices
 - 4) Central phone with message for staff – a dedicated staff hotline may be implemented during an emergency. **The hotline number is 457-8911.** This hotline will be administered by the Public Information Officer, Communicable Disease Control Supervisor, and/or the Emergency Preparedness Coordinator. Instructions to set up the dedicated staff hotline are:
 - Call Voicemail *****NOTE*** To call voicemail while not at your office phone, dial 457-8500.**
 - Press # to select mailbox

- Enter **500**
- Press **1** to continue
- Log in with your user ID and PIN
- Extension of Call Handler (**8911**)
- Press **2** to Change Standard Greeting

B. Public Broadcast System request for staff to return to work.

3. A staging area may be designated for staff and volunteers to wait for additional instruction.

External Notifications

Local

1. 911 for emergencies and to request law enforcement, fire, hazmat, EMS support

- a) *Non Emergency Dispatch Contact #:* **442-7883**. To provide information for protection of first responders or if there is suspicion the incident may be an intentional event.
 - b) Dispatch fax numbers can be found on broadcast fax system under “fire” and “law enforcement”.
2. **Health Alert Network (HAN)**: Disseminate pertinent information through the *HAN* to appropriate partners for the event, including medical care providers, nursing homes, assisted living homes, coroner, veterinarians, day care providers and/or licensed establishment owners.
- a) Refer to the [HAN Protocol](#) or the [Communicable Disease Investigation & Surveillance Protocol](#) for more information.
3. Inform Board of County Commissioners (**447-8304**) and DES Coordinator (**447-8285**) of emerging event. (*after hours, have 911 dispatch (442-7883) make these contacts).
4. Inform neighboring health departments as needed for regional response. (A master list of local health departments is found in the 24/7 Resource Bag or [online at MTDPHHS](#)).
5. For legal advice and support for legal action, contact the County Attorney’s Office at **447-8221**.

State

1. **Montana DPHHS CDEpi** 24 hour hotline at **444-0273** as appropriate for communicable disease and epidemiology;
2. Montana Public Health Laboratory 24/7# **800-821-7284** for
 - a) laboratory testing of human and environmental specimens
 - b) specimen collection and transport instructions
3. Notify MT DPHHS Duty Officer at **461-2042** for all other after hours situations.

Emergency Public Information & Warning

1. Emergency public information and warning will be coordinated in accordance with the LCPH *Emergency Risk Communications (ERC) Plan*, which is an appendix to this All Hazards Annex.
2. The LCPH Public Information Officer (PIO) will be responsible for implementing the ERC Plan. The PIO responds to all media inquiries and coordinates the release of information to the public on behalf of LCPH. The ERC Plan also helps prepare the department PIO to implement ERC activities.
3. Dedicated telephone lines will be established to meet the demand for information from the public as described in the *Hotline Protocol*. The *Hotline Protocol* is an appendix to the *Emergency Risk Communication Plan*.
4. The Sheriff or County DES Coordinator can activate the county's warning systems to issue a public alert.

Emergency Alert System (EAS): The EAS is designed to provide 24 hour warning capability through TV and radio to the public for emergencies and disasters. The EAS system is activated by the County DES Coordinator, Sheriff or their designee.

Target Notification: provides the ability to mass notify residents in a specific area through their registered phone number.

5. Communication assistance:
 - a) People with skills in sign language and foreign languages are working at Carroll College, the Career Training Institute, Adult Learning Center, High Schools, and Middle Schools.
 - b) An interpreter can be reached by phone at **888-808-9008**, Pin # 75036393.

3.3 Activation

The Health Officer and the Division Administrators have authority to implement the *Public Health All Hazards Annex*.

Circumstances that trigger the use of the All Hazards Annex:

- When a response requires reassignment of staff for an extended period of time
- Routine services are suspended
- Frontline staff can't keep up with the calls for information on a specific topic
- Single case of unusual disease
 - Naturally-occurring diseases of highest concern are listed in red on the disease reporting chart (Surveillance protocol)
 - Agents of highest concern for biological attack are identified in the Surveillance protocol
- Unusual number of usual diseases

Activation of the County Emergency Operations Center and Declaration of an Emergency or Disaster

Activation of the EOC may be requested from the County DES Coordinator when

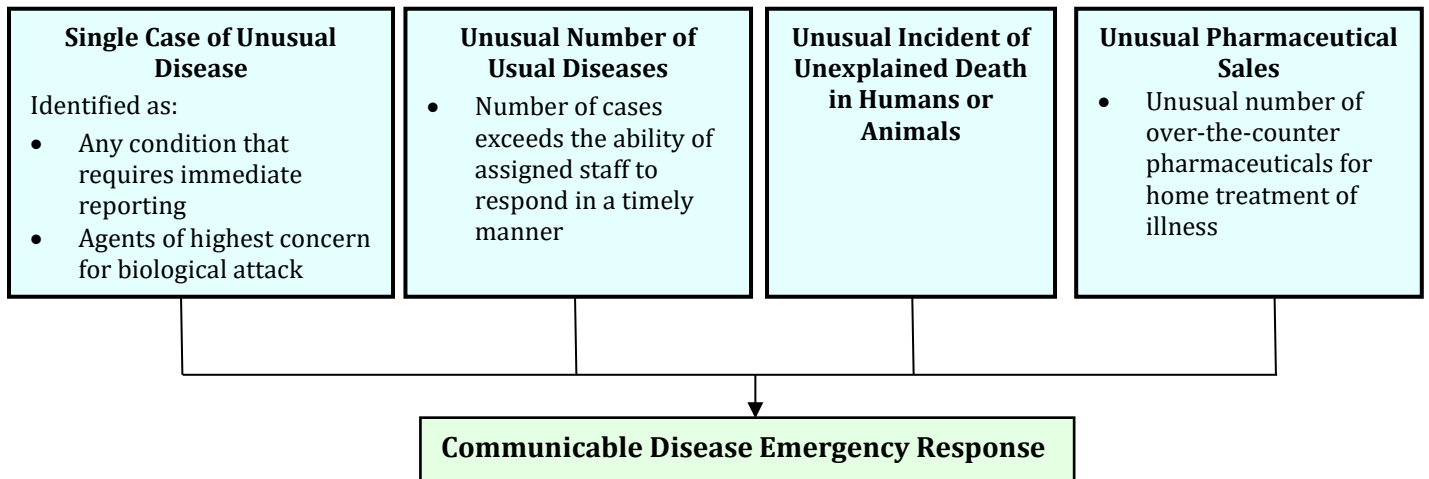
- a) Demand for services exceeds the capacity of the health department to respond
- b) Additional telephone lines are needed to respond to public requests for information.

Declaration of an Emergency along with activation of the EOC may be requested when:

- a) Resources are required from outside our agency;
- b) Time required to respond will be extensive;
- c) Response requires closure of public events or public buildings;

3.4 Direction & Control

The Health Department Incident Command Post (ICP) will be activated when emergency response requires reassignment of department staff and routine services are suspended. *See the following trigger points.*



The Incident Command Post will be located as needed for management of the event and as ordered by the Health Officer or designee. Sites can include:

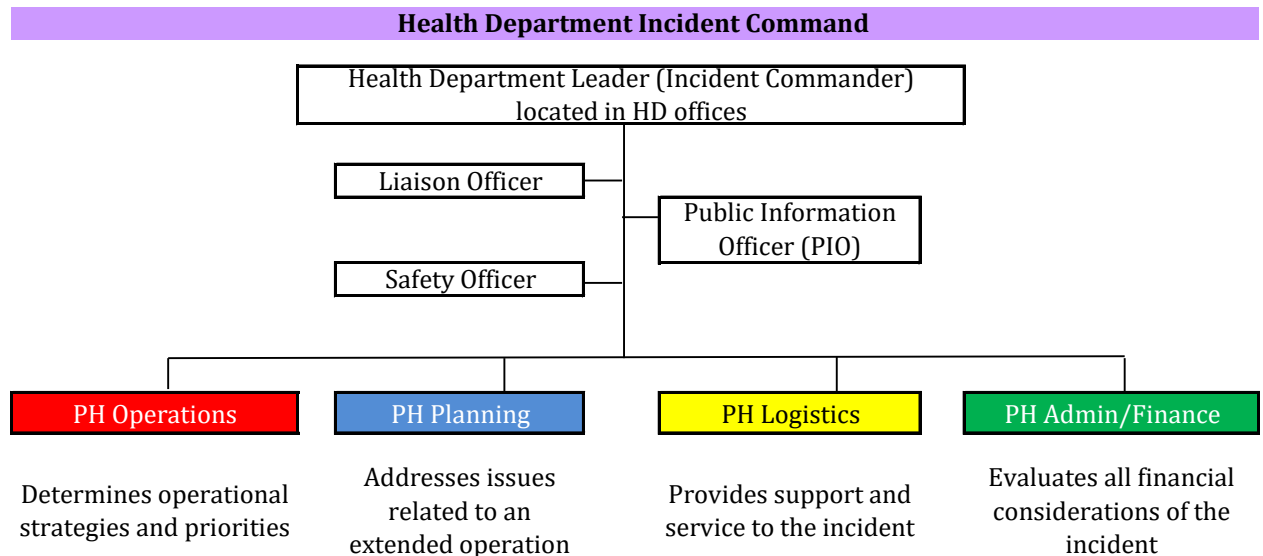
- Basement of the County Michael A. Murray Building
- Lewis & Clark City-County Building
- East Helena Lead Abatement Office
- Lincoln office
- Augusta office

The incident commander will notify emergency dispatch of the following:

- a) Nature of the emergency;
- b) Where the command post is located;
- c) Who the incident commander is; and
- d) Contact telephone numbers.

Lewis & Clark Public Health All Hazards Annex

The HD Incident Command Post Management flow chart and position descriptions are located in the HD flash drive carried in the 24/7 briefcase and in the table below.



The HD Incident Commander will designate staff to conduct the following activities:

- a) Tactical response (Operations)
- b) Collect, evaluate, analyze and use information about the development of the incident and the status of resources. (Planning)
- c) Organize facilities, services and materials to all organization components. (Logistics)
- d) Document all incident costs and evaluate the financial considerations of the incident. (Admin/finance)
- e) Act as the spokesperson for the department.
 - Briefing meetings should be conducted at least once per day
 - Community partners will be kept informed by using the Health Alert Network (HAN) and appropriate information sharing systems.
 - Public information messages will be coordinated as described in the *Emergency Risk Communications Plan*.

3.5 Information Management

Information Technology & Communications

- a) An unpublished telephone line **[457-1092]** has been assigned to accept calls from our external partners (physicians, clinics and other disease reporting partners).
- b) Computer assistance is available from Information Technology & Services at **447-8300**. Assistance for setting up laptop equipment, hooking into network, and establishing connection to printers is also available.

- c) A list of Information Systems available such as GIS, and established databases for emergency use is located in the department *Resource Manual*.
- d) The health department has a *broadcast fax* system available for use to disseminate information to our external partners. (See *Emergency Risk Communication Plan*.)
- e) The Lewis & Clark Emergency Operations Plan, ESF 2 describes procedures to activate the amateur radio emergency services (ARES) team. The operators can help serve as communication facilitators during an emergency.

3.6 Continuity of Operations (COOP)

A wide range of events, with or without warning, could disrupt ability to deliver services and impact the facilities, technology, and staff of the Lewis & Clark Public Health Department.

- **Event with Warning:** Evacuation orders are given in advance of an event that allows full execution of the *LCPH COOP Plan* with alert, notification and deployment of the Emergency Relocation Group
- **Event without Warning:** Ability to fully activate the *LCPH COOP Plan* will depend upon the nature of the event and the extent to which personnel, structures and equipment have been impacted.

In order to maintain “continuity of government” the Health Department lines of succession listed below will apply.

Succession Of Key Positions Within The Health Department				
1	2	3	4	5
Health Officer	CHP Div Admin	EHS Div Admin	CD Div Admin	
Finance Director	County Finance Director	HD Accounting Tech		
Communicable Disease Control Division Administrator	CD Supervisor	LE Program Manager	Senior Public Health Nurse	Senior Environmental Specialist
Community Health Promotion Division Administrator	Home Visiting Supervisor	MWCM Supervisor	Prevention Manager	
Environmental Services Division Administrator	Environmental Services Program Manager	Senior Sanitarian		
Medical Officer	State Medical Officer			

