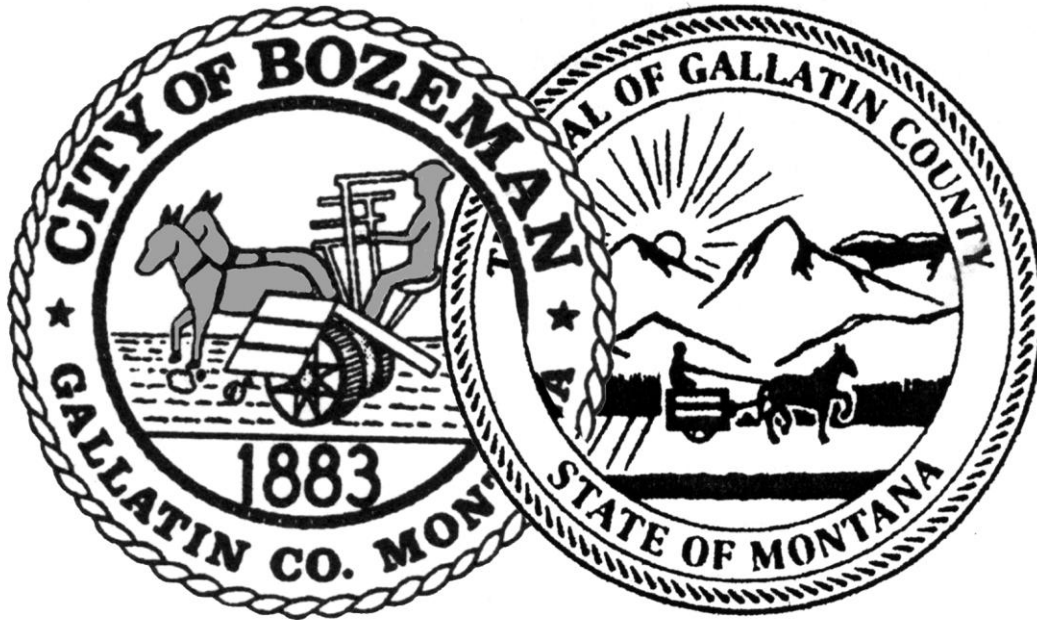


Gallatin City-County Health Code

Chapter 1



GENERAL PROVISIONS

Gallatin City-County Health Department

Originally Adopted: March 25, 2000

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\$1.25

GALLATIN CITY-COUNTY HEALTH CODE

CHAPTER 1 – GENERAL PROVISIONS

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1-01. PURPOSE.

This Local Health Code makes existing laws more accessible and understandable and provides local procedures that comply with State law. It coordinates provisions from the Montana Code Annotated (MCA), the Administrative Rules of Montana (ARM) and all other applicable law.

1-02. JURISDICTION AND DUTIES

A. Jurisdiction.

The Gallatin City-County Board of Health (Board) is established pursuant to MCA 50-2-106, *inter alia*, and an Interlocal Agreement between the City of Bozeman and Gallatin County, the most recent version is dated May 7, 1997. The Board's jurisdiction covers all of Gallatin County including the municipalities of Belgrade, Bozeman, Manhattan, Three Forks, and West Yellowstone.

B. The Board's General Statutory Duties.

The Board's powers and duties are set forth in MCA 50-2-116 and any other provision of applicable law. The current version of MCA 50-2-116 shall be attached hereto and incorporated by reference.

C. Local Health Officer's Statutory Duties.

The Local Health Officer has the powers and duties as set forth in MCA 50-2-118 and any other provision of applicable law. The current version of MCA 50-2-118 shall be attached hereto and incorporated by reference.

1-03. GENERAL ACRONYMS AND DEFINITIONS.

Unless the context requires otherwise, the following acronyms and definitions apply for this Health Code:

- A. "ARM" means the Administrative Rules of Montana, promulgated by the Montana Secretary of State and contain DEQ and DPHHS Rules.
- B. "Board" or "Local Board" means the Gallatin City-County Board of Health, established pursuant to MCA 50-2-106 and an Interlocal Agreement between the City of Bozeman and Gallatin County.