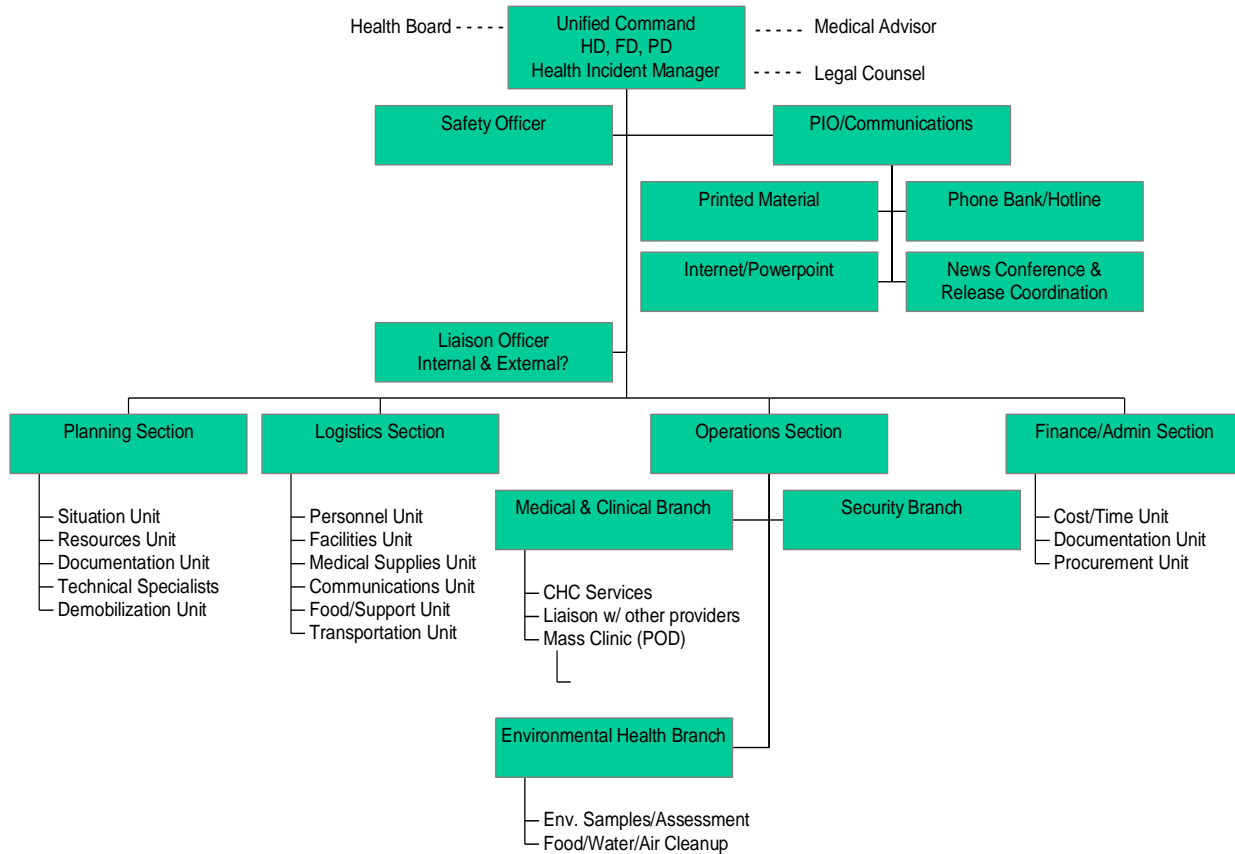
3.7 Recovery

“Recovery” is trying to get back to pre-incident conditions. Recovery planning and operations should begin when the response starts. LCPH leadership will assign staff to address recovery planning and activities as soon as possible depending on the needs of the incident and the availability of resources. Some common tasks in the recovery phase may include:

Lewis & Clark Public Health All Hazards Annex

- ❖ Monitor environmental and epidemiological systems.
 1. A communicable disease outbreak will be “under control” when 3 successive incubation periods have resulted in no new cases.
 - a. The Health Officer will release individuals from quarantine in accordance with the Quarantine Order.
 2. Crisis counseling for emergency response personnel will be provided by the American Red Cross as described in [section 1.2 1.iv.](#)
 3. Supplies that were taken from stockpiles during the emergency will be replaced before incident closure.
- ❖ Assist the Department of Environmental Quality (DEQ) in determining suitable sites and acceptable procedures/guidelines for the disposal of hazardous materials.
- ❖ Monitor public and private food supplies, water, sewage, and solid waste disposal systems.
- ❖ Continue to provide Public Information on sewage and waste control, food and water supplies, insect, rodent and disease control.
- ❖ Continue to utilize multiple means of communicating public information and education.
- ❖ Support emergency services staff and operations until the local system is self-sustaining maintain provision of long-term emergency environmental activities.
- ❖ Continue EOC operations until it is determined that EOC coordination is no longer necessary.
- ❖ Inform public of any follow-on recovery programs that may be available.
- ❖ Return staff, clients, and equipment to regularly assigned locations.
- ❖ Provide critical payroll and other financial information for cost recovery through appropriate channels.
- ❖ Participate in after action critiques and reports.
- ❖ Updates plans and procedures/guidelines based on critiques and lessons learned during an actual event.
- ❖ Initiate financial reimbursement process for support services.

4.0 Organization & Responsibilities



4.1 Communicable Disease Emergency Response

- A. Recognition of a communicable disease emergency will be identified by:
 1. Disease surveillance as described in the Public Health Communicable Disease Surveillance Protocol.
- B. Communicable Disease Division staff will lead a Disease Response Team (“Epi-Team”) according to the Surveillance Protocol.
- C. The Communicable Disease Response Team will conduct a preliminary briefing for all pertinent partners (hospitals, laboratories, clinics, coroner, sheriff, city police, others as identified by the incident) for information sharing, coordination of action, and public information responsibilities. Community partners will be notified by the Health Alert Network.
- D. Controlling the Outbreak
 1. Conduct disease investigation
 - a) Implement highly active surveillance.
 - b) Implement Risk Communication plan.

- c) Implement *Isolation and Quarantine Protocol* when needed based on the communicable disease rules (ARM 37.114.101 to 1016), the *Control of Communicable Disease Manual* and the *CDC's Guidelines for Isolation Precautions in Hospitals*
 - d) The Health Officer can order closure of public events and buildings when continued operation would cause undue risk of disease under the authority of 50-2-118, MCA.
 - e) Implement **Respiratory Protection Program** for staff to prevent transmission of disease.
 - f) Monitor the **health status of workers** by requiring that every staff member and volunteer report any change in health status to their supervisor. Staff and volunteers will be referred to a medical provider for examination when needed.
 - g) Implement *Emergency Medical Countermeasures Plan* when appropriate.
2. Implement management practices for **medical waste** as required in Title 75, chapter 10, subchapter 10 for all isolated and quarantined individuals, field hospitals, and off-site medical facilities.
- a) Store infectious or potentially infectious medical wastes in red biohazard bags and place in hard plastic containers with a lid.
 - (1) Must be labeled biohazard.
 - b) Prevent access by unauthorized persons to the biohazard storage area.
 - c) Sharps will be collected at point-of-generation in a closeable, puncture-resistant, disposable container. The container must be leak-proof on the sides and bottom and labeled "biohazard" according to OSHA Standard.
 - (1) A hard plastic jug could be used as an emergency sharps container if properly labeled.
 - d) All red bags and sharps containers collected by health department activities will be placed in large biohazard-approved containers distributed by outside contractor for waste handling.
3. **Mass Patient Care**
- a) Rapid medical care on a large scale is addressed in Section II: Emergency Support Functions (ESF) 6 and 8 of the Lewis & Clark County EOP.
4. **Mass Fatality Management**
- a) The Lewis & Clark Emergency Operations Plan ESF 6 addresses mass fatalities.
 - b) When a communicable disease agent has been identified as the cause of mass fatalities, the health department will consult with DPHHS Communicable Disease Section for guidance on preventing disease transmission while handling the deceased and conducting individual funerals. That information will be disseminated to the coroner, health care providers, emergency responders, morticians, and the general public.

- c) Funerals for individuals that died of a reportable disease must be conducted according to instruction from the Health Officer. Any death from a disease that requires quarantine of contacts must be conducted with a closed casket and those that are quarantined must be segregated from the rest of those attending, unless the contacts have been determined by a local Health Officer to be incapable of transmitting the infection or disease which caused the death.
 - 1) Segregation may mean:
 - a. Alternative funeral sites for the quarantined;
 - b. Separation by time;
 - c. Personal Protective Equipment if appropriate to the disease; or
 - d. Other methods as deemed appropriate by the local Health Officer to prevent transmission of disease.

4.2 Environmental Health Response

A. Wastewater/Sewage Disposal

- 1. Provide public information and advisories on:
 - a) Areas where sewer breaks have occurred or where sewage is surfacing;
 - b) Restriction on flows when necessary;
 - c) Emergency home measures for use of closed containers and dump sites as needed.
- 2. Respond to emergency clean up, disposal, and decontamination of sewage-affected areas.
- 3. Resources available in the Environmental Health Division office, on-line and on a flash drive includes the following:
 - a) Certified Septic System Installers
 - b) Licensed Septic System Pumpers;
- 4. Resources available in Department Resource Manual:
 - a) Protocol for Sewage Management in Disasters;
 - b) Portable Toilet Suppliers;
 - c) Lime suppliers;
 - d) City Sewage Injector Trucks used for sludge disposal.

B. Water (Emergency Supplies/Monitoring)

- 1. Provide public information on:
 - a) Sources of safe drinking water during disaster conditions;
 - b) Public and/or private water supply boil orders;
 - c) Disinfection and testing procedures;
 - d) Availability of water;

- e) Notification of probable contamination; and
 - f) Recommendations for personal hygiene.
2. Facilities for distribution of emergency drinking water will be organized, ration points established and disinfection methods implemented.
 3. If there is a credible threat to a public water supply system and emergency sampling is required to identify an unknown contaminant, the Drinking Water Emergency Sampling (DWES) kit can be used. This cooler contains sample bottles for a single sampling location. The kit is located at **1930 9th Avenue** with another at the **Helena Water Treatment Plant**. Additional sampling bottles can be obtained from the Environmental Laboratory at DPHHS.
 4. Resources available in *Department Resource Manual*:
 - a) Protocol: Water Quality in Disasters;
 - b) Protocol: Drinking Water Emergency Sampling kit.
 - c) Water hauling/storage facilities;
 - d) Chlorine supplies;
 - e) Public Water Supplies in Lewis & Clark County - Available on-line DEQ Public Water Supply Section <http://www.deq.mt.gov/wqinfo/pws/reports.mcp>
 - f) Well disinfection procedures; and
 - g) Procedures for licensed facilities to follow when faced with contaminated wells.

C. Food Protection Responsibilities

1. Provide public information on
 - a) Emergency food safety procedures and sanitation practices in the home;
 - b) Salvaging damaged foods; and
 - c) Food embargoes.
2. Depending on the situation, the LCPH staff will work in affected areas to identify safe food sources, sanitation measures and emergency preparation procedures if traditional refrigeration and heating units are unavailable.
3. Montana Public Health Laboratory can supply support for any necessary food samples.
4. Conduct inspections of all disaster food suppliers including distribution points, shelters, transport vehicles and other food providers as identified in the Disaster Food Service Strategy.
5. Resources available in Department databases
 - a) Licensed facility lists
 - b) Email and fax address for licensed establishments
6. Resources available in Department Resource Manual:
 - a) Disaster Food Service Strategy

- b) Embargo Policy & Procedures, Voluntary Holding Agreement
- c) Guidelines For Evaluation And Disposition Of Damaged Food Containers
- d) Truck Wreck Response Guidelines
- e) Commercial suppliers of refrigeration and heating units
- f) Flood Clean-up Health Tips

D. Air Quality Responsibility

1. Provide Public Information on:
 - a) Air quality monitoring results
 - b) Public health protection strategies during poor air quality events
2. Depending on the disaster situation, LCPH will work with DEQ personnel (if available) to monitor airborne contaminants in the ambient air or in shelters following emergency episodes.
3. Resources available in Department Resource Manual:
 - a) Lists of equipment for air quality monitoring;
 - b) State and Federal phone numbers;
 - c) Lewis and Clark County Air Quality Ordinance;
 - d) Guidelines for Air Quality Emergencies with high particulate levels.

E. Solid Waste/Vector Control Activities

1. Public information will be disseminated as needed on:
 - a) Emergency home waste disposal;
 - b) Avoidance of areas where there may be dead bodies;
 - c) Areas that may have hazardous waste spills;
 - d) Availability of pesticides and insecticides; and
 - e) Waste disposal sites.
2. Monitor emergency solid waste measures to prevent the spread of disease and attraction of insects or rodents.
3. Coordinate with landfill operators for disposal of putrescible wastes, which will include evaluation of alternative disposal sites.
4. Construction debris will be managed by Helena and East Helena City Public Works and the County Public Works offices in accordance with the Debris Management Plan and Annex to the County Emergency Operations Plan.
5. Coordinate with the county coroner for burial sites for bodies. The Lewis & Clark County Emergency Operations Plan contains emergency plans for storage and burial.
6. Vector control resources include:
 - a) Department of Agriculture entomologist

- b) MSU Extension Service Office
 - 1) Mosquito Control District
 - 2) Lewis & Clark County Weed Control District
- 7. Resources Available in Department Resource Manual:
 - a) SCS Soil Surveys and USGS Mapping to identify best areas for emergency disposal or burial located in Environmental Health Office;
 - b) Solid Waste Districts; and
 - c) State resource phone numbers.
 - d) Matrix for Authorities and Responsibilities of Agencies for Animal concerns which includes:
 - 1) Department of Livestock – Brands, for identifying ownership
 - 2) Humane Society – for taking care of displaced animals
 - 3) Fish, Wildlife and Parks
 - 4) City & County Animal Control
 - 5) Public Health Department

5.0 Administration, Finance & Logistics

5.1 Augmentation of Resources

When public health emergency situations stretch local resources beyond local capacities, additional resources may be requested from:

A. Staff Reassignment

- The Health Officer authorizes staff reassignments.
- Division Administrators request additional staff from the Health Officer.
 - Each LCPH division is responsible for providing the necessary administrative support for their personnel during disaster operations.
- Staff reassignment would typically happen in a response planning meeting.
- The division that sends staff is responsible for suspending normal operations as necessary.
- The requesting division provides incoming staff with job duties and training.

B. Temporary staff call out

- Division Administrators have the authority to call in seasonal or short term employees to meet a surge in demand for services.
- The call out list is at <H:\Clinic Shares\Emergency Preparedness\Resources\surge capacity>

**Note:* Each division is responsible for maintaining adequate records of personnel costs. Extra costs, such as overtime for both personnel and equipment, must be documented. If reimbursement is requested from either from the State Emergency and Disaster fund or the Federal Government because of a Presidential Major Disaster Declaration, these records are required.

C. Volunteers

- 1) Montana Healthcare Mutual Aid System (MHMAS) –The Emergency Preparedness Coordinator is authorized to use MHMAS to call for volunteers.
- 2) The Lewis & Clark County EOC
- 3) Activation of MCPHEP Mutual Aid Agreement with neighboring Public Health Departments.
 - The agreement is at H:\Clinic_Shares\Emergency Preparedness\Resources\surge capacity
- 4) Volunteers may assist in:
 - Disease Outbreak Investigation;
 - Quarantine Supervision;
 - Immunization Clinics;
 - Distribution of Emergency Medical Countermeasures.
- 5) Spontaneous Community Volunteers
 - The local chapter of the ARC is charged with coordinating all volunteers as referenced in the ESF # 6 and Section III, Support Annex 4 of the Lewis and Clark County EOP.
 - The ARC will identify community volunteers with medical and health skills. All volunteers will be:

1. Registered
2. Credentialed

D. State Agency(s)

- 1) State agencies may provide assistance, as able, for public health services, environmental health, incident, resource, and public information management and more.
- 2) Requests for State agency assistance go through the County DES coordinator as authorized by the Health Officer.
- 3) Some agencies that may assist include:
 - Montana Department of Public Health & Human Services (DPHHS)
 - Montana Department of Environmental Quality (DEQ)
 - Montana Disaster & Emergency Services (DES)
 - Montana Department of Natural Resources (DNRC)

5.2 Laboratory Support Services

The Specimen Transport plan is a functional annex to the All Hazards Annex. The purpose of the Specimen Transport plan is to facilitate assessment and the rapid delivery of specimens of immediate concern for laboratory analysis. The location of the state laboratory (24/7# **800-821-7284**), within our jurisdiction can minimize transport and response time. Chain of custody documentation will be implemented when a credible threat has been established. All agencies involved with submission of samples will be notified when chain of custody documentation is indicated.

- **Department of Agriculture** has pesticide residual testing capability.

6.0 Plan Development & Maintenance

- A. The LCPH Department's emergency preparedness team will maintain this Public Health All-Hazard Annex. This plan will be reviewed, tested and updated annually. Recommended changes to this annex should be forwarded to Emergency Preparedness Coordinator as needs become apparent.
- B. Training will include drills & exercises with our external partners:
 - 1. Local Emergency Planning Committee;
 - 2. Hospitals, laboratories and other medical response personnel
- C. After Action Reports will be done after all exercises and for all incidents that meet our *Significant Incident AAR Protocol*
- D. Department Protocols and Emergency Plans exist for the following:
 - 1. Chempack Plan
 - 2. Communicable Disease Investigation and Surveillance Protocol;
 - 3. DWES kit Protocol
 - 4. HAN Protocols
 - 5. Hotline Protocols
 - 6. Isolation and Quarantine Protocols
 - 7. Emergency Countermeasures Plan
 - 8. Risk Communication Plan
 - 9. Personal Protection Plan
 - 10. Specimen transport Plan
 - 11. Pandemic Influenza Plan

7.0 Authorities & References

- Federal Civil Defense Act of 1950, Public Law 81-920, as amended
- The Disaster Relief Act of 1974, Public Law 93-288, as amended
 - Provides an orderly and continuing means of assistance by the federal government to local and state governments in carrying out their responsibilities to alleviate the suffering and damage which results from disasters.
- Emergency Management and Assistance, 44 US Code 2.1 (October 1, 1980)
- US Code, Title 42, Chapter 6A, Subchapter II, Part G: Quarantine and Inspection
- CFR Title 42, Chapter 1, Part 70 Public Health Service, Interstate Quarantine
- CFR Title 42, Chapter 1, Part 71 Public Health Service, Foreign Quarantine
- Montana Code Annotated (MCA) Title 50, Chapter 2, Part 1
 - 50-2-116: Duties and Responsibilities of the Local Board of Health
 - 50-2-118: Duties and Responsibilities of the Health Officer
- MCA 10-3-103: Disaster and Emergency Services
- MCA 50-1-101: Administration of Public Health Laws
- MCA 50-1-202: Administration of Public Health Laws
- Administrative Rules of Montana, Title 37, Chapter 114, Subchapters 1, 2,3,5,10 –Communicable Disease Control 2007 Guidelines for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare settings and Hospitals

8.0 Attachments

Attachment 1: Acronyms & Definitions 26

Attachment 1: Acronyms & Definitions

AAR: After Action Report

ARC: American Red Cross

BOH: Lewis and Clark City-County Board of Health

CISM: Critical Incident Stress Management

Communicable Disease: an illness caused by a specific infectious agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal or inanimate reservoir to a susceptible host. The transmission may occur either directly or indirectly through an intermediate plant or animal host, a transmitting entity or the inanimate environment.

Communicable Disease Emergency: Identification of any of the following:

1. Single case of unusual disease
 - a. Any condition that requires immediate reporting
 - b. Agents of highest concern for biological attack
2. Unusual number of usual diseases
 - a. Number of cases exceeds the ability of assigned staff to respond in a timely manner
3. Reports of odd or unexplained deaths in the community
4. Report that pharmaceutical sales indicate unusual number of over-the-counter pharmaceuticals for home treatment of illness.

County: Lewis and Clark County

Critical Function: A function or service, which if disrupted, must be restored within 12 hours or less

DEQ: Department of Environmental Quality

DES: Disaster & Emergency Services

Disaster: the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or artificial cause

DPHHS: Department of Public Health & Human Services

DNRC: Department of Natural Resources and Conservation

EHD: Environmental Health Division

Emergency: imminent threat of a disaster causing immediate peril to life or property that timely action can prevent.

EOC: Emergency Operations Center

EOP: Emergency Operations Plan

EMT: Emergency Medical Technician

Emergency Relocation Group: Personnel designated to conduct transfer of health department operations to designated alternate facility(ies).

ERC: Emergency Risk Communication

ESF: Emergency Support Function

Health Department: Lewis & Clark Public Health Department

Isolation: separation during the period of communicability of an infected or probably infected person from other persons, in places and under conditions approved by the department or local Health Officer and preventing the direct or indirect conveyance of the infectious agent to persons who are susceptible to the infectious agent in question or who may convey the infection to others. ARM 37.114.101 (22)

Joint Information Center (JIC). A facility, established to coordinate all incident-related public information activities, authorized to release general medical and public health response information delivered by a recognized spokesperson from the public health and medical community.

LCPH – Lewis & Clark Public Health Department

Mass Casualty Incident:

1. Number of patients outnumber facilities to care for them;
2. Number of patients and nature of injuries make normal stabilization and care unachievable;
3. Number of EMTs and ambulances provided to the scenes within time allowed is insufficient; or the stabilization capabilities of hospitals that can be reached with time allowed are insufficient.

MERF: Montana Emergency Response Framework

MCA: Montana Code Annotated

National Disaster Medical System (NDMS). A coordinated partnership between Department of Homeland Security (DHS), Department of Health and Human Services Commission, Department of Defense, and the Department of Veterans Affairs for the purpose of responding to the needs of victims of a public health emergency. Non-federal participants include major pharmaceutical companies and hospital suppliers, the national Foundation for Mortuary Care, and certain international disaster response and health organizations.

Priority Function: A function or service, which if disrupted, must be restored within 24 hours.

Ongoing Function: A function or service that is normally provided by the program and which, if disrupted, should be restored as soon as possible, consistent with the emphasis provided to restoration or critical and priority services.

Public Health: the science and the art of preventing disease, prolonging life, and promoting physical health and efficiency through organized community efforts for the sanitation of the environment, the control of community infections, the education of the individual in principles of personal hygiene, the organization of medical and nursing services for the early diagnosis and preventive treatment of disease, and the development of the social machinery which will ensure to every individual in the community a standard of living adequate for the maintenance of health.

Public Health Emergency: any situation that requires rapid response to prevent or reduce the incidence of disease during any natural or man-made disasters, or communicable disease event

Quarantine: those measures required by a local Health Officer or the department to prevent transmission of disease to or by those individuals who have been or are otherwise likely to be in contact with an individual with a communicable disease. ARM 37.114.101 (27)

SNS: Strategic National Stockpile.

Syndrome: cluster(s) of symptoms that do not include laboratory confirmation of disease.



Lewis & Clark

Public Health

Section 14

Water Quality Protection District

Mission Statement

Board Member List

Memorandum of Understanding

By-Laws with a District Map

Current Fiscal Year Dates of Board Meetings

The Lewis & Clark County
Water Quality Protection District's

Mission Statement

To preserve, protect
and improve
water quality & quantity
within District Boundaries





Lewis and Clark County Water Quality Protection District

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Commissioner Candace Payne

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Representing the Board of County
Commissioners

Councilmember Judy Leland

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Representing the L & C Conservation District

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Representing the Board of Health

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Term ends 06/30/25 – General Public 1st Term

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Term ends 06/30/24 – General Public 1st Term

David Nimick, Vice Chair

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Term ends 06/30/23 – General Public 1st Term

John Miles

MEMORANDUM OF UNDERSTANDING

The LEWIS AND CLARK WATER QUALITY PROTECTION DISTRICT BOARD OF DIRECTORS (DISTRICT BOARD) enters into this Memorandum of Understanding (MOU) with the governing boards of LEWIS AND CLARK COUNTY and the LEWIS AND CLARK CITY/COUNTY HEALTH DEPARTMENT, namely Board of County Commissioners (BOCC) and Lewis and Clark City/County Board of Health (BOARD OF HEALTH), for the purpose of clarifying each entity's roles and responsibilities in the implementation and operation of the Water Quality Protection District, established pursuant to Sections 7-13-4501 through -4529, MCA.

Both the DISTRICT BOARD and the BOARD OF HEALTH have responsibilities with regard to protecting water quality in Lewis and Clark County. It is critical to avoid duplication of effort, which wastes public resources and results in inefficiencies. Therefore, it is necessary for the DISTRICT BOARD and BOARD OF HEALTH to work in close coordination with each other to ensure timely, efficient, and proper implementation of state and local laws and regulations governing the Lewis and Clark Water Quality Protection District.

The above-named entities execute this MOU to promote maximum efficiency with the minimum possible expenditure of public funds. Cooperation and mutual assistance among these entities is of utmost importance. However, nothing in this MOU shall be construed to restrict the DISTRICT BOARD'S or the BOARD OF HEALTH'S authority to act in fulfillment of statutory responsibilities.

I.

The Water Quality Protection District shall be administered as a unit of the Resource Development Division of the Lewis and Clark City/County Health Department. The DISTRICT BOARD shall have all programmatic and policy-making authority and responsibility for the operation of the Water Quality Protection District, except as set forth in Section II. The DISTRICT BOARD'S authority and responsibility, pursuant to Sec. 7-13-4517, MCA, shall include:

- A. Developing a local water quality program, and adopting priorities and work plans for the implementation of this program, for the protection, preservation and improvement of the quality of surface water and groundwater in the district.
- B. Developing and recommending the Water Quality Protection District's annual operating budget and fee structures which shall be submitted as a portion of the operating budget of the Health Department.
- C. Evaluating Water Quality Protection District activities including achievement of program objectives, effectiveness of program activities, and program expenditures. The DISTRICT BOARD shall have full access to all files and information pertaining to District activities.

- D. Reviewing, modifying, and approving grants available from federal, state or private entities for funds to aid in the implementation of the local water quality program.
- E. Developing and recommending position descriptions and salary levels for all positions funded 75% or more by the Water Quality Protection District.
- F. Recruiting and selecting a Water Quality Protection District Administrator in accordance with Lewis and Clark County Personnel Policies and Procedures. The District Administrator shall be responsible for carrying out the DISTRICT BOARD'S policies and program objectives.
- G. The DISTRICT BOARD and District Administrator shall be included in the BOARD OF HEALTH'S recruitment and hiring of any support staff whose positions are funded more than 20% by the Water Quality Protection District. The DISTRICT BOARD may provide comments and input to the BOARD OF HEALTH concerning job performance evaluations performed by the BOARD OF HEALTH of employees whose positions are funded more than 20% by the Water Quality Protection District. The DISTRICT BOARD shall be notified by the BOARD OF HEALTH prior to termination of any staff funded more than 20% by the District.
- H. Assuring that the Water Quality Protection District is operated in compliance with applicable Federal, State, and local laws and regulations.

II.

The DISTRICT BOARD, BOARD OF HEALTH, and BOCC agree as follows:

- A. The BOARD OF HEALTH shall supervise the District Administrator and assist in the implementation of the Water Quality Protection District programs as prioritized and adopted in the annual work plan by the DISTRICT BOARD.
- B. The BOARD OF HEALTH shall have expenditure authority over the funds maintained by the County Treasurer in the Water Quality Protection District account. In the implementation of the Water Quality Protection District program, the BOARD OF HEALTH shall adhere to the approved budget. Any proposed expenditures over \$500 from the Water Quality Protection District account which exceed the approved budget shall be submitted to the DISTRICT BOARD for approval prior to expenditure. The BOARD OF HEALTH shall have expenditure authority over other District special accounts only as authorized by the DISTRICT BOARD.
- C. The DISTRICT BOARD shall comply with administrative, fiscal, risk management and personnel procedures of the BOARD OF HEALTH and BOCC.
- D. Employees of the Water Quality Protection District shall be employees of Lewis and Clark County (Health Department) and shall be subject to current bargaining unit

agreements of Lewis and Clark County and other applicable personnel policies and benefits of Lewis and Clark County.

III.

The LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH and LEWIS AND CLARK COUNTY BOARD OF COUNTY COMMISSIONERS, in providing administrative oversight and services to the Water Quality Protection District, agree to manage and support the DISTRICT BOARD'S activities as follows:

- A. Fiscal management and oversight will be provided by the BOCC in accordance with current laws and procedures.
- B. The Water Quality Protection District funds will be accounted for in an individual fund separate from the Health Fund. Health Fund revenue shortfalls or over-expenditures will not be covered by District revenues.
- C. The BOCC shall provide a monthly accounting of the revenue and expenditures associated with the Water Quality Protection District. This report will itemize the amount of funds spent compared to the authorized budget and show the remaining balance, the fund account(s) in which Water Quality Protection District revenues have been deposited including fund balances, and the source and amount of all revenues collected. The BOCC shall inform the DISTRICT BOARD of anticipated or actual revenue shortfalls in a timely manner.
- D. The BOCC, through its Personnel Department, shall support the DISTRICT BOARD and BOARD OF HEALTH with recruitment and training policies and programs, and technical assistance with respect to personnel issues.
- E. The BOCC will provide error and omission liability coverage for the members of the DISTRICT BOARD.


IV.