- C. **"Day"** means a calendar day, unless otherwise specified.
- D. **"DEQ"** means the Montana Department of Environmental Quality.
- E. **"DPHHS"** means the Montana Department of Public Health and Human Services.
- F. **"Filed"** means filed with the Gallatin County Clerk and Recorder in the permanent records of that office.
- G. **"GCCHD"** means the Gallatin City-County Health Department and includes the Gallatin City-County Health Officer and his/her agents.
- H. **"Health Code"** means the Local Health Rules and Regulations adopted by the Gallatin City-County Board of Health and compiled as one document or Code.
- I. **"Health Officer"** means the Gallatin City-County Health Officer employed by the Board and where appropriate includes his/her agents. The Health Officer is responsible for the administration and enforcement of this Health Code.
- J. **"MCA"** means the Montana Code Annotated.
- K. **"Posted"** means placing notices or other information in conspicuous places for public review at no less than the following places:

- 1. Gallatin County Courthouse, Bozeman

When Posting is required by this Code, Affidavits of Posting shall be prepared and kept on file by the Health Officer.

- L. **"Published"** means publishing notices or other information in the Bozeman Daily Chronicle. Affidavits of Publication shall be kept on file. Newspaper publication may be supplemented by FAXing or mailing copies of the notices or other information to other local media as determined by the GCCHD. Notices shall be published twice with at least 6 days separating each publication. The notice must at least contain the date, time and place of the action; a brief statement of the action to be taken; the address and telephone number of the person who may be contacted for further information and any other information required by the specific section requiring notice by publication.

1-04. ADOPTING, AMENDING, AND REPEALING LOCAL RULES

A. Procedure.

- 1. The Montana Legislature has not specified how the Board adopts Local Health Rules. Therefore, the following procedures for "Adopting, Amending or Repealing Rules" have been designed to comply with the Montana Constitutional and statutory mandates for open meetings and public participation in governmental decisions of significant public interest. *See*, Montana Constitution Article II, Sections 8 and 9, MCA 2-3-103(1), and MCA 2-3-111. These procedures give the Board maximum input, from the public and from those most affected, before Proposals are adopted as Rules.

B. Developing Draft Proposals.

The Health Officer and GCCHD staff may prepare Draft Proposals. Interested persons may give suggestions to the Health Officer to give to the Board. GCCHD may informally consult with

persons who would be affected by Proposals for viewpoints and advice. The Board may appoint interested persons to one or more committees to advise the Board and staff.

C. Form for Draft Proposals.

Draft Proposals shall have a heading, so that if adopted all Rules will have a numerical order, beginning with "01" each calendar year. No more than one comprehensive subject shall be clearly stated in the title.

D. Initial Consent by the Health Officer and Local Board.

1. Initial Consent

A Draft Proposal shall be presented to the Board as a regular Agenda item as a "Consideration of Draft Proposal for . . ."

2. Initial Consent by the Board.

If the Board initially consents to the Draft Proposal, with or without changes, then the Board designates it as a "Proposal" and initiates giving a Notice of Proposal.

3. No Initial Consent by the Board.

If the Board does not initially consent to the Draft Proposal, then the Board shall direct the Health Officer either to abandon the Draft Proposal or to present a revised Draft Proposal later.

E. Notice that Board will Consider a Proposed Health Rule.

1. Notice of Proposal Form.

If the Board initially consents and designates a Draft as a "Proposal", the Health Officer must Publish and Post a "Notice of Proposed Health Rule (Amendment or Repeal)" (collectively "Notice of Proposal"), which shall contain substantially the following:

**GALLATIN CITY-COUNTY BOARD OF HEALTH
NOTICE OF PROPOSED HEALTH RULE No. _____
(AMENDMENT or REPEAL)**

- a. A brief statement of the subject and issues involved;
- b. The rationale for the Proposal;
- c. Where the Proposal may be reviewed and copies obtained;
- d. First Reading: date, time, and place;
- e. Second Reading: date, time, and place; (note: at least twelve (12) days after the First Reading and Initial Approval. If the Proposal adopts a standard Code by reference, then at least thirty (30) days after the First Reading and Initial Approval);
- f. That interested persons may give brief written comments to the Health Officer to be given to the Board or they may speak briefly at the First or Second Reading, or both;
- g. That the Board has the authority to adopt the Proposal at the Second Reading.

- h. The effective date, if the Proposal is adopted;
- i. That if adopted, a Notice of Adoption will be published once and also posted; and
- j. The name, address, and phone number of a person who may be contacted for further information.

2. Publishing.

A Notice of Proposed Health Rule shall be Published in accordance with this Chapter.

3. Posting.

A Notice of Proposed Health Rule shall be Posted at least ten (10) days before and until the day after the First Reading.

F. First Reading and Board Action.

The Chair controls the meeting but should be guided by the following order:

FIRST READING

1. The Affidavits are Read.

The Affidavit of Publication and the Affidavit(s) of Posting the Notice of Proposal are made part of the file.

2. The Proposal is Read.

The Proposal is read aloud. If lengthy, sufficient copies have been made available for the public, and if no Board member objects, then the Proposal may be summarized.