- A. This MOU constitutes the entire agreement between the parties and no statements, promises or inducements made by any party or by agents of either party which are not contained in this MOU shall be valid or binding. This MOU shall not be enlarged, modified or otherwise altered without the written agreement of all parties.
- B. The following documents shall be attached, and incorporated by reference, to this MOU:
 - 1) The Water Quality Protection District Annual operating budget;
 - 2) Job descriptions for the District Administrator and any Health Department employees whose positions are funded more than 20% by the District;

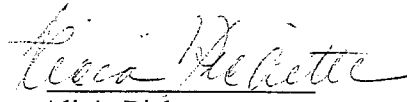
- 3) The work plans adopted by the District Board.
- C. Any party may terminate this MOU upon giving sixty (60) days written notice of the intent to terminate by certified mail or personal delivery to the other parties. In the event any party gives notice of intent to terminate this MOU, and any of the other parties do not concur within 60 days of receipt of the notice to terminate, the parties shall submit to a review by a mediator to determine if issues leading to termination can be resolved. The mediator will be chosen by a process in which first, all parties attempt to concur in the selection, and in the event concurrence cannot be reached, the Lewis and Clark Personnel Office will prepare a list of four mediators from which each party will strike one name until one remains who shall serve as mediator.
- D. The performance of this MOU shall begin July 1, 2000, and terminate June 30, 2001. This MOU shall be automatically extended on a year-to-year basis unless objected to by any of the parties to this document. Amendments to this MOU shall be approved by all parties and attached in writing to this document.

Entered into this 21st day of December, 2000.

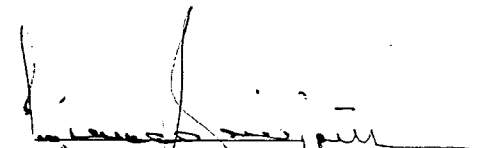
WATER QUALITY PROTECTION
DISTRICT BOARD OF
DIRECTORS

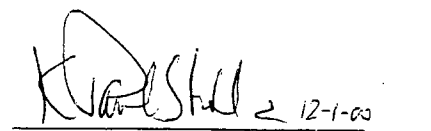

Steve Granzow
Chair

BOARD OF HEALTH

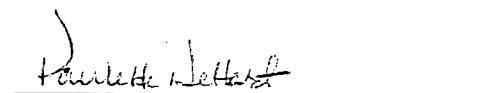

Alicia Pichette
Chair

COUNTY COMMISSION


Michael J. Griffith
Chair, BOCC


County Attorney
Approved as to Form & Content

ATTEST:


Paulette DeHart, Clerk
L&C Board of County Commissioners

**LEWIS AND CLARK COUNTY
WATER QUALITY PROTECTION DISTRICT
BYLAWS**

**Article I
Creation**

The Lewis and Clark County Water Protection District was created pursuant to the Lewis and Clark County Commission Resolution No. 1992-16, dated January 28, 1992, and the Board of Directors was created pursuant to the Lewis and Clark County Commission Resolution No. 1992-86, dated July 6, 1992. The Lewis and Clark County Water Quality Protection District was created to protect, preserve, and improve the quality of surface water and groundwater quality within its boundaries (75-13-4501 (3) MCA).

**Article II
Organization and Offices**

- 2.1 The organization shall be known as the Lewis and Clark County Water Quality Protection District (WQPD, hereinafter known as the District).
- 2.2 The District shall maintain its office at the Lewis and Clark City-County Building located at 316 Park Avenue, Helena, Mt 59623.
- 2.3 The administrative body of the District shall be the Board of Directors of the WQPD (hereinafter known as the Board), Resolution No. 1992-86.

**Article III
Powers and Duties of the Board of Directors**

Powers and duties of the board of directors are based on Section 7-13-4517 MCA. Responsibilities and duties between the Lewis and Clark County Commission, the Lewis and Clark City-County Board of Health (hereinafter known as the Board of Health), and the Lewis and Clark County Water Quality Protection District are delineated in Appendix A: Memorandum of Understanding.

- 3.1 The Board shall have all the powers and duties vested in it by law.
- 3.2 The Board, with the approval of the County Commission may:
 - 3.2.1 Develop a local water quality program to be submitted to the Board of Environmental Review, for the protection, preservation, and improvement of the quality of surface and groundwater in the District. In developing the program, the

Board shall consult with the board or boards of supervisors of conservation districts, established as provided in 76-15-201, whose geographical area of jurisdiction is included within the boundaries of the District.

- 3.2.2** Implement a local water quality program.
- 3.2.3** Administer the budget of the District.
- 3.2.4** Employ personnel.
- 3.2.5** Purchase, rent, or lease equipment and materials necessary to develop and implement an effective program.
- 3.2.6** Cooperate or contract with any corporation, association, individual, or group of individuals, including any agency of the federal, state, or local governments, in order to develop and implement an effective program.
- 3.2.7** Receive gifts, grants, or donations for the purpose of advancing the program and acquire by gift, deed, or purchase the land necessary to implement the local water quality program.
- 3.2.8** Administer local ordinances that are adopted by the commissioners and governing bodies of the participating cities and towns and that pertain to the protection, preservation, and improvement of the quality of surface water and groundwater.
- 3.2.9** Apply for and receive from the federal government or the state government, on behalf of the District, money to aid the District program.
- 3.2.10** Borrow money for assistance in planning or refinancing a District and repay loans with money received from the established fees; and
- 3.2.11** Construct facilities that cost not more than \$5,000 and maintain facilities necessary to accomplish the purposes of the District, including but not limited to, facilities for the removal of water-borne contaminants, water quality improvements, sanitary sewage collection, disposal, and treatment, and storm water or surface water drainage collection, and treatment.

Article IV **Membership**

Membership is established pursuant to 7-13-4516 MCA.

- 4.1** The Board shall consist of nine (9) directors to be appointed by the County Commissioners representing the following:

- 4.1.1 County Commission
 - 4.1.2 Helena City Commission
 - 4.1.3 East Helena City Council
 - 4.1.4 Lewis and Clark County Conservation District
 - 4.1.5 Lewis and Clark City-County Board of Health
 - 4.1.6 Helena Citizen's Council
 - 4.1.7 Three (3) members representing the general public.
- 4.2 Absenteeism. The proper functioning of the Board is impaired by the absence of its members. Absenteeism is the responsibility of the governing body that appoints a director. If a director has two consecutive unexcused absences from regularly scheduled meetings during the year, the appointing governing body may be informed, and a replacement requested.
- 4.3 Terms of Office. Board members appointed by the governing bodies 4.1.1 through 4.1.6 above shall serve terms at the pleasure of those governing bodies. Board members representing the general public shall serve two (2), three (3) year terms as set forth in County Resolution No. 2011-191.

Article V
Officers, Duties, and Committees

- 5.1 The officers of the Board shall be a chairperson and a vice chairperson.
- 5.2 All officers shall be elected for a term of one (1) year by the board of directors during the last regularly scheduled meeting of the fiscal year and shall assume office the first regularly scheduled meeting of the next fiscal year. Any officer may be re-elected for not more than three successive terms.
- 5.3 The chairperson shall preside at all meetings of the Board and shall execute all documents or instruments for or on behalf of the Board.
- 5.4 The vice chairperson shall perform and exercise the authority of the chairperson in the absence of the chairperson.
- 5.5 The chairperson, with the proper approval of the majority of the Board, may appoint committees from the directors, and/or the Board of Health or the general public to perform lawful functions as the Board may prescribe.

Article VI
Meetings

- 6.1** All meetings and special meetings of the Board shall be open public meetings, except as may otherwise be allowed by law to be closed in specific situations, pursuant to 2-3-203 MCA.
- 6.2** Directors may request items be placed on the agenda by submitting their request at least ten (10) days prior to the regularly scheduled meeting.
- 6.3** The Board shall meet for their regular monthly meetings, including tours, nine times per fiscal year.
- 6.4** Special meetings may be called by the chairperson upon written notice to all members, at least two days in advance of the special meeting, fixing the time and the place thereof. Written notice is not required if the time and place of a special meeting has been fixed at a regular public meeting and absent members are notified by mail in accordance with above. Special meetings may be conducted by tele and/or video conference call provided there is proper notice and opportunity for the public to be in attendance during the tele and/or video conference meeting.
- 6.5** The majority of the Board shall constitute a quorum. However, if there is less than a quorum, those directors present at a meeting may take testimony, discuss matters, and then at the next meeting where a quorum is present report to the rest of the Board.
- 6.6** Each member of the Board, including the chairperson, shall have one vote on all matters voted upon. If any member, however, claims a conflict of interest on any issue, such member shall be excused from voting. However, the Board must maintain a quorum when voting.
- 6.7** Proxy voting is not permitted.
- 6.8** No director shall vote on any matter heard, but not voted upon, at a previous meeting not attended by such member, unless a director reviews the public record established at the previous meeting.
- 6.9** If no quorum is present, the chairperson, or vice chairperson, in the absence of the chairperson, or the administrator of the District, in the absence of the chairperson or the vice chairperson, may reschedule a special meeting in accordance with paragraph 6.4 above, or the meeting may be postponed until the next regular meeting of the Board.

Article VII
Parliamentary Procedure – Robert’s Rules of Order


- 7.0** For all procedural matters not specifically covered in these bylaws, the controlling parliamentary authority for the Board is Robert’s Rules of Order, Newly Revised (*12th Edition, 2020*).

- 7.1 The chairperson, being a co-equal member of the Board, shall in addition to presiding, have a right to participate in debate, and shall vote on all motions, and not only where the vote of the chair would create or break a tie.
- 7.2 A motion, once stated and seconded, limits the debate to points relevant to the motion. Prior to a formal motion being stated, general discussion of, and the presentation of information relevant to an agenda item being considered is in order.
- 7.3 Before the consideration of any measure or the taking of any action, concerning which a public hearing has not been previously held, or will not be held, the chairperson may allow members of the audience to be heard. No member of the audience may be heard during or after the Board discussion. The chairperson may reasonably limit audience participation at any time.
- 7.4 Reconsideration of any action of the Board may be allowed at any time, upon motion of any director. In order to reconsider a previous action of the Board, a majority of those directors present must vote to reconsider.
- 7.5 Routine matters, such as setting meeting times and adjournment, may be by consensus rather than by motion and vote.

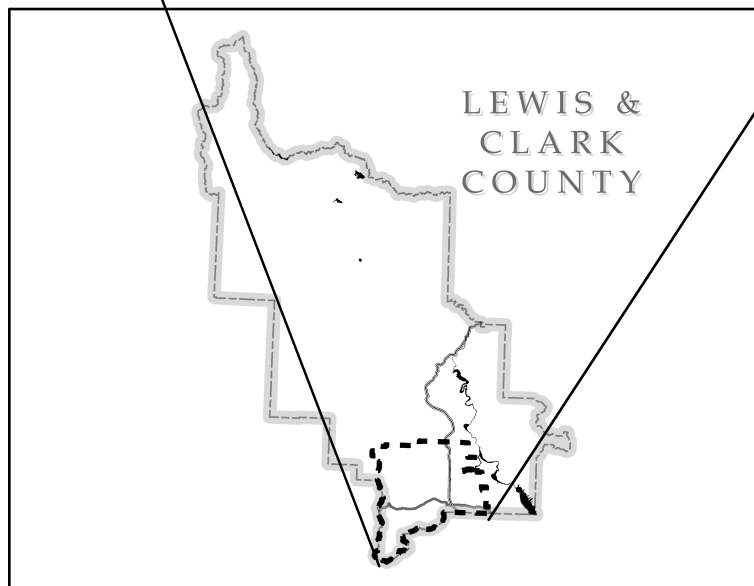
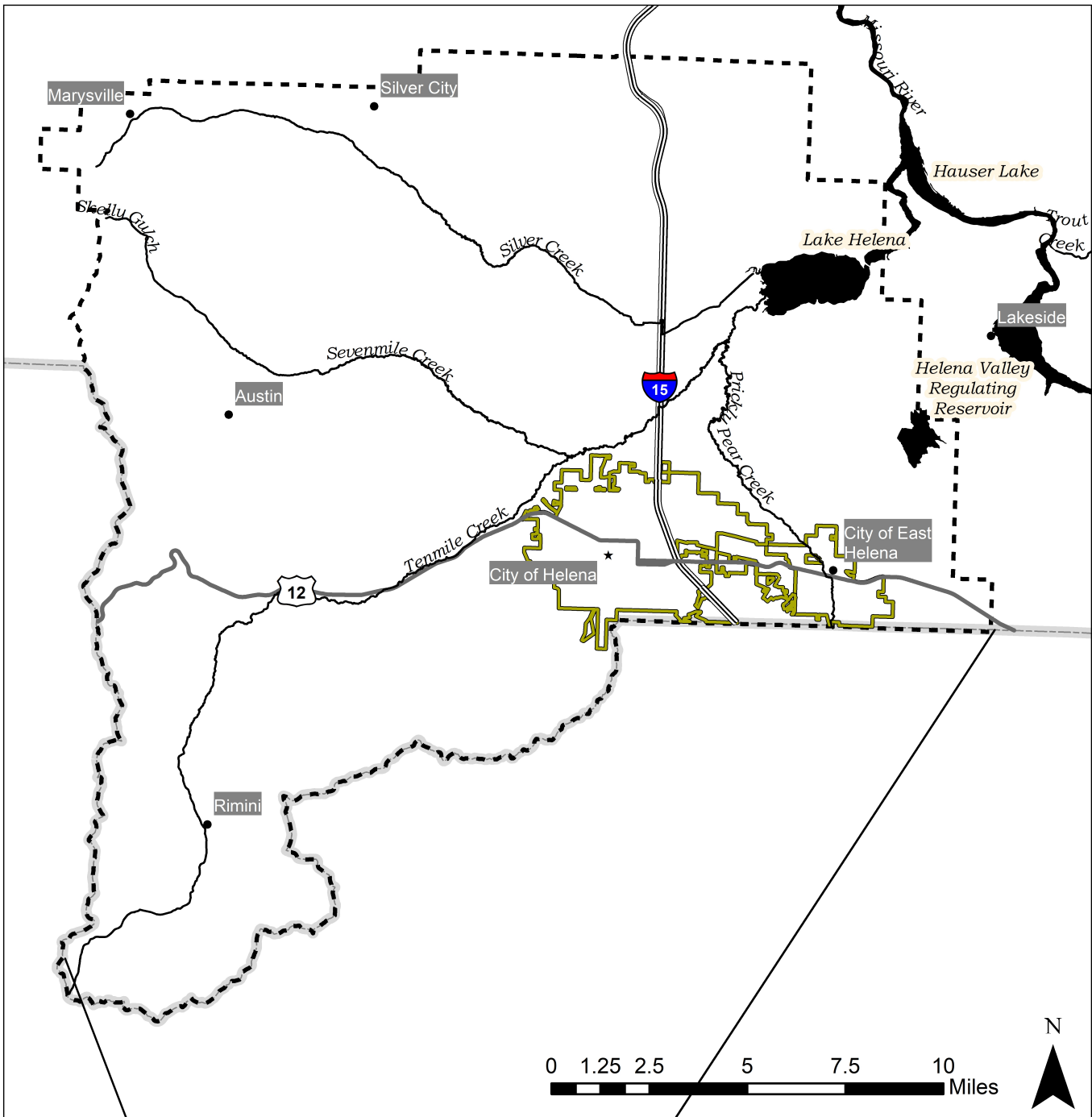
Article VIII
Amendments

- 8.1 Proposed amendments to these bylaws shall be presented at a regular meeting of the Board and voted on no sooner than the next regular meeting. Proposed amendments shall be provided to every member, in writing, at least twenty (20) days prior to the meeting at which the vote is to be taken.
- 8.2 A two-thirds majority of the directors present and voting in favor of the proposal is required to adopt the amendment to the bylaws.

DATED this 7th day of March, 2023



Patrick N. Johnson, Chair
Lewis & Clark County
Water Quality Protection District



Water Quality Protection District Facts:

Total Acres: ~240,000

Total Square Miles: ~370

Miles of Stream: ~100



Lewis and Clark County Water Quality Protection District

316 N. Park. Rm. 230
P.O. Box 1723
Helena, MT 59624
Ph: 406.447.8351
Fax: 406.447.8398

All board meetings are held in room 226 of the City-County Building, 316 N. Park, Helena, Montana and via Zoom at 5:30 p.m. The meetings are generally completed by 7:30 p.m.

MEETING DATES FOR CALENDAR YEAR 2024

January 23, 2024

February 27, 2024

March 26, 2024

April 23, 2024

May 28, 2024

June 25, 2024

July 23, 2024

August 27, 2024

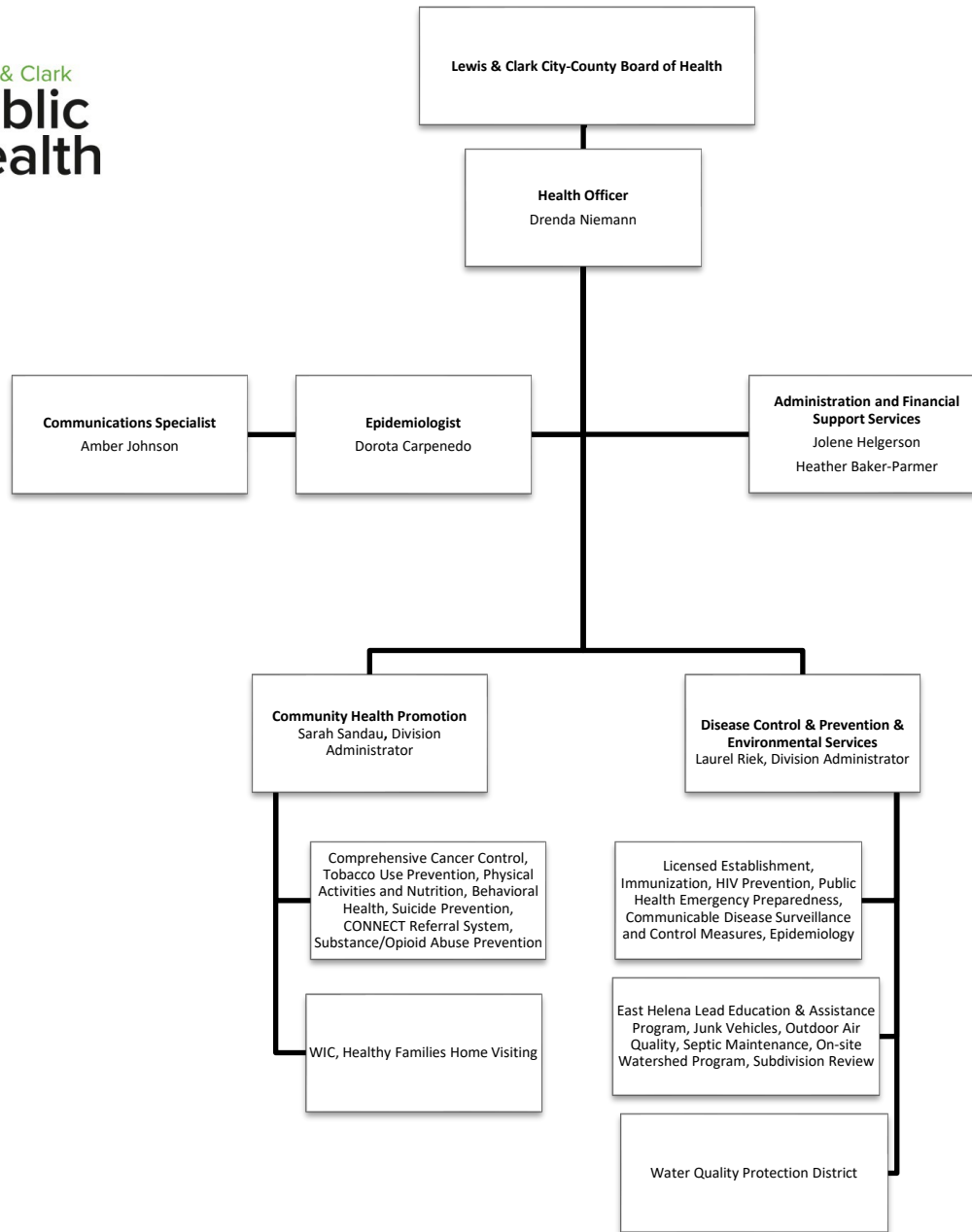
September 24, 2024

October 22, 2024

December 3, 2024

Section 15

Organizational Charts for the Health Department



**Lewis & Clark City-County
Board of Health**

Health Officer

Drenda Niemann
|
Jolene Helgerson
Sandra Bravo

**Communications
Specialist**
Amber Johnson

**Financial and
Support Services**
Heather B-Parmer

**Disease Control
and Prevention**
Laurel Riek

**Community Health
Promotion**
Sarah Sandau

Shelly Maag
Sarah Howe-Cobb
Rae Brown
Ardis Sullivan
Janet Janus
Nina Heinzinger
Jordan Moore
Laura Hendley
Taylore Dinsdale
Dorota Carpenedo
Angelique Turner
Gary Burton
Jennifer McBroom
Beth Norberg
Jay Plant
Valerie Stacey
Dawn Sullivan
Joel Ebert
Natalie Emerson

Greg Daly
Melissa Baker
Maria Stolle
Mary Sparks
Sherry Winchell
Marisa Johnson
Katie Maslowski
Jess Hegstrom
Julie Bir
Jolene Jennings
Charity Krebs
Vianka Tyler
Carin McClain
Joel Peden
Ali Mullen

Section 16

MPEA Union Contract

Agreement

Between

Lewis and Clark County

and

**Montana Federation of Public Employees
Representing Employees
of the
Public Health Department
and
County Landfill**

July 1, 2022 – June 30, 2025

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THIS AGREEMENT, made and entered into this 1st day of July 2022 at Helena, Lewis and Clark County, Montana, by and between the Montana Federation of Public Employees, hereinafter referred to as the "MFPE" and Lewis and Clark County, hereinafter referred to as the "EMPLOYER".

PURPOSE

THIS AGREEMENT is entered into between the parties pursuant to and in compliance with the Montana Public Employees Collective Bargaining law, Title 39, Chapter 31, Montana Codes Annotated, as amended, hereinafter referred to as the "Act", to provide the terms and conditions of employment for employees during the duration of the Agreement.

In consideration of the covenants herein recited, and in order to mutually establish and stabilize wages and working conditions affecting the employees covered by the Agreement, the parties mutually agree as follows, however, if the agreement is silent on any particular issue, members should refer to the Lewis and Clark County Personnel Policy Manual. All members of the bargaining unit and the MFPE will be given notification of any changes to the Lewis and Clark County Personnel Policy Manual.

ARTICLE 1 SEVERABILITY

In the event that any provision of this Agreement shall be declared invalid at any time or unenforceable by any court of competent jurisdiction or through government regulations or decree, such decision shall not invalidate the entire agreement, other provisions not declared invalid or unenforceable, shall remain in full force and effect. It is further agreed that in such eventuality both parties will forthwith meet and negotiate a new clause conforming to applicable Federal and State Laws.

ARTICLE 2 RECOGNITION OF EXCLUSIVE REPRESENTATIVE

Section 1. Recognition: In accordance with the Act, the EMPLOYER recognizes the MFPE as the certified exclusive representative of employees employed by the EMPLOYER in the Public Works Landfill and the Public Health Department. The exclusive representative shall have those rights and duties as prescribed by the Act and as described in this Agreement.

Section 2. Appropriate Unit: The exclusive representative shall represent all Regular, Seasonal and Temporary status part-time and full-time employees working more than 20 hours per week employed by the Lewis and Clark Public Health and Public Works Landfill, as certified by the Board of Personnel Appeals dated July 12, 1977, but excluding exempt employees.

ARTICLE 3 MFPE REPRESENTATION

It is further understood and agreed that the MFPE shall designate official spokespersons for said MFPE in any matter between the MFPE and the EMPLOYER. Each unit (Public Health Department and Landfill) shall designate a spokesperson.

The spokesman designated by the MFPE shall be designated in writing. A written list of the accredited officers and representatives of the MFPE shall be furnished to the health officer /department head immediately after their designation. The MFPE will notify the health officer/department head of any changes in said representatives within seven (7) calendar days.

Bulletin Board Space. The EMPLOYER agrees to provide space on the bulletin board, which is readily available to employees for the posting of information, activities, and announcements from or by the MFPE. Non-MFPE postings will be submitted to the department head prior to posting.

Contract Distribution. Upon ratification, the MFPE will provide copies of the contract and the EMPLOYER will distribute the copies to all members. The EMPLOYER will provide a copy of the contract to all new hires. Bargaining Unit Representatives be allowed to give MFPE information to the Payroll Specialist for distribution with paychecks.

Release Time: The EMPLOYER shall grant release time for up to five (5) MFPE employee members to participate in collective bargaining agreement negotiations.

ARTICLE 4 MFPE ACTIVITIES

The internal business of the MFPE shall be conducted by the employees during their non-duty hours; provided, however, that selected and designated MFPE officers or appointees shall be allowed a reasonable amount of pay time to investigate and pursue formal grievances.

Staff of the MFPE will be allowed to visit work areas of the employees during work hours and confer on employment relations matters, provided that such visitations shall be coordinated in advance with management and shall not unduly disrupt work in progress.

ARTICLE 5 MFPE SECURITY

Section 1. Employees covered by the terms of this Agreement shall not be required to become members of the MFPE.

Section 2. Upon receipt of a written authorization from an employee covered by this Agreement, the EMPLOYER shall deduct from the employee's² pay the amount owed to the MFPE by such employee for dues. The EMPLOYER will remit to the MFPE such sums within thirty (30) calendar days. Changes in the MFPE membership dues rate will be certified to the EMPLOYER in writing over the signature of the authorized officer or officers of the MFPE and shall be done at least thirty (30) calendar days in advance of such change.

Section 3. The EMPLOYER, within thirty (30) days of the signing of this Agreement, shall present the MFPE with a list of names and addresses of all current employees covered by this Agreement, and shall update such list each month for all new hires.

Section 4. The MFPE will indemnify, defend, and hold the EMPLOYER harmless against any claim made and against any suit instituted against the EMPLOYER, including attorney's fees and costs of defense thereof, on account of any provision of this Article.

ARTICLE 6 PROTECTION FOR MFPE ACTIVITIES

The EMPLOYER agrees not to discriminate against any employee or group of employees with respect to their lawful participation in MFPE activities as outlined in the Montana Collective Bargaining Act for Public Employees. (Title 39, Chapter 31 MCA)

ARTICLE 7 MANAGEMENT RIGHTS

Except as otherwise provided in this Agreement, the EMPLOYER in the exercise of the functions of management, shall have the rights to operate and manage department/division affairs in such areas as, but not limited to:

- (1) direct employees;
- (2) hire, promote, transfer, assign, and retain employees;
- (3) relieve employees from duties because of lack of work or funds or under conditions where continuation of such work be inefficient and nonproductive;
- (4) maintain the efficiency of government operations;
- (5) determine the methods, means, job classifications, and personnel by which government operations are to be conducted;
- (6) take whatever actions may be necessary to carry out the missions of the agency in situations of emergency;
- (7) establish the methods and processes by which work is performed.

The above rights remain with management unless otherwise modified elsewhere in this agreement.

ARTICLE 8 HOURS OF WORK

Section 1. Hours Worked: Hours worked shall include those hours where the employee is suffered or permitted to work for the EMPLOYER.

Section 2. Workweek: The workweek shall be defined as 12:00 a.m., Sunday, through 11:59 p.m., Saturday.

Section 3. Work Schedule: The standard workday begins at 8:00 a.m. and ends at 5:00 p.m. with one (1) hour unpaid lunch break. The standard work week is Monday through Friday.

Section 4. Overtime: Forty (40) hours in five (5) consecutive days shall constitute a week's work. Time and one-half (1½) shall be paid for all hours worked over forty (40) hours in one week.

Section 5. Alternate Work Schedule: In work areas where the regular work week or work day schedule is not feasible, the work schedule will be determined by mutual agreement whenever possible. When mutual agreement cannot be reached, the EMPLOYER will assign the duty to the employee with the least seniority within the class specification.