3. Health Department Comment.

The Health Officer and GCCHD Staff may comment.

4. Public Written Comments.

Public written comments are read and made part of the file. If comments are lengthy, they may be summarized.

5. Public Oral Comments.

Public members wanting to comment shall sign a list circulated before the meeting. The Chair shall allocate the public time; some may be given more time than others.

If all scheduled public members have spoken, the Chair shall make a final call for further public comment. If there is no response to the call, public comment shall be closed. However, public comment time may be reopened by the Chair or by a vote of three (3) or more Board members.

6. Board Discussion.

The Board shall discuss the Proposal and consider the public's written and oral comments. The Chair may direct questions to anyone during Board discussion.

7. Minor Changes.

The Board may correct clerical errors, minor mistakes, and make minor wording changes at anytime before a Proposal is adopted, without special notice. A majority of the whole Board shall determine if a change is "minor".

8. Board Action at the First Reading.

The Board may:

a. Initially Approve the Proposal.

To initially approve a proposal a majority of the whole Board must approve of the action with or without minor changes. The Health Officer shall make the original available for public review and copying at cost.

b. Make Substantive Changes.

If the Board makes substantive changes to a Proposal at the First Reading, then the changes must be publicly Posted and noticed before the Second Reading.

(i) Notice of Substantive Changes to Proposal.

A Notice of Changes to Proposal shall be substantially the same as a Notice of Proposed Rule, except for replacing "Rationale for Proposal" with "Rationale for Changes" and deleting the reference to the First Reading.

(ii) Publishing.

The Notice of Changes to Proposal shall be Published in accordance with this Chapter.

(iii) Posting.

The Notice of Changes to Proposal shall be Posted at least ten (10) days before and until the day after the Second Reading.

c. Continue the First Reading.

If the Board wants more comments, or further Board discussion, or both, before initially approving a Proposal, then it must set a date to continue the First Reading and reschedule the Second Reading.

(i) Notice to Continue First Reading.

A "Notice to Continue First Reading" shall be substantially the same as a "Notice of Proposed Rule", except for replacing "First Reading" with "Continued First Reading" and replacing "Second Reading" with "Rescheduled Second Reading".

(ii) Publishing.

A "Notice to Continue First Reading" shall be Published in accordance with this Chapter. .

(iii) Posting.

The Notice to Continue the First Reading shall be Posted at least ten (10) days before and until the day after the continued First Reading.

d. Return for Redrafting.

The Board may return the Proposal for redrafting and the entire Proposal process shall begin again.

e. Abandon the Proposal.

G. Second Reading and Board Action.

1. Second Reading.

After initial approval after First Reading, a Proposal must be considered at a Second Reading, that is substantially the same as a First Reading as set forth in Paragraph F above.

2. Board Action at the Second Reading.

The Board may:

a. Adopt the Proposal as a Rule.

A majority of the whole Board must adopt, with or without minor changes. , the Original Proposal approved at First Reading. The effective date shall be no earlier than thirty (30) days from the approval.

b. Make Substantive Changes or Continue the Second Reading and give Notice.

If the Board makes substantive changes or wants more comments or additional Board discussion, Notice of Continued Second Reading or Discussion or Changes to Proposal must be Published and Posted.

c. Return for Redrafting.

The Board may return the Proposal for redrafting and the entire Proposal process shall begin again.

d. Abandon the Proposal.

H. The Original Adopted Local Health Rule.

1. Filing the Original Health Rule and Distributing Certified Copies.

The signed Original Adopted Local Health Rule shall be maintained along with the Proposal file (containing the Affidavits of Publishing and Posting, the Written Public Comments and

other documents as directed by the Board) in the official records of the GCCHD. GCCHD shall make copies available at cost.

2. Notice of Adopted Health Rule.

If the Board adopts, amends, or repeals a Health Rule, then Notice shall be given substantially as follows:

GALLATIN CITY-COUNTY BOARD OF HEALTH
NOTICE OF ADOPTED HEALTH RULE
(AMENDED or REPEALED)

The Gallatin City-County Board of Health has Adopted (Amended or Repealed) Rule [No.____ Title and a brief summary of the Rule] effective _____.

The Rule may be reviewed at the offices of the Gallatin City County Health Department [address]_____, Bozeman, Montana and copies may be obtained at cost.

_____ at the Gallatin City-County Health Department, [address]_____, Montana 59715 (Phone:_____) may be contacted for further information.

Health Officer

3. Publishing.

The Notice of Adopted Health Rule shall be Published in accordance with this Chapter.