Section 6. Breaks: Employees are entitled to two (2) fifteen (15) minute breaks each eight (8) hour period. Employees shall be granted two twenty (20) minute breaks in a ten (10) hour shift.

Break periods may not be combined, aggregated, accrued. Break periods may not be used to delay the start time of the work day or shorten the work day unless the supervisor grants approval to do so.

Section 7. Any alteration of the standard hours of work and days of work requested by the employee must be approved by the supervisor and the health officer /department head after program requirements are adequately defined and addressed. These alterations must be scheduled at least one (1) week in advance whenever possible. Employees may work more than eight (8) hours per day in order to shorten the workweek. Once a standard work schedule has been established, the EMPLOYER must give ten (10) working days notice of changing an employee's standard schedule, unless mutually agreed upon. The department may allow flexible ("flex") scheduling in the course of a given work week to maintain hours of work at forty (40) hours or less. Any changes in an employee's standard hours or work and days of work will be provided to MFPE and the County Human Resource Department at least 48 hours/two (2) work days in advance of the change.

Section 8. Expansion of Business Hours. Should the Landfill or Public Health Department expand hours or adopt an alternative work schedule different from what is in effect at the time this agreement is adopted, the EMPLOYER will meet with the MFPE for the purpose of negotiating wage and work condition changes associated with this expansion.

ARTICLE 9 OVERTIME AND COMPENSATORY TIME

Section 1. Work performed in excess of forty (40) hours shall be considered as overtime. Overtime shall be compensated at the rate of time and one-half (1½) the regular hourly rate of the employee.

Section 2. Prior approval must be granted in writing by the employee's supervisor regarding any hours worked in excess of forty (40) hours per week in order to enable the employee to receive overtime compensation.

Section 3. Days off for jury duty and military leave are not counted as hours worked in the computation of weekly overtime.

Section 4. Employees covered by this Agreement shall have the option of booking compensatory time for overtime hours accrued rather than receiving pay for those hours in the pay period that the hours are accrued. Overtime hours are accrued at the rate of one and one-half (1½) hours per each hour worked beyond the standard forty (40) hours per week. Compensatory time may be accumulated up to forty (40) hours.

Section 5. Call-out is defined as an unexpected requirement to work outside of an employee's scheduled workweek. Employees who are required to work unexpectedly will receive a minimum of four (4) hours pay. If the hours worked on call-out exceed 40 hours for the workweek, time and one-half will apply.

Section 6. On-Call Status. On-call is a situation where employees are not required to remain on the EMPLOYER's premises and are free to engage in their own pursuits and are subject only to the understanding that they carry a cellular telephone, wear a pager, or have some other means by which they may be reached 24 hours a day. When an employee is placed in "on-call" status, the time in "on call" status does not count as hours worked.

- A. Employees may be required to be on-call. This on-call duty will be assigned by the supervisor, department/division head, and/or elected official. This assignment will be made on mutual agreement between the employee and supervisor. The assignment will be on a rotation basis starting with the most senior qualified employee. If no qualified employee is willing to be on-call the supervisor will assign the on-call duty to the least senior qualified employee. In an effort to ensure the least senior qualified employee is not always on-call, when all qualified employees refuse call, the supervisor will assign the call on a rotation basis, beginning with the least senior, moving to the next least senior on the second on-call assignment, the third least senior on the third on-call assignment, etc. The individual assigned to call after all employees refuse, cannot refuse to take the assignment.
- B. The on-call employee will carry a cell phone or department/division issued pager and may have access to a vehicle, and other equipment determined necessary to perform their duties.

When an employee is placed in “on-call” status, the time in “on call” status does not count as “hours worked.” For each 24 hours of on-call status provided on the days of Saturday, Sunday, regularly scheduled days off, or a holiday, the employee shall receive credit for three (3) additional hours of time in the employee’s compensatory time balance. These hours shall not be increased or multiplied by any factor. In the event that the employee is called out while in an on call status, the employee will receive call-out pay only.

ARTICLE 10 RECRUITMENT AND SELECTION

The Department/Division shall make every effort to employ only persons who can perform their duties with competence and integrity.

A. Internal Postings

1. As soon as a vacancy occurs or before, if possible, a vacancy announcement shall be prepared. The vacancy announcement will include the title, location, and salary range of the vacant position as well as a brief description of major duties (taken from the position description); the required minimum qualifications; and how, where, and when, the employee should apply. 2. Notice of vacancies shall be posted electronically. The EMPLOYER may elect to post a vacancy internally and externally at the same time.
3. The Department/Division shall make every reasonable effort to fill positions from current department/division employees.
4. The County will advertise all positions to all County employees. Preference will be given to bargaining unit employees covered by this contract.

B. Selection Procedure Responsibility

The health officer /department head has responsibility for the selection of employees covered by this Agreement.

ARTICLE 11 DISCIPLINE

Section 1. If the immediate supervisor determines that an employee’s performance is significantly unsatisfactory, the supervisor shall issue a warning letter specifying the employee’s unsatisfactory performance. The EMPLOYER shall provide the employee with any disciplinary letters and a copy of the letter shall be placed in the employee’s personnel file.

Disciplinary letters are subject to the grievance procedure. Upon request by the employee, the warning letter will be removed from the employee’s personnel file nine months from the date written, unless the employee is involved in a subsequent

disciplinary event that is relevant to or related to the earlier event.

Section 2. The EMPLOYER may discharge any Regular status employee for just cause.

ARTICLE 12 SENIORITY/LAYOFFS/VACANCIES

Section 1. Seniority means an employee's length of continuous service with the department/division, based on the hire date of that employee.

Section 2. Seniority shall be computed from the date the employee began regular uninterrupted service with the department.

(a) Seniority shall be considered unbroken for:

- (i) Layoff not exceeding one year.
- (ii) Approved LWOP not in excess of 60 days;
- (iii) Seniority shall remain the same as the day the employee left for LWOP granted in excess of sixty (60) days in case of illness, education, service in public office as provided by law, or other mutually agreed upon leaves.
- (iv) Military service as defined by state law and the Department/Division.

Section 3. Seniority, experience, qualifications, and capabilities shall be the controlling factors for the filling of new or vacated positions.

Section 4. Employees to be laid off or those whose positions have been eliminated due to budgetary constraints shall be given twenty-one (21) calendar days advance notice except for temporary layoffs caused by emergencies.

Section 5. In the selection of employees for layoff, consideration will be given to the programs to be carried out by the EMPLOYER and the staff structure which, after the reduction, will achieve program objectives. After program objectives have been satisfied, seniority, qualifications, and capabilities shall be the controlling factors in the selection of employees for layoff.

Section 6. Recall from layoff shall be with the same consideration and based on seniority. The EMPLOYER shall notify such employees to return to work by certified letter and furnish the MFPE a copy of such notifications; and if the employee fails to notify the EMPLOYER within ten (10) calendar days of his or her intention to return to work such employee shall be considered as having forfeited his or her right to work.

Reinstatement preference will last for twelve (12) months from the effective date of the reduction in force even in the event of the employee accepting another County position within the twelve month recall period.

Section 7. No Regular status employee shall be laid off while temporary or probationary employees in the same skill are retained.

Section 8. Subcontractors. If subcontractors are being utilized at the time of a lay-off, the EMPLOYER agrees that, if the employees targeted for lay-off are competent and qualified to perform the duties of the subcontractor, they will be retained to perform the work instead of retaining the subcontractor. Lewis and Clark County will be required to follow cancellation clauses as outlined in the contract prior to assigning the duties to the laid off employee.

Section 9. When the department/division decides that a layoff is necessary, the MFPE shall be notified and provided an opportunity for input.

Section 10. Vacant and new positions that the EMPLOYER desires to fill will be posted for a minimum of seven (7) working days. The health officer /department head may elect to simultaneously post the position unit wide and outside for the initial posting. Preference for the vacant position or new position will be provided first to competent qualified division employees, then to department employees, then to outside applicants.

If two or more internal applicants are the best qualified applicants for an open position based on the review of qualifications and the results of the structured interview, seniority will be the deciding factor for appointment.

ARTICLE 13 NOTIFICATIONS

The EMPLOYER shall ensure reasonable access to the MFPE and each employee an up-to-date policy of its rules, regulations and policies on employment related matters. The MFPE shall be notified of any proposed changes or additions to County personnel policies or Department/Division-wide personnel policies affecting represented employees. The MFPE will have ten (10) working days to comment on proposed changes or additions to these policies.

ARTICLE 14 EVALUATIONS

Section 1. The EMPLOYER shall provide a copy of the current job description to any employee covered by this Agreement, upon receipt of a request to do so by the employee.

Section 2. When evaluation ratings are prepared by the employee's immediate supervisor and the next higher supervisor, the results of the combined evaluation shall be transmitted to the employee in the form of a copy of his evaluation rating.

Section 3. The immediate supervisor shall discuss the evaluation with the employee and note by signature retained in the personnel file that the evaluation has been discussed with the employee. The employee may request a third party (the employee's choice) to be present during the discussion of the evaluation. If the employee desires to submit a brief written statement in explanation or mitigation of any remark on the evaluation rating form in the personnel file, he/she may do so.

Section 4. No information reflecting critically on an employee shall be placed in the

personnel file of the employee that does not bear either the signature or initials of the employee indicating that he has been shown the material or a statement by a supervisor that the employee has been shown the material and refused to sign it. A copy of any such material shall be furnished to the employee upon request.

ARTICLE 15 GRIEVANCE PROCEDURE

A "grievance" shall mean an allegation by an employee resulting in a dispute or disagreement between the employee and the EMPLOYER as to the interpretation or application of terms and conditions in this Agreement and the classification system. Any unresolved complaints as to the reasonableness of any new rules, regulations or policies in their application, shall be resolved through the grievance procedure.

The Employee may be represented during each step of the procedure by a representative of the MFPE.

In computing any period of time prescribed or allowed by procedures herein, the date of the act, event, or default for which the designated period of time begins to run shall not be included. The filing or service of any notice or document herein shall be timely if it is personally served or if it bears a certified postmark of the United States Postal Service within the time period.

Upon instituting a grievance in a forum other than that outlined herein, the employee shall waive his/her right to initiate a grievance pursuant to this Article or, alternatively, if the grievance is pending in the grievance procedure and the employee institute a proceeding in another forum other than those outlined herein, the right to pursue it further shall be immediately waived. A party instituting any action, proceeding or complaint in a federal or state court of law, or seeking relief through any statutory process for which relief may be granted, the subject matter of which may constitute a grievance under this Agreement, shall immediately thereupon waive any and all rights to pursue a grievance under this Article. This provision shall not apply to actions to compel arbitration as provided in this Agreement or to enforce the award of an arbitrator. It is understood by the employee that if he/she elects to go outside the grievance procedure the MFPE is not permitted nor required to proceed with a grievance for that employee.

Step 1. Any dispute involving the interpretation, application, or alleged violation of a specific provision of this Agreement shall be discussed with the employee's immediate supervisor within 15 working days of the date of the act or event. The immediate supervisor shall have 10 working days to respond. All grievances must be discussed with the immediate supervisor prior to the filing of a formal grievance and no formal grievance may be filed until the immediate supervisor has been given opportunity to attempt resolution before moving the grievance to Step 2.

Step 2. Formal Grievance: If the grievance is not resolved informally, a formal grievance may be presented in writing within ten (10) working days from the receipt of the immediate supervisor's response to Step 1 to the health officer/executive director/department head. The written notice of the grievance shall include a summary

of the dispute or disagreement, the sections of the agreement that have been violated and a proposed remedy. The health officer /department head at the second step shall have ten (10) working days from receipt of the grievance to respond in writing.

Step 3. If the grievance is not resolved at Step 2, it may be presented to the human resource director or designated management representative within ten (10) working days of the receipt of the Step 2 response. The human resource director shall have fifteen (15) working days to respond to the grievance in writing.

Step 4. Should the MFPE consider the decision of the human resource director unsatisfactory, the MFPE shall, within fifteen (15) working days of receipt of such decision, notify the human resource director of its decision to take the grievance to mediation. Parties may utilize the Montana Department of Labor's Compliance and Investigations Bureau to assist with the mediation. Mediation costs shall be split between the EMPLOYER and MFPE unless mutually agreed otherwise.

Step 5. Should the MFPE or EMPLOYER consider the decision of the mediator unsatisfactory or terminate the mediator before resolution, the MFPE, shall, within fifteen (15) days of receipt of such decision notify the human resource director to take the grievance to final and binding arbitration.

RULES OF GRIEVANCE PROCESSING

1. Time limits of any stage of the grievance procedure may be extended by written mutual agreement of the parties at that step. Or provided both parties agree in writing, any level of this grievance procedure may be by-passed and processed at a higher level.
2. A grievance not filed by the grievant within the time limits provided shall be deemed permanently withdrawn as having been settled on the basis of the decision most recently received. Failure on the part of the EMPLOYER's representative to answer within the time limit set forth in any step will entitle the employee to advance to the next step.
3. An appointed authority may replace any titled position in the grievance procedure, provided that such appointee has full authority to act in the capacity of the person being replaced.
4. When the grievance is presented in writing there shall be set forth all of the following:
 - A. A complete statement of the grievance and facts upon which it is based.
 - B. The rights of the individual claimed to have been violated and the remedy or correction requested.

RULES OF ARBITRATION

1. Procedure: In the event that the parties are unable to resolve a grievance, it may be submitted to arbitration as defined herein, provided a notice of appeal is filed to

the Human Resources Director within ten (10) days of the receipt of the decision at Step 3.

2. Selection of Arbitrator: Upon submission of a grievance to arbitration under the terms of this procedure, the parties shall request a list of five arbitrators from the Board of Personnel Appeals. Each party shall strike two (2) names from the list in alternate order and the name so remaining shall be the arbitrator.

3. Hearing: The grievance shall be heard by a single arbitrator and the parties shall have the right to a hearing at which time both parties will have the opportunity to submit evidence, offer testimony, present witnesses, and make oral or written arguments relating to the issues before the arbitrator.