4. Posting.

The Notice shall be Posted at least ten (10) days before and for at least ten (10) days after the Rule's effective date.

1-05. EMERGENCY HEALTH RULES

A. Procedure to Adopt Emergency Rules.

Emergency Health Rules may be adopted with limited notice and at one meeting, only if:

1. Imminent Danger.

The Board finds that circumstances clearly constitute an existing imminent danger to the public health, safety, or welfare; and

2. Written Findings.

The Board makes written findings which are made part of the Emergency Rule; and

3. Other Administrative Acts Not Sufficient.

The danger cannot be averted or remedied by any other administrative act; and

4. No More Than 90 Days.

The Emergency Rule will end on a date specified in the Rule, but no longer than ninety (90) days from adoption; and

5. Adoption by a Majority of the Whole Board.

The Emergency Rule must be adopted by at least a majority of the whole Board.

Filing the Original Emergency Health Rule and Distributing Certified Copies.

An Emergency Rule is effective when Filed with the Gallatin County Clerk and Recorder.

B. Notice of Emergency Health Rule.

A Notice of Emergency Health Rule shall be prepared in substantially the same form as the Notice of Adopted (Amended or Repealed) Health Rule.

C. Publishing.

A Notice of Emergency Health Rule shall be Published in accordance with this Chapter.

D. Posting.

The Notice of Emergency Health Rule shall be Posted as soon as possible after the original is filed with the Clerk and Recorder for the entire time that the Emergency Health Rule is in effect.

E. Media Distribution.

The Notice must also be FAXed or mailed to the major local media as determined by the Board.

F. DPHHS Notification.

The Notice must also be FAXed to the DPHHS Communicable Disease Control and Prevention Bureau Chief.

1-06. HEARINGS AND WRITTEN DECISIONS.

Hearing procedure shall be set forth in the GCCHD By-laws unless otherwise specified.

A. Written Decision.

Any final written decision may include Findings and Conclusions of Law if appropriate or required, and must be signed by the Chair. The Health Officer as Board Secretary shall attest any written decision. Any original may be Filed with the Clerk and Recorder. Board members may attach or append comments or exhibits to the written decision. The Health Officer shall provide copies of the decision and appendices to the parties.

1-07. Fees

The Board may adopt fees that are fair and reasonable for permits, department services, special inspections, plan reviews, tests, certificates or registrations established by this Code. Fees may be adopted or changed at any regularly scheduled meeting of the Board provided that the action is scheduled on the Board agenda.

1-08. SEVERABILITY.

If a provision of this Health Code is determined to be invalid by a court of competent jurisdiction, all valid provisions that are severable shall remain in effect. If a provision is determined to be invalid in one or more applications, that provision shall remain in effect for all valid applications.

APPENDIX
MCA §§
50-2-116 AND 118

50-2-116. Powers and duties of local boards. (1) Local boards shall:

- (a) appoint a local health officer who is a physician or a person with a master's degree in public health or the equivalent and with appropriate experience, as determined by the department, and shall fix the health officer's salary;
- (b) elect a presiding officer and other necessary officers;
- (c) employ necessary qualified staff;
- (d) adopt bylaws to govern meetings;
- (e) hold regular meetings quarterly and hold special meetings as necessary;
- (f) supervise destruction and removal of all sources of filth that cause disease;
- (g) guard against the introduction of communicable disease;
- (h) supervise inspections of public establishments for sanitary conditions;
- (i) subject to the provisions of 50-2-130, adopt necessary regulations that are not less stringent than state standards for the control and disposal of sewage from private and public buildings that is not regulated by Title 75, chapter 6, or Title 76, chapter 4. The regulations must describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the board of environmental review and must provide for appeal of variance decisions to the department as required by 75-5-305.

(2) Local boards may:

- (a) quarantine persons who have communicable diseases;
- (b) require isolation of persons or things that are infected with communicable diseases;
- (c) furnish treatment for persons who have communicable diseases;
- (d) prohibit the use of places that are infected with communicable diseases;
- (e) require and provide means for disinfecting places that are infected with communicable diseases;
- (f) accept and spend funds received from a federal agency, the state, a school district, or other persons;
- (g) contract with another local board for all or a part of local health services;
- (h) reimburse local health officers for necessary expenses incurred in official duties;
- (i) abate nuisances affecting public health and safety or bring action necessary to restrain the violation of public health laws or rules;
- (j) adopt necessary fees to administer regulations for the control and disposal of sewage from private and public buildings. The fees must be deposited with the county treasurer.
- (k) adopt rules that do not conflict with rules adopted by the department:
 - (i) for the control of communicable diseases;
 - (ii) for the removal of filth that might cause disease or adversely affect public health;
 - (iii) subject to the provisions of 50-2-130, on sanitation in public buildings that affects public health;
 - (iv) for heating, ventilation, water supply, and waste disposal in public accommodations that might endanger human lives;
 - (v) subject to the provisions of 50-2-130, 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; and
 - (vi) for the regulation, as necessary, of the practice of tattooing, which may include registering tattoo artists, inspecting tattoo establishments, adopting fees, and also adopting sanitation standards that are not less stringent than standards adopted by the department pursuant to 50-1-

202. For the purposes of this subsection, "tattoo" means making permanent marks on the skin by puncturing the skin and inserting indelible colors.

(l) adopt regulations for the establishment of institutional controls that have been selected or approved by the:

(i) United States environmental protection agency as part of a remedy for a facility under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.; or

(ii) department of environmental quality as part of a remedy for a facility under the Montana Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7.

History:

En. Sec. 86, Ch. 197, L. 1967; amd. Sec. 4, Ch. 216, L. 1969; amd. Sec. 1, Ch. 196, L. 1971; amd. Secs. 108, 111, Ch. 349, L. 1974; amd. Sec. 2, Ch. 273, L. 1975; R.C.M. 1947, 69-4509; amd. Sec. 1, Ch. 709, L. 1985; amd. Sec. 2, Ch. 479, L. 1991; amd. Sec. 2, Ch. 324, L. 1995; amd. Sec. 88, Ch. 418, L. 1995; amd. Sec. 6, Ch. 471, L. 1995; amd. Sec. 2, Ch. 137, L. 1999.

50-2-118. Powers and duties of local health officers. (1) Local health officers or their authorized representatives shall:

(a) make inspections for sanitary conditions;

(b) as directed by the local board, issue written orders for the destruction and removal of filth which might cause disease;

(c) with written approval of the department, order buildings or facilities where people congregate closed during epidemics;

(d) on forms provided by the department, report communicable diseases to the department each week;

(e) before the first day of January, April, July, and October, give a report to the local board of sanitary conditions in the county, city, city-county, or district, together with a detailed account of his activities, on forms and containing information required by the department;

(f) before the 10th day after the report is given to the local board, send a copy of the report required by subsection (1)(e) of this section to the department;

(g) as prescribed by rules adopted by the department, establish and maintain quarantines;

(h) as prescribed by rules adopted by the department, supervise the disinfection of places at the expense of the local board when a period of quarantine ends;

(i) notify the department of his appointment and changes in membership of the local board;

(j) file a complaint with the appropriate court if this chapter or rules adopted by the local board or state department under this chapter are violated;

(k) validate state licenses issued by the department in accordance with chapters 50 through 53 of this title.

(2) With approval of the department, local health officers may forbid persons to assemble in a place if the assembly endangers public health.

(3) A local health officer who is a physician may be placed in charge of a communicable disease hospital, but a local health officer who is a physician is not required to act as a physician to the indigent.

(4) A local health officer who is not a physician shall not act as a physician to anyone.

History:

En. Sec. 87, Ch. 197, L. 1967; amd. Sec. 2, Ch. 196, L. 1971; amd. Sec. 56, Ch. 349, L. 1974; R.C.M. 1947, 69-4510; amd. Sec. 1, Ch. 200, L. 1979; amd. Sec. 18, Ch. 708, L. 1991.

HEALTH CODE
CHAPTER 1
ADOPTED BY BOARD OF HEALTH
FEE SCHEDULE
08/27/2009

Base Rate for Services: **\$60.00** per hour

Miscellaneous Plan Reviews: (Reviews based on 3.0 hr.)

Motel/Hotel with food service facilities including continental breakfast:

\$180.00 + Food service plan review
fee based on facility size (see Health
Code Chapter 2 fee schedule)

Miscellaneous Plan Reviews: (Reviews based on 2.0 hr.)

**Motel/Hotel with no food service, Bed & Breakfast, Tourist Home,
Rooming/Boarding House:**

\$120.00 + base rate for each
additional hour

Miscellaneous Establishments (i.e. Day Cares, Trailer Courts, etc.):

\$120.00 + base rate for each
additional hour

Site Visit: (based on 2.0 hr./visit)

\$120.00 + base rate for each
additional hour

Special or Miscellaneous Inspection: (i.e. ownership change, review of manufacturing
process, special consultation, group home)

(based on 2.0 hr./visit)

\$120.00 + base rate for each
additional hour

Filing Fees from Clerk and Records Office passed to client or applicant
(Current fee schedule available from C&R Office)