4. Decision: The decision by the arbitrator shall be rendered within thirty (30) days after the close of the hearing. Decisions by the arbitrator in cases properly before him shall be final and binding upon both parties.

5. Extension: Each party shall bear its own expenses in connection with arbitration, including expenses relating to the party's representatives, witnesses, and any other expenses which the party incurs in connection with presenting its case in arbitration. A transcript or recording shall be made of the hearing at the request of either party. The parties shall share equally fees and expenses of the arbitrator, and any other expenses, which the parties mutually agree, are necessary for the conduct of the arbitration. However, the party ordering a copy of the transcript shall pay for such copy.

6. Jurisdiction: The arbitrator shall have jurisdiction over disputes or disagreements relating to grievances properly before the arbitrator pursuant to the terms of this procedure. The jurisdiction of the arbitrator shall not extend to proposed changes in terms and conditions of employment as defined herein and contained in this written agreement nor shall an arbitrator have jurisdiction over any grievance which has not been submitted to arbitration in compliance with the terms of the grievance and arbitration procedure as outlined herein.

ARTICLE 16 HOLIDAYS

Employees shall be granted the following holidays with pay:

- (1) New Year's Day, January 1
- (2) Martin Luther King Day, third Monday in January
- (3) President's Day, third Monday in February
- (4) Memorial Day, last Monday in May
- (5) Independence Day, July 4
- (6) Labor Day, first Monday in September
- (7) Columbus Day, second Monday in October
- (8) Veteran's Day, November 11
- (9) Thanksgiving Day, fourth Thursday in November
- (10) Christmas Day, December 25
- (11) General Election Day

Section 1. Employees required to work on any of the hereinabove set forth holidays shall receive their regular rate of pay for all hours worked in addition to eight (8) hours holiday pay. Holidays for the landfill shall either be on the actual holiday or the observed holiday depending on the rotation schedule the employee is working.

Section 2. When an employee is scheduled for a day off on a day which is observed as a legal holiday, he shall be entitled to receive a day off, either on the day preceding or the day following, whichever allows a day off in addition to the employee's regularly scheduled days off.

Section 3. Regular and Seasonal employees who work less than forty (40) hours in a pay period will receive holiday pay on a prorated basis in accordance with 2-18-603, MCA and the County Personnel Policy manual.

ARTICLE 17 SICK LEAVE

Any sickness, non-occupational or occupational injury, which prevents an employee from performing the duties of his/her regular duties with the Department/Division shall be considered as sickness and shall be compensated as provided by Montana State Law.

The EMPLOYER may not require a doctor's note to substantiate sick leave usage from an employee in the bargaining unit unless the supervisor has reason to believe that the employee is abusing sick leave or the employee has been away from work more than three consecutive days on sick leave.

ARTICLE 18 LEAVE WITHOUT PAY

Section 1: Leave of absence without pay is an **unpaid leave status authorized by the department head and the Human Resource Director**. An employee may be allowed to request and take a leave of absence without pay at the department head's discretion, unless the purpose of leave is to serve in a public office, active duty or another extended military service, or leave taken under terms and conditions of the Family and Medical Leave Act.

- A. Leave of absence without pay shall be for use as outlined under disability leave, maternity leave, parental leave, family and medical leave, or military leave, or for up to one month for other valid and good reasons if authorized by the department head.
- B. Leave of absence without pay for situations in excess of thirty (30) calendar days shall be granted only with the approval of the employee's department head and the Human Resource Director.

Section 2: Leave without pay shall be subject to the following provisions:

- (a) At the expiration of leave without pay, the employee shall return to the position he held prior to his leave.
- (b) Vacation and sick leave credits, and all fringe benefit contributions by the County, shall not be earned during the leave without pay status.
- (c) Leave without pay during the probationary period shall not count as part of that period, but the employee to whom such leave has been granted shall be allowed to complete his probationary period on his return from leave.
- (d) A leave without pay does not constitute a break in service.
- (e) Any accrual of vacation leave and sick leave on record at the time of request for leave of absence without pay may be retained by the employee during the full period of such leave without pay status up to those time limits prescribed by the vacation and sick leave provisions of this Agreement.

ARTICLE 19 VACATION LEAVE

Section 1. All employees covered by this Agreement shall receive vacation leave as provided by Montana State Law, according to the following schedule:

<u>Length of Employment</u>	<u>Vacation Days Earned</u>
1 full pay period through 10 years	15 working days per year
Over 11 years through 15 years	18 working days per year
Over 16 years through 20 years	21 working days per year
Over 21 years	24 working days per year

Section 2. Annual vacation leave may be accumulated to a total not to exceed two (2) times the maximum number of days earned annually as of the last day of any calendar year.

Any employee who terminates his employment with the EMPLOYER shall be entitled to cash compensation for unused vacation leave, at the rate of pay earned at the time of termination, assuming that the employee has worked the qualifying period set forth above.

Section 3. If a supervisor decides not to grant a vacation request, the supervisor must state the reasons in writing as soon as possible after receiving the request. Once vacation leave is approved it cannot be changed unless by mutual agreement between the EMPLOYER and the employee, except in cases of a public health emergency as determined by the supervisor and health officer/department head.

ARTICLE 20 MATERNITY AND PARENTAL LEAVE

Section 1. Maternity leave shall be granted per Lewis and Clark County Personnel

Policy 1.2.8 Employee Benefits-Leave Provisions, and 49-2-310 & 311, Montana Code Annotated.

Section 2. Parental Leave: Lewis and Clark County allows for parental leave in accordance with the Family Medical Leave Act. Refer to Lewis and Clark County Personnel Policy 1.2.8 Employee Benefits-Leave Provisions.

ARTICLE 21 MILITARY LEAVE

Employees shall be granted time off with pay to attend military obligations pursuant to and within the constraints of the Montana Code Annotated, as amended.

ARTICLE 22 TERMINATION BENEFITS

An employee who terminated employment with the Department/Division is entitled to a lump-sum payment equal to one-fourth (1/4) of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave shall be computed on the basis of the employee's salary or wage at the time he terminates his employment with the Department/Division. However, when an employee transfers between agencies within the County government, he shall not be entitled to a lump-sum payment. In such transfers, the receiving agency shall assume the liability for the accrued sick leave credits earned and transferred with the employee. An employee of the Department/Division who receives a lump-sum payment and who is again employed by the Department/Division shall not be credited with any sick leave for which he has previously been compensated.

An employee who terminated employment with the Department/Division is entitled to a lump-sum payment equal to one hundred percent (100%) of the pay attributed to the accumulated vacation leave. All other provisions are guided by the termination paragraph above.

ARTICLE 23 ADDITIONAL EMPLOYEE BENEFITS

Section 1. Social Security taxes will be paid according to law for all employees covered by this Agreement.

Section 2. All employees shall be covered by Worker's Compensation Insurance. If an employee is injured on the job, Worker's Compensation may provide the employee with an income to help while recuperating. An employee may elect to use accrued sick leave or to receive payments from Worker's Compensation.

Section 3. The Department/Division shall provide reimbursement for expenses associated with traveling in an official department/division capacity. Either a department/division vehicle will be provided to the employee for this use or the employee shall be paid a mileage allowance consistent with the applicable Federal rate. The cost of public transportation will be paid based on the applicable tourist class fare.

The EMPLOYER may establish policies concerning the use of seat belts. A seat belt policy shall not apply to employees while off-duty, on sick leave, vacation leave or on leave without pay.

Section 4. For travel within or outside the State of Montana employees shall be reimbursed for meals and lodging in accordance with Lewis and Clark County Personnel Policy Manual.

Section 5. Health Plan Contribution. The EMPLOYER shall contribute the adopted amount by the Board of County Commissioners for single employee Health Benefit Plan coverage for each enrolled Regular full-time status Employee, each enrolled full-time Seasonal status Employee and each enrolled full-time Temporary status Employee. Eligibility for Health Benefit Plan coverage will be determined by the provisions of the summary plan document.

The Health Savings Account contribution for employees enrolled in the HDHP option will be set according to the amount determined by the Board of County Commissioners and applied to non-represented employees.

- A. Regular, status part-time employees scheduled to work twenty (20) hours or more per week for more than six (6) continuous months shall receive contributions based upon the number of hours worked (prorated). Seasonal and Temporary status part-time employees that complete the Measurement Period and average at least 87 hours per month for twelve (12) months shall receive contributions based upon the number of hours worked (prorated).
 - B. Each Regular, Seasonal, and Temporary status full-time employee enrolled in the County Employees' Health Benefit Plan shall make a premium contribution of fifty dollars (\$50) per month subject to reductions prescribed in the County's Wellness Plan. Regular, Seasonal, and Temporary status part-time employees scheduled to work twenty (20) hours or more but less than forty (40) hours per week who are enrolled in the County Employees' Health Benefit Plan shall make premium contributions based upon the number of hours regularly scheduled for the position according to payroll information provided by the department/division (prorated).
1. Employees hired prior to 7/1/2013 will be subject to the following EMPLOYER contribution rates:

Regular, Seasonal and Temporary status part-time employees scheduled to work twenty (20) hours or more per pay week for more than six (6) continuous months will receive contributions from Lewis and Clark County as follows:

Degree of Employment

Lewis and Clark County's Contribution

76-99%	100%
51-75%	75%
50% or less	50%

2. The "grandfather clause" (Paragraph 1 of this section) will apply only to current part time employees hired prior to 7/1/2013.
3. A full-time employee who moves to a part-time schedule after 7/1/2013 will be subject to the language in Article 23, Section 6A.
4. Any Employee hired after 7/1/2013 will be subject to the language in Article 24, Section 6A.

Health plan contribution and Wellness contribution will be set according to the amount determined by Board of County Commissioners and applied to non-represented County employees.

Section 7. Funeral Leave. Upon completion of the probationary period leave is available to attend a funeral or to attend to matters related to a funeral in the case of a death in the employee's immediate family. Immediate family is defined as parent, child, spouse, domestic partner, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, foster child or stepchild, household dependents (including legal guardianships), grandparents, and grandchildren. The EMPLOYER shall grant up to, as required, but not to exceed three (3) days leave of absence with pay.

Funeral leave will be paid only with respect to a workday on which the employee would have otherwise worked and will not apply to an employee's scheduled day off or any other day on which the employee would not have worked. Scheduled days off will not be changed to avoid payment for funeral leave.

Section 8. Each year, the County will purchase coveralls or uniforms, as per the employee's choice, and gloves for the employees working at the Public Works Landfill. Gloves will be available to employees as needed upon request. Every year, the EMPLOYER will reimburse up to \$250 for the Landfill employees to purchase safety-toed boots that cover the ankle. The Supervisor must pre-approve the type of boot. Receipts must be provided to receive reimbursement.

Section 9. Tools.

1. The EMPLOYER shall provide a safe place for storage of all tools.
2. Mechanics shall furnish their own set of small tools including a minimum of one-half (1/2) inch drive sockets and up to one and one-quarter (1 ¼) inch end wrenches.
3. Reimbursement for lost or broken tools shall be made in accordance with the following procedures:

- a. A broken tool shall be turned in to the Supervisor and the new tool shall be purchased by the employee. The purchase receipt for the replacement tool must be submitted with a written request for replacement.
- b. Lost tools must be reported the Supervisor and upon approval; the employee shall purchase a replacement. The purchase receipt must be submitted with a written request for reimbursement.
- c. All tools shall be locked up when not in use.

If the above rules are followed, the County shall reimburse the Mechanic for lost or broken tools.

4. The mechanic at the Landfill will receive a tool allowance of \$.50 per hour paid with each payday.

Section 10. The County will pay for any licenses required for an employee to perform the duties of the position. Only licenses that are required will be paid for and only the actual cost of license.

Section 11. The EMPLOYER will provide a Hepatitis B Vaccination series and Tetanus to all members upon employment.

Section 12. Leadworker at Landfill. In the absence of the Solid Waste Manager of one (1) day or more during the regular work week (Monday through Friday, excluding designated holidays), the EMPLOYER shall assign an employee to leadworker responsibilities. All employees with 18 months or more of work experience at the landfill shall be assigned leadworker responsibilities on a rotational basis, beginning with the most senior employee. Employees assigned as leadworker shall receive differential pay equal to the equivalent step in the pay grade two (2) grades higher in the County pay matrix.

ARTICLE 24. CONTINUING EDUCATION AND PROFESSIONAL ORGANIZATIONS

The Department/Division shall encourage membership in job appropriate professional organizations. In addition, the Department/Division may allow employees opportunities for job-related training, subject to adopted budgets.

ARTICLE 25 LABOR MANAGEMENT COMMITTEE

During the course of this agreement, the parties agree to conduct labor-management committee meetings on a regular basis.

ARTICLE 26 WAGES

Wages for the employees covered by this Agreement shall be in accordance with Addendum B.

ARTICLE 27 SCOPE OF AGREEMENT

This Agreement constitutes the entire Agreement between the parties. The parties further acknowledge that during the course of collective bargaining, each party has had the unlimited rights to offer, discuss, accept or reject proposals. Therefore, for the term of this Agreement, no further collective bargaining shall be had upon any provision of this Agreement, nor upon any subject of collective bargaining, unless by mutual consent of the parties hereto.

TERM OF AGREEMENT

This Agreement shall be effective from July 1, 2022 through June 30, 2025. Either party shall notify the other in writing no more than ninety (90) days and not less than sixty (60) days prior to the expiration date that they desire to modify this Agreement. In the event that such notice to renew or modify is given, the parties shall meet as soon as possible, but no less than thirty (30) days after the date such notice is given, for the purpose of negotiations.

This Agreement constitutes the full and complete agreement between the EMPLOYER and the MFPE.

BOARD OF COUNTY
COMMISSIONERS

MONTANA FEDERATION OF PUBLIC
EMPLOYEES

Jim McCormick, Chair

Amanda Curtis, President

Tom Rolfe, Member

Jeff Cowee MFPE Field Consultant

Andy Hunthausen, Member

Melissa Baker, President

Franchesca Talbot

ATTEST

Amy Reeves, Clerk and Recorder

ADDENDUM A

A. Definitions:

1. Regular Full-Time Employee: Regular full-time employee shall mean one who is hired without a predetermined terminal point of employment and who is scheduled to work 40 hours per week.
2. Regular Part-Time Employee: Regular part-time employee shall mean one who is hired without a predetermined terminal point of employment and who is scheduled to work less than 40 hours per week.
3. Temporary Employee: An employee hired with a predetermined term of employment less than one year.
4. Anniversary Date: The date an employee was hired.
5. Wage Matrix: The wage matrix consists of numbered salary groups.
6. Immediate Family: The immediate family shall be defined as parent, child, spouse, domestic partner, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, foster child or stepchild, household dependents (including legal guardianships), grandparents, and grandchildren.
7. Probationary Employee: Any employee serving the initial six (6) month period of time in the department/division. With written notification to the employee prior to the end of the initial six (6) months, the probationary period may be extended up to another six (6) months.

ADDENDUM B

The Employer will make a lump sum longevity payment to each eligible Regular and Seasonal status employee in November. Each employee will receive his or her lump sum longevity payment the week following the first pay period in November each year. Part-time employees will receive a pro-rated amount. The longevity payments will become effective in the fiscal year that includes the employee's five (5) year anniversary and continuing for each year thereafter as long as the employee maintains unbroken service with the County. Longevity payments for years of service shall be according to the following schedule:

After completion of five (5) years: \$100 per year of service

After completion of ten (10) years: \$150 per year of service

After completion of fifteen (15) years of service: \$200 per year of service

Employees will receive step increases when approved by the Board of County Commissioners. Step increases go into effect on the employee's anniversary date UNLESS the position has received a market adjustment during the employee's appointment to the position or the employee has taken a new position in a higher grade. Positions that have received a market adjustment during an employee's incumbency will receive approved step increase on the first pay period in the new calendar year. If an employee takes a position in a higher grade, the effective date of the new position will be the anniversary date used for implementing future step increases.

Employees who have successfully completed their probationary period prior to the start of the fiscal year will receive **either** an anniversary step **or** a market adjustment, **not both**.

Probationary employees may receive a probationary step and **either** an anniversary step **or** a market adjustment.

Market adjustments will go into effect on the first pay period paid in the new calendar year of even-numbered years.

In the case of difficult hiring situations, where the department/division is not able to hire the best qualified candidate at the entry level step the department/division may offer an entry level wage up to 90% Step of the wage matrix, with notification to the MFPE.

New hires shall have approved job titles and shall receive entry-level wages, unless the parties mutually agree to a higher rate of starting pay for the position.

Employees may request job audits under provision of the County Personnel Policies and Procedures. There shall be no new group classification appeals allowed, all classification appeals for a higher pay bracket of a group shall be done through labor negotiations on the anniversary of the labor agreement on a year-to-year basis.

The Employer shall notify the MFPE of any new job titles it creates during the term of the Labor Agreement and notify the MFPE of pay grade for such new positions.

FY '23, '24 and '25

The parties agree to pay matrix increases, if any, as adopted by the Board of County Commissioners in the development of the FY 23, 24 and 25 County budgets. Increases shall be implemented in the first pay period of the new fiscal year.

Appendix A: FY 23 Pay Matrix

Health/Landfill Pay Schedule								Position Titles
FY 23								
June 19, 2022								
Grade	85%	87.50%	90%	92.50%	95%	97.50%	100%	
							5%	
1	12.43	12.80	13.16	13.53	13.89	14.26	14.63	
2	13.05	13.44	13.82	14.21	14.59	14.97	15.36	
3	13.71	14.11	14.51	14.92	15.32	15.72	16.13	
4	14.39	14.81	15.24	15.66	16.08	16.51	16.93	
5	15.11	15.56	16.00	16.44	16.89	17.33	17.78	
6	15.87	16.33	16.80	17.27	17.73	18.20	18.67	
7	16.66	17.15	17.64	18.13	18.62	19.11	19.60	
8	17.49	18.01	18.52	19.04	19.55	20.07	20.58	Administrative Secretary-Receptionist Billing Clerk I-Health Breastfeeding Peer Counselor Front Desk Clerk-Health Landfill Attendant WIC Aide
9	18.37	18.91	19.45	19.99	20.53	21.07	21.61	
10	19.29	19.85	20.42	20.99	21.56	22.12	22.69	Administrative Assistant II Health Dept. Admin Asst.
11	20.25	20.85	21.44	22.04	22.63	23.23	23.82	Accounting Technician Case Manager-LPN LPN I WIC Clinic Coordinator
12	21.26	21.89	22.51	23.14	23.76	24.39	25.02	Administrative Assistant III
13	22.33	22.98	23.64		24.95		26.27	Administrative Assistant III-Lead Case Manager-Social Worker Equipment Operator
	22.33	22.98	23.64		24.95		26.27	
14	23.44	24.13	24.82	25.51	26.20	26.89	27.58	COVID Vaccine Coordinator
15	24.61	25.34	26.06	26.79	27.51	28.23	28.96	Environmental Technician Licensed MSW Mechanic
	24.61	25.34	26.06		27.51		28.96	
16	25.85	26.61	27.37	28.13	28.89	29.65	30.41	CONNECT Referral & Systems Improvement Coord. Health Educator-Built Environment Health Educator-Suicide Prevention Health Educator-Tobacco Use Prevention Water Quality Specialist
17	27.14	27.94	28.73	29.53	30.33	31.13	31.93	Outreach Coordinator
18	28.49	29.33	30.17	31.01	31.85	32.68	33.52	Behavioral Health Systems Improvement Specialist Case Manager/Home Visiting-Social Worker Case Manager-Social Worker Case Manager/SDMI Waiver Program-Social Worker Communications Specialist Environmental Health Specialist Health Educator-Breast and Cervical Cancer Preparedness Planning Specialist
19	29.92	30.80	31.68	32.56	33.44	34.32	35.20	Care Manager-RN Case Manager-RN/SDMI Waiver Program Finance Coordinator Hydrogeologist Public Health Nurse Registered Dietitian RN
20	31.42	32.34	33.26	34.19	35.11	36.04	36.96	
21	32.99	33.96	34.93	35.90	36.87	37.84	38.81	COVID-19 Epidemiologist

Appendix B: Longevity Schedule

Years Completed	Annual Amt
5	\$500
6	\$600
7	\$700
8	\$800
9	\$900
10	\$1,500
11	\$1,650
12	\$1,800
13	\$1,950
14	\$2,100
15	\$3,000
16	\$3,200
17	\$3,400
18	\$3,600
19	\$3,800
20	\$4,000
21	\$4,200
22	\$4,400
23	\$4,600
24	\$4,800
25	\$5,000
26	\$5,200
27	\$5,400
28	\$5,600
29	\$5,800
30	\$6,000
31	\$6,200
32	\$6,400
33	\$6,600
34	\$6,800
35	\$7,000

Longevity schedule continues indefinitely as long as unbroken service applies.

Analysis of Health Department Mil Dollars

July, 2015

What is a mill?

- Means $1/1000$ of one dollar (or, $1/10$ of a penny)
- When a mill is levied on property taxes, property owners affected by the levy must pay one-thousandth of the taxable value of their property.

Mills can be used for...

- No restrictions in statute.
- Used for general activities of type of mill (Health, County Planning) unless voted for specific purpose (Fairgrounds, Library)

More about Mills

- The value of one mill is \$117,000 for FY 2015.
- LCPH receives about 6.8 mills
- 2003 Legislature removed limit on mills – the governing body may now levy an amount of revenue equal to that of the previous year plus growth and inflation.

Mill Increases

By law, only the “governing body” (our County Commissioners) may place an intent to levy on a ballot.

- Our first step: conversation with the Commission.
- What we must determine:
 - Exactly what we will use the money for
 - Permanent or temporary levy
- Levy request is put on the ballot for voters.

More about Mill Increases

- Public funds may only be used for information!
- “Friends of Public Health” would be necessary to encourage votes for the levy.
- Must say how much a taxpayer with \$100,000 home and \$200,000 home would pay.

How LCPH spends its Mill dollars

- MCA Title 50 provides for levy which supports mandated programs
- LCPH uses mill \$ for
 - Personnel to carry out its mission
 - Operational expenses to support the personnel
 - Fixed costs to give personnel a home

Personnel

We have full-time, part-time, and shared positions

FY 2016

- 14.74 fte
- 24 employees

Personnel costs are 55%
of the total mill budget

Operating Costs

- Office supplies
- Minor equipment
- Operating supplies (vaccine, syringes, tapes, pans, etc.)
- Postage
- Printing
- Membership Dues (NACCHO, NALBOH, AMPHO, Accreditation)
- Travel & training
- Recruitment
- Lab fees
- Vehicle maintenance
- Staff licenses
- Credit card fees
- Utilities for Augusta office
- Capital savings

Fixed Costs

- Telephones (land lines)
 - Paid to L&C County IT&S
 - <1% of Mill budget
- County Admin
 - Paid to L&C County Charged 1.7%
 - Pays for indirect expenses (personnel, payroll, legal, accounting, finance)

Fixed Costs

- Rent
 - Paid to L&C County Public Works
 - Includes utilities, maintenance, cleaning
 - 5.25% of Mill budget
- Technology
 - Paid to L&C County IT&S
 - For network, workstations, computer support, software maintenance
 - 6% of Mill budget
- Liability Insurance
 - Paid to L&C County
 - 1% of Mill budget

Capital Expenditures

- Single items that cost more than \$5,000
- LCPH's capital equipment are copiers and vehicles

Other uses for mill dollars

- Match Requirements
 - Outdoor Air Quality
 - 1/3 of the total amount
 - \$11,789 FY2016
 - Maternal Child Health Home Visiting
 - 43% of total MCH Expenditures
 - \$46,591 preliminary for FY2016

Other uses for mill dollars

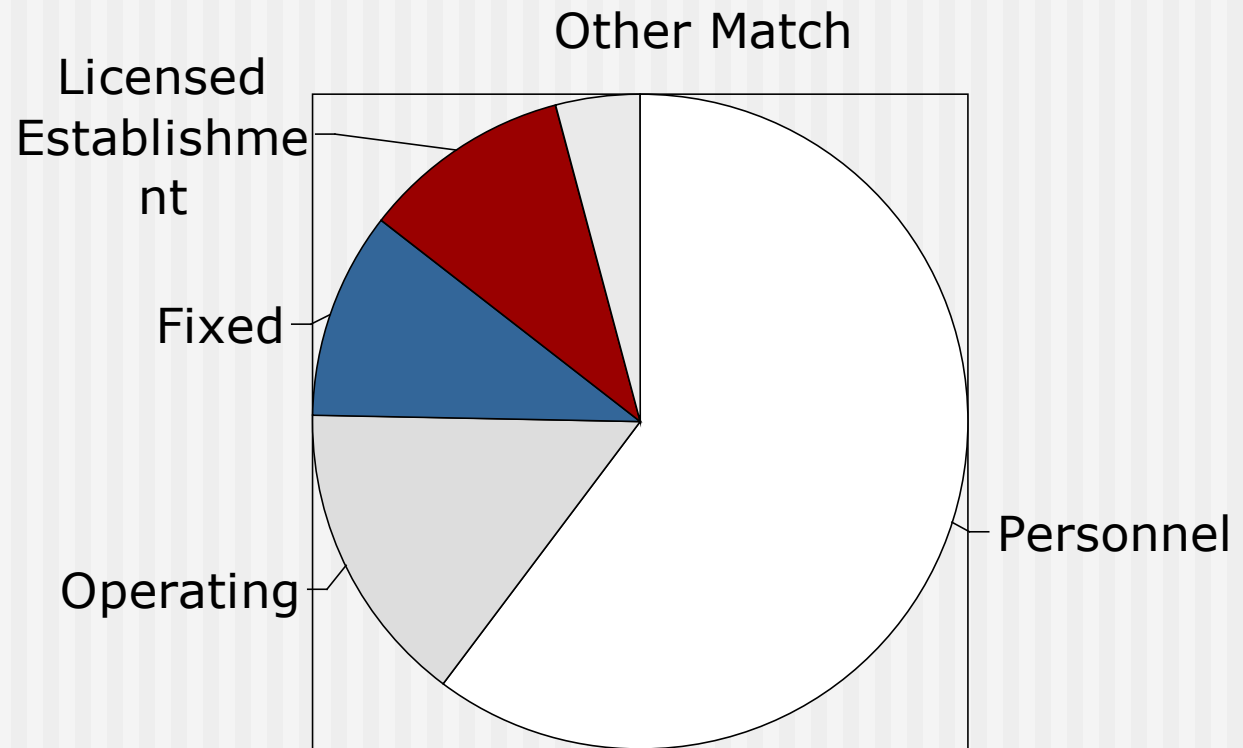
- Licensed Establishment Inspections
 - State funding pays only about 19% of the total cost of the program
 - Mill funds make up the rest

Other uses for mill dollars

- Support of other programs
 - Fixed costs may not be allowed by the grant
 - There is not enough grant revenue to pay fixed costs
 - Fixed costs cannot be directly allocated to a program

Phone, Rent, and Technology costs for:
Immunizations, Tuberculosis, HIV Prevention

Uses of the Mill Fund



General Uses of Mill Fund

- Administration
- Communicable Disease Investigation
- Vaccination Clinics
- School Nursing
- Onsite Wastewater
- Licensed Establishment Inspections

Cash Reserves

- Standard financial principle
- Carry an organization through periods of lower cash flow
- Typically at least 90 days of expenditures
- Our reserve requirements for FY2016 is \$510,008

Mills & Grants

- The Mill funds are just one part of the entire Health Department budget
- We have 26 additional funding sources

Mills & Grants

- Total Health Department: 45.27 fte
- Mill only: 14.74 fte
- Grant supported: 30.53 fte

Section 18

Community Health Report
&
Community Health Improvement Plan

Current Publications

<https://www.lccountymt.gov/Government/Public-Health/Data-Reports-and-Dashboards